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ENVIRONMENTAL PROTECTION

GAS

PETROLEUM

PIPE-LINES

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

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The Secretary of State has been designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the environment and matters relating to the conditions for

(a) S.I. 2008/301.

(b) 1972 c.68; section 2(2) was amended by paragraph 15(3) of Schedule 8 to the Scotland Act 1998 (c.46), section 27 of the Legislative and Regulatory Reform Act 2006 (c.51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7). By virtue of the amendment of section 1(2) of the European Communities Act 1972 by section 1 of the

granting and using authorisations for the prospection, exploration and production of hydrocarbons(a).

The Secretary of State has taken into account the selection criteria set out in Annex III to Directive 2011/92/EU of the European Parliament and of the Council of 13th December 2011 on the assessment of the effects of certain public and private projects on the environment(b).

In exercise of the powers conferred by section 2(2) of that Act, and also by section 56(1) and (2) of the Finance Act 1973(c) and with the consent of the Treasury, the Secretary of State makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Offshore Petroleum Production and Pipe-lines (Environmental Impact Assessment and other Miscellaneous Provisions) (Amendment) Regulations 2017 and come into force on 16th May 2017.

Interpretation

2. In these Regulations—

“the 1999 Offshore Regulations” means the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999(d);

“the 1999 Pipe-line Regulations” means the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999(e); and

“the 2000 Regulations” means the Pipe-line Works (Environmental Impact Assessment) Regulations 2000(f).

PART 1

Amendment of the 1999 Offshore Regulations

Introduction

3. The 1999 Offshore Regulations are amended in accordance with this Part.

Amendment of regulation 3 (interpretation)

4. In regulation 3(1)—

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 under the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 together with the Protocol adjusting that Agreement signed at Brussels on 17th March 1993. Annex XX to that Agreement provides that the term “Member State” in Directive 2011/92/EU includes Iceland, Liechtenstein and Norway. Regulation 7, 9,14,15, 37 and 38 of these Regulations makes provision in relation to “EEA states”.

(a) This is designated by S.I. 1994/1327.

(b) O.J. L 26, 28.1.2012, p. 1. The Directive was amended by Directive 2014/52/EU of the European Parliament and of the Council of 16th April 2014, O.J. L 124, 25.4.2014, p. 1.

(c) 1973 c.51; section 56(1) was amended by S.I. 2011/1043. The consent of HM Treasury is required to make regulations under section 56(1) of the Finance Act 1973.

(d) S.I. 1999/360; this instrument was amended by S.I. 2007/933, S.I. 2011/1043, S.I. 2015/1431, S.I. 2016/529 and S.I. 2016/912 and was modified by S.I. 2010/1513. These Regulations revoke the modifications and implement the modifications as amendments.

(e) S.I. 1999/1672; this instrument was amended by section 76(7) of the Utilities Act 2000 (c. 27) and by section 73(2) of the Countryside and Rights of Way Act 2000 (c.37) and by S.I. 2007/1996, S.I. 2011/1043, S.I. 2011/1824, S.I. 2013/755, S.I. 2014/557 and S.I. 2016/58; and by SSI 1999/1 and SSI 2008/202.

(f) S.I. 2000/1928; this instrument was amended by section 73(2) of the Countryside and Rights of Way Act 2000 and by S.I. 2007/1992, S.I. 2011/1043, S.I. 2011/2453 and S.I. 2013/755.

- (a) after the definition of “the 1998 Act”, insert—
 - ““the 2008 Act” means the Energy Act 2008(a);”;
- (b) for the definition of “appropriate particulars”, substitute—
 - ““appropriate particulars” means the name and address of the undertaker and a description of the relevant project which—
 - (a) includes—
 - (i) the physical characteristics of the whole project, and where relevant, of demolition works;
 - (ii) the location of the project with particular regard to the environmental sensitivity of the geographical areas likely to be affected by the project;
 - (iii) the aspects of the environment likely to be significantly affected by the project;
 - (iv) any likely significant effects, to the extent of the information available on such effects, of the project on the environment resulting from—
 - (aa) the expected residues and emissions and the production of waste, where relevant; and
 - (bb) the use of natural resources, in particular soil, land, water and biodiversity;
 - (b) takes into account the matters set out in Schedule 1 (matters to be taken into account in deciding whether relevant project likely to have a significant effect on the environment) and, where relevant, the results of other assessments of the effects on the environment carried out pursuant to EU legislation other than the Directive; and
 - (c) may also include any features of the project or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment;”;
- (c) after the definition of “business day”, insert—
 - ““combustible gas” means gas within the meaning of section 2(4) of the 2008 Act;”;
- (d) in the definition of “consent”—
 - (i) at the end of paragraph (b)(iv), omit “or”;
 - (ii) in paragraph (b)(v), after “petroleum”, insert “carbon dioxide or combustible gas”;
 - (iii) after paragraph (b)(v), insert—
 - “or
 - (vi) any consent required by or under a licence to the carrying on of a storage or unloading activity;”;
 - (iv) in paragraph (c), after “petroleum”, insert “, carbon dioxide or combustible gas”;
 - (v) for paragraph (d), substitute—
 - “(d) in relation to any relevant project comprising the use of a mobile installation for—
 - (i) the extraction of petroleum where the principle purpose of the extraction is the testing of any well; or
 - (ii) the purpose of carrying out test injections of carbon dioxide or combustible gas ,
 - any consent required under regulation 4(4)(b) or (c);”;
- (e) for the definition of “development”, substitute—

(a) 2008 c.32. Section 4 and section 18 were amended by the Energy Act 2016 (c. 20) section 2, Schedule 1, Part 1, paragraphs 41, 42 and 53, and section 18 was amended by SI 2011/2453, SI 2016/920 and by SSI 2011/224.

- “development” means—
- (a) any project which has as its main object the getting of petroleum as opposed to the establishment of its existence, the appraisal of its quantity, characteristics or quality or the characteristics or extent of any reservoir in which it occurs; or
 - (b) any project which has as its main object a storage or unloading activity;”;
- (f) for the definition of “the Directive”, substitute—
- “the Directive” means Directive 2011/92/EU of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment;”;
- (g) for the definition of “environmental statement”, substitute—
- “environmental impact assessment” shall be interpreted in accordance with regulation 3A;
- “environmental statement” has the meaning set out in regulation 3B (environmental statement);”;
- (h) in the definition of “gas”, for “definition of petroleum below”, substitute “definitions of “combustible gas” and “petroleum””;
- (i) for the definition of “licence”, substitute—
- “licence” means—
- (a) a licence granted or having effect as if granted under section 3 of the 1998 Act (licences to search and bore for and get petroleum); or
 - (b) a licence granted under section 4 or section 18 of the 2008 Act;
- and “licensee” shall be construed accordingly.”;
- (j) after the definition of “petroleum”, insert—
- “public website” means a website accessible to the public where the public can view and download information placed upon it;”;
- (k) in the definition of “relevant project”—
- (i) in paragraph (c), after “petroleum” insert “, carbon dioxide or combustible gas”; and
 - (ii) at the end of paragraph (c), omit “or” and after paragraph (d) insert—
- “; or
- (e) the use of a mobile installation for the purposes of carrying out test injections of carbon dioxide or combustible gas;”;
- (l) after the definition of “relevant requirement”, insert—
- “storage or unloading activity” means any activity within—
- (a) section 2(3)(a) to (d) of the 2008 Act; or
 - (b) section 17(2)(a) or (b) of the 2008 Act;”;
- (m) for the definition of “structure”, substitute—
- “structure” means any structure which is intended to be permanent and is not designed to be moved from place to place without major dismantling and is used for, or, as the case may be, to be used for the purpose of—
- (a) getting petroleum or conveying petroleum to land (including any structure for the storage of petroleum) but is not to be used only for searching for petroleum; or
 - (b) a storage or unloading activity, or for conveying carbon dioxide or combustible gas to or from land;”;
- (n) for the definition of “well”, substitute—
- “well” means any well or borehole drilled for the purposes of, or in connection with—

- (a) the getting of petroleum, the exploration for petroleum or the establishment of the existence of, or appraisal of, the quantity, characteristics or quality of, petroleum in a particular location; or
 - (b) activities within section 2(3) or section 17(2) of the 2008 Act,
- but does not include any well drilled to a depth of 350 metres or less below the surface of the seabed for the purpose of obtaining geological information about strata or any drilling operation, the main purpose of which is the testing of the stability of the seabed.”.

New regulations 3A and 3B

5. After regulation 3, insert—

“Environmental impact assessment

3A.—(1) In these Regulations, “environmental impact assessment” means the process consisting of—

- (a) the preparation and submission of an environmental statement as part of an application for consent referred to in regulation 5(1) or to the Secretary of State under regulation 11(1) or (4);
- (b) the carrying out of consultation in compliance with regulation 9 or regulation 11 and, where relevant, regulation 12;
- (c) the Secretary of State’s consideration of the information presented in the environmental statement, any further information provided in accordance with regulation 10 and any representations or opinions received as the result of the consultation referred to in sub-paragraph (b);
- (d) the Secretary of State’s reasoned conclusion as required by regulation 5A(1) or regulation 11(8A); and
- (e) the integration of that conclusion into the decision as to whether agreement to the grant of consent is to be given as required by regulation 5A(1)(c) or as to whether agreement is to be given in respect of the matters referred to in regulation 11(8A)(c).

(2) In carrying out the steps described in paragraph (1)(a), the undertaker shall identify, describe and assess in an appropriate manner—

- (a) the direct and indirect significant effects of the relevant project on the following factors—
 - (i) population and human health;
 - (ii) biodiversity, with particular attention to species and habitats protected under Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora^(a) and Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds^(b);
 - (iii) land, soil, water, air and climate;
 - (iv) material assets, cultural heritage and the landscape; and
 - (v) the interaction between the factors referred to in paragraphs (i) to (iv); and
- (b) the operational effects of the relevant project (where the project will have operational effects) and the expected effects deriving from the vulnerability of the project to risks of major accidents or disasters that are relevant to the project concerned.

(a) OJ L 206 22.7.92 p.7.

(b) OJ L 20 26.1.2010. p.7.

Environmental statement

3B.—(1) In these Regulations, an “environmental statement” means a report prepared as part of the environmental impact assessment in respect of a relevant project which includes—

- (a) a description of the project comprising information on the site, design, size and other relevant features of the project;
- (b) a description of the likely significant effects of the project on the environment;
- (c) a description of the features of the project or measures envisaged in order to avoid, prevent or reduce, and if possible, offset likely significant adverse effects on the environment;
- (d) a description of the reasonable alternatives studied by the undertaker which are relevant to the project and its specific characteristics and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment;
- (e) a non-technical summary of the information referred to in sub-paragraphs (a) to (d); and
- (f) any additional information set out in Schedule 2 (information for the environmental statement) relevant to the specific characteristics of the relevant project or type of project and to the environmental features likely to be affected.

(2) In preparing the environmental statement, the undertaker shall also take into account any available results of other relevant assessments under EU or national legislation.

(3) Where the Secretary of State has given an opinion under regulation 7 on the matters to be included in the environmental statement, the statement shall be based on that opinion and include the information that may be reasonably required for reaching a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment.

(4) In order to ensure the completeness of the environmental statement, the undertaker shall ensure that—

- (a) the statement is prepared by competent experts; and
- (b) the statement is accompanied by a statement from the undertaker outlining the relevant expertise or qualifications of such experts.”.

Amendment of regulation 4 (requirement as to contents of licences etc.)

6. In regulation 4—

- (a) at the end of paragraph (2)(b), omit “or”;
- (b) at the end of paragraph (2)(c), insert—
“; or
(d) the carrying on of a storage or unloading activity.”;
- (c) at the end of paragraph (4)(a), omit “or”; and
- (d) at the end of paragraph (4)(b), insert—
“; or
(c) use any mobile installation for the purpose of carrying out test injections of carbon dioxide or combustible gas.”.

Amendment of regulation 5 (agreement of Secretary of State in respect of relevant projects)

7. In regulation 5—

- (a) after paragraph (1), insert—

“(1A) Where in relation to a relevant project there is, in addition to a requirement for an environmental statement to be prepared in accordance with these Regulations, also a requirement to carry out a Habitats Regulations Assessment, the Secretary of State shall where appropriate ensure that the preparation of that assessment and the environmental statement are coordinated.”;

(b) for paragraph (2A), substitute—

“(2A) This paragraph applies to any application for a renewal of a consent to—

- (a) the getting of petroleum in relation to a relevant project (other than as a by-product of the drilling or testing of a well); or
- (b) the carrying on of a storage or unloading activity,

where the Secretary of State has decided that, having regard to the matters set out in Schedule 1, the operation in respect of which the renewal is sought would not be likely to have a significant effect on the environment and that accordingly no environmental statement need be prepared in respect of that project.”;

(c) for paragraph (4), substitute—

“(4) Where an application for consent in respect of a relevant project is accompanied by an environmental statement, the Secretary of State shall not make the decision referred to in regulation 5A(1)(c) in respect of that project unless the Secretary of State is satisfied that the requirements of regulations 9 and 10 have been substantially met, and that, where necessary, advice has been obtained from persons with appropriate expert knowledge who have examined the statement.”;

(d) in paragraph (5)—

- (i) for “member State”, wherever it occurs, substitute “EEA state”;
- (ii) for “shall not agree to the grant of consent”, substitute “make the decision referred to in regulation 5A(1)(c)”;
- (iii) in sub-paragraph (c)(i), after “responsibilities”, insert “or local or regional competence”; and
- (iv) at the end of sub-paragraph (d), insert “and, in respect of those members of the public, the Secretary of State is satisfied that they have had at least 30 days to consider the environmental statement.”;

(e) for paragraph (6), substitute—

“(6) Where the Secretary of State has made a direction under regulation 6(2) (provision as to directions that no further environmental statements need be prepared where one already prepared) the Secretary of State shall not make the decision referred to in regulation 5A(1)(c) in respect of that project unless the Secretary of State is satisfied that the requirements of regulations 9 and 10 have been substantially met, and that, where necessary, advice has been obtained from persons with appropriate expert knowledge who have examined the statement.”;

(f) omit paragraphs (8) to (9);

(g) for paragraph (10)(b), substitute—

“(b) on a public website.”; and

(h) after paragraph (10), insert—

“(10A) In this regulation, a “Habitats Regulations Assessment” means an assessment under either regulation 5 of the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001(a), or regulation 25 of the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007(b).”.

(a) S.I. 2001/1754; regulation 5 was amended by S.I. 2007/77, S.I. 2007/1842 and S.I. 2016/912.

(b) S.I. 2007/1842; regulation 25 was amended by S.S.I. 2007/485, S.I. 2010/490, S.I. 2010/1513, S.I. 2013/755 and S.I. 2016/912.

New regulation 5A (decision as to whether agreement is to be given)

8. After regulation 5, insert—

“Decision as to whether agreement is to be given

5A.—(1) When making a decision as to whether to agree to the grant of a consent in respect of a relevant project for which an environmental statement has been submitted, the Secretary of State shall—

- (a) examine the environmental statement, including any information provided under regulation 10, any representations made by any person required by these Regulations to be invited to make representations, and any representations duly made by any other person about the environmental effects of the project;
- (b) reach a reasoned conclusion on the significant effects of the relevant project on the environment, taking into account the examination referred to in sub-paragraph (a); and
- (c) integrate that conclusion into the decision as to whether agreement to the grant of consent is to be given.

(2) If agreement to the grant of consent is to be given under paragraph (1)(c), the decision shall set out—

- (a) any environmental conditions attached to the decision;
- (b) a description of any features of the relevant project or measures envisaged to avoid, prevent or reduce, and if possible, offset any significant adverse effects on the environment; and
- (c) any measures to monitor conditions imposed to avoid, prevent or reduce, and if possible, offset any significant adverse effects on the environment (“a monitoring condition”).

(3) If agreement is to be refused, the decision shall state the main reasons for the refusal.

(4) The reasoned conclusion referred to in paragraph (1)(b) shall be up to date at the time that the decision referred to in paragraph (1)(c) is made, but that conclusion shall be taken to be up to date if, in the opinion of the Secretary of State, it continues to address the significant effects that are likely to arise as a result of the relevant project.

(5) When considering whether to impose a monitoring condition referred to in paragraph (2)(c), the Secretary of State shall—

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

(6) The decision of the Secretary of State referred to in paragraph (1)(c) shall be made within a reasonable period of time, taking into account the nature and complexity of the relevant project, from the date on which the Secretary of State has been provided with the information and representations referred to in paragraph (1)(a).

(7) The Secretary of State shall promptly publish a notice of the decision referred to in paragraph (1)(c) in the Gazette and on a public website and shall send a copy of the notice to those authorities specified in the notice given to the undertaker in accordance with regulation 9(1).

(8) A notice published under paragraph (7) shall—

- (a) set out—
 - (i) the contents of the decision;

- (ii) the main reasons and considerations on which the decision is based; and
 - (iii) a summary of all representations made to the Secretary of State by any person in respect of the project including where regulation 12 (projects affecting other states) applies, any representations made by an EEA State affected by the relevant project, the public concerned or authorities in that state, together with details of how those representations were taken into account; and
- (b) specify where details of these matters may be obtained, including the address of the public website on which a copy of the notice is published.”.

Amendment of regulation 6 (provisions as to directions that no environmental statement need be prepared)

9. In regulation 6—

- (a) in paragraph (1) after “subject to paragraphs” insert “(1D),”;
- (b) after paragraph (1), insert—
 - “(1A) When making a direction under paragraph (1), the Secretary of State shall, where proposed by the undertaker, include in the direction any features of the relevant project or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects of the project on the environment.
 - (1B) If the Secretary of State considers that a relevant project is highly likely to have a significant effect on the environment given the environmental sensitivity of the location of the project, the Secretary of State may direct that an environmental statement is required before the Secretary of State can make a decision whether to agree to the grant of a consent in respect of that project.
 - (1C) When giving a direction under paragraph (1B), the Secretary of State shall publish a notice of the direction in the Gazette and by any other means the Secretary of State considers appropriate, which shall include making the notice available on a public website.
 - (1D) Where a direction made under paragraph (1B) is in force in respect of a relevant project, the Secretary of State shall not make a direction under paragraph (1) in respect of that project (whether or not that project has been modified or is to be carried out in any particular manner or time).”;
- (c) in paragraph (2)(b), for “sub-paragraphs (a) to (d)”, substitute “sub-paragraphs (a) to (f)”;
- (d) in paragraph (3)—
 - (i) after “under paragraph (1)”, insert “, (1B)”;
 - (ii) at the end insert “and the results of any preliminary verifications or assessments on the environment of the geographical areas likely to be affected by the relevant project carried out pursuant to EU legislation other than the Directive.”;
- (e) for paragraph (4), substitute—
 - “(4) An undertaker shall—
 - (a) provide to the Secretary of State such further information in relation to any application made by the undertaker under paragraph (1)(a) or (2) as the Secretary of State may require; and
 - (b) where the circumstances described in paragraph (1B) apply, provide to the Secretary of State any information in respect of the relevant project, as the Secretary of State may require.”;
- (f) in paragraph (5)—
 - (i) at the end of sub-paragraph (c), omit “or”;
 - (ii) in sub-paragraph (d), for “member State” substitute “EEA State”; and
 - (iii) after sub-paragraph (d), insert—
 - “(e) to the carrying on of a storage or unloading activity; or

- (f) to the erection of a structure in relation to a project which has as its main object a storage or unloading activity.”;
- (g) after paragraph (10), insert—
 - “(10A) The Secretary of State shall make a decision in relation to an application referred to in paragraph (1) or (2) as soon as possible and in any event within 90 days of receiving the application containing the appropriate particulars, unless paragraph (10B) applies.
 - (10B) Where an application referred to in paragraph (1) is for a relevant project that is, in the Secretary of State’s opinion, an exceptional case, for example in relation to its nature, complexity, location or size, the Secretary of State may extend the time limit referred to in paragraph (10A) by notifying the undertaker in writing as to when the decision is expected to be made and the reasons why the Secretary of State considers the extra time is needed.”;
- (h) for paragraph (11), substitute—
 - “(11) Where the Secretary of State makes a decision in relation to any application referred to in paragraph (1) or (2), the Secretary of State shall promptly publish a notice of the decision in the Gazettes and on a public website.
 - (12) A notice published under paragraph (11) shall set out—
 - (a) the contents of the decision;
 - (b) the main reasons and considerations on which the decision is based, making references to the relevant matters set out in Schedule 1; and
 - (c) where the decision is that an environmental statement is not required, and where proposed by the undertaker, state any features of the project or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.”.

Amendment of regulation 7 (opinion by Secretary of State as to content of environmental statements)

10. In regulation 7—

- (a) in paragraph (1), for “as to the matters to be included”, substitute “on the scope and level of detail to be included by the undertaker”;
- (b) in paragraph (2), for sub-paragraph (a)(ii), substitute—
 - “(ii) any environmental authority or other authority which the Secretary of State considers would be likely to be interested in the relevant project by reason of either its particular environmental responsibilities or its local or regional competence;”;
- (c) after paragraph (2) insert—
 - “(2A) When giving an opinion pursuant to paragraph (1), the Secretary of State shall take into account information contained in the appropriate particulars, particularly in respect of the specific characteristics of the project, including its location and technical capacity and its likely impact on the environment.”.

Amendment of regulation 8 (obtaining of information for the preparation of environmental statements)

11. In regulation 8—

- (a) in paragraph (2)—
 - (i) in sub-paragraph (b), after “environmental authority”, insert “or other authority with local or regional competence”;
 - (ii) in sub-paragraph (c), for “any environmental authority”, substitute “an authority referred to in sub-paragraph (b)”;

- (b) in paragraph (3), omit “environmental”.

Amendment of regulation 9 (procedure on receipt of application for consent etc.)

12. In regulation 9—

- (a) for paragraph (1), substitute—

“(1) Where the Secretary of State is informed of an application for a consent in respect of a relevant project which is accompanied by an environmental statement, the Secretary of State shall promptly serve on the undertaker concerned a notice specifying those environmental authorities or other authorities which the Secretary of State considers would be likely to be interested in the relevant project by reason of either their particular environmental responsibilities or local or regional competence.”;
- (b) in paragraph (2), for “4 weeks”, wherever it occurs, substitute “30 days”;
- (c) in paragraph (2)(a), for “environmental authority” substitute “authority”;
- (d) for paragraph (2A)(b), substitute—

“(b) in such newspapers as the Secretary of State may direct and on a public website and the undertaker shall publish a copy of the application for consent and the environmental statement on that website alongside the notice.”;
- (e) at the end of paragraph (3), insert “and also the address of the public website referred to in paragraph (2A)(b).”; and
- (f) in paragraph (4), for “environmental authority” substitute “authority notified to the undertaker under paragraph (1)”.

Amendment of regulation 10 (provision to Secretary of State of further information and evidence respecting environmental statements)

13. In regulation 10—

- (a) in paragraph (2)—
 - (i) for “main”, substitute “significant”;
 - (ii) for “4 weeks”, wherever it occurs, substitute “30 days”;
 - (iii) in sub-paragraph (a), for “environmental authority”, substitute “authority”;
 - (iv) at the end of sub-paragraph (c), omit “and”; and
 - (v) at the end of sub-paragraph (d), insert—

“; and
 - (e) publish on a public website the notice referred to in sub-paragraph (d) alongside copies of the information referred to in sub-paragraph (a).”; and
- (b) in paragraph (3), after “in which”, insert “, and also the address of the public website on which.”.

Amendment of regulation 11 (exercise by OGA of powers under licences)

14. In regulation 11—

- (a) in paragraph (2)(b)(iii), for “member State”, substitute “EEA State”;
- (b) for paragraph (6), substitute—

“(6) The Secretary of State shall not make a decision under paragraph (8A)(c) unless the Secretary of State is satisfied that the requirements of regulations 9 and 10, as they apply by virtue of paragraph (5), have been substantially met and that, where necessary, advice has been obtained from persons with appropriate expert knowledge who have examined the environmental statement.”;
- (c) in paragraph (7)—

- (i) for “member State” wherever it appears, substitute “EEA State”;
 - (ii) for “agree to the grant of approval or the imposition of a relevant requirement” in the second place where it occurs, substitute “make a decision under paragraph (8A)”;
 - and
 - (iii) at the end of paragraph (7)(d), insert “and in respect of those members of the public, the Secretary of State is satisfied that they have had at least 30 days to consider the environmental statement.”;
- (d) in paragraph (8)—
- (i) for “agrees to any proposals of the kind referred to in paragraph (A1) above or the imposition of any relevant requirement”, substitute “makes a decision to give agreement under paragraph (8A)(c)”;
 - and
 - (ii) omit “referred to in those proposals”;
- (e) after paragraph (8), insert—
- “(8A) When making a decision as to whether to agree to proposals which entail the carrying out of a relevant project comprising a development or to the exercise of any power under a licence to require the carrying out of a relevant project comprising a development, where in either case an environmental statement has been submitted, the Secretary of State shall—
- (a) examine the environmental statement, including any further information provided under regulation 10, any representations made by any person required by these Regulations to be invited to make representations, and any representations duly made by any other person about the environmental effects of the project;
 - (b) reach a reasoned conclusion on the significant effects of the project on the environment, taking into account the examination referred to in sub-paragraph (a);
 - and
 - (c) integrate that conclusion into the decision as to whether agreement is to be given.
- (8B) If a decision is made to give agreement under paragraph (8A)(c), the decision shall set out—
- (a) any environmental conditions attached to the decision;
 - (b) a description of any features of the relevant project or measures to be taken to avoid, prevent or reduce, and if possible, offset any significant adverse effects on the environment of the relevant project; and
 - (c) any measures to monitor conditions imposed to avoid, prevent or reduce and, if possible, offset significant adverse effects on the environment (“a monitoring condition”);
- (8C) If a decision is made to refuse agreement under paragraph (8A)(c), the decision shall state the main reasons for the refusal.
- (8D) The reasoned conclusion referred to in paragraph (8A)(b) shall be up to date at the time that the decision referred to in paragraph (8A)(c) is made, but that conclusion shall be taken to be up to date if, in the opinion of the Secretary of State, it continues to address the significant effects that are likely to arise as a result of the relevant project.
- (8E) When considering whether to impose a monitoring condition referred to in paragraph (8B)(c), the Secretary of State shall—
- (a) consider whether to make provision for potential remedial action;
 - (b) consider whether there are appropriate existing monitoring arrangements under EU legislation other than the Directive, or under national legislation to make the imposition of a monitoring condition unnecessary; and
 - (c) take steps to ensure that the type of parameters to be monitored and the duration of the monitoring are proportionate to the nature, location and size of the relevant project and the significance of its effects on the environment.

(8F) The decision of the Secretary of State referred to in paragraph (8A)(c) must be made within a reasonable period of time, taking into account the nature and complexity of the relevant project, from the date on which the Secretary of State has been provided with the information and representations referred to in paragraph (8A)(a).”;

(f) for paragraph (9), substitute—

“(9) The Secretary of State shall promptly publish the relevant matters in the Gazettes and on a public website and shall send a copy of the relevant matters to those authorities specified in the notice served under regulation 9(1) as it applies by virtue of paragraph (5). ”; and

(g) for paragraph (9A), substitute—

“(9A) For the purposes of paragraph (9), the “relevant matters” means—

(a) a decision referred to in paragraph (2) or in paragraph (8A)(c); and

(b) a notice setting out—

(i) the contents of the decision referred to in sub-paragraph (a);

(ii) the main reasons and considerations on which the decision is based;

(iii) a summary of all representations made to the Secretary of State by any person in respect of the relevant project, if any, including, where regulation 12 applies, any representations made by an EEA State affected by the relevant project, the public concerned or authorities in that state, together with details of how those representations were taken into account;

and the notice shall specify where details of these matters may be obtained, including the address of the public website on which the notice is published.”.

Amendment of regulation 12 (projects affecting other states)

15. In regulation 12—

(a) for “member State”, substitute “EEA State” wherever it occurs;

(b) at the end of paragraph (2)(c), insert “including the address of the public website referred to in regulation 9(2A)(b).”;

(c) omit paragraph (3); and

(d) after paragraph (4), insert—

“(5) For the purposes of this regulation as it applies in respect of a relevant project for which a licence is granted under section 18 of the 2008 Act or related consents, any reference to a relevant project is to a relevant project in respect of which such an environmental statement is required to be prepared.”.

Amendment of 12A (projects in other states having a significant effect on the environment in the transboundary area)

16. In regulation 12A—

(a) at the end of paragraph (1)(b), insert “, such period to allow at least 30 days between the environmental statement becoming available to the public concerned and the deadline for the submission of their representations.”; and

(b) in paragraph (2)(a), for “environmental authorities in the United Kingdom which he considers are likely to be concerned by the project by reason of their particular environmental responsibilities”, substitute “environmental authorities or other authorities which the Secretary of State considers would be likely to be interested in the relevant project by reason of either their particular environmental responsibilities or local or regional competence”.

New regulation 13 (exempt projects)

17. For regulation 13, substitute—

“Exempt projects

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

- (a) these Regulations do not apply in relation to a relevant project if the project comprises or forms part of a project—
 - (i) having national defence as its sole purpose; or
 - (ii) having the response to a civil emergency as its sole purpose; and
- (b) in the opinion of the Secretary of State compliance with these Regulations would have an adverse effect on that purpose.

(2) Subject to paragraph (4), the Secretary of State may, in exceptional cases, direct that a relevant project is exempt in whole or in part from the requirements of these Regulations if circumstances exist such that the application of all or some of the provisions of these Regulations would adversely affect the purpose of the relevant project.

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

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

- (a) has considered whether another form of assessment is appropriate;
- (b) in a case where the Secretary of State considers that the project is likely to have significant environmental effects on the environment in another EEA State, is satisfied that a form of consultation with that state broadly equivalent to the form described in regulation 12 will take place before any consent is given in respect of the project, and
- (c) has informed the Commission of the European Union of the reasons justifying the exemption to be granted and has provided it with details of the information to be made available to the public pursuant to paragraph (5).

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

- (a) require the carrying out of such form of assessment as the Secretary of State considers appropriate in order to ensure a high level of protection of the environment and of human health;
- (b) require that all information relating to the main effects the project is likely to have on the environment collected pursuant to sub-paragraph (a) is to be made available to the public and specify the manner in which it is to be made available;
- (c) specify the extent to which these Regulations are to apply or that they are not to apply at all; and
- (d) include a statement of the Secretary of State’s reasons for giving the direction and the information on which that decision is based.

(6) The Secretary of State shall publish—

- (a) details of the direction given under paragraph (2) in the Gazettes together with information as to how the public concerned may obtain a copy of the direction; and
- (b) the direction itself on a public website.”.

Amendment of regulation 16 (application to court by person aggrieved)

18. In regulation 16—

- (a) in paragraph (1), for “regulation 5(4)(b)”, substitute “regulation 5(4) or regulation 5A(1)(a)”;
- (b) in paragraph (2), after “regulation 11(6)”, add “or regulation 11(8A)(a)”.

Amendment of regulation 17A (fees)

19. In regulation 17A, in paragraph (1)—

- (a) for sub-paragraph (b), substitute—
 - “(b) considering, accepting or rejecting an environmental statement submitted under regulation 5, or making a decision as referred to in regulation 5A(1) or 11(8A);”;
- (b) in sub-paragraph (d), after “6(1)”, insert “6(1B)”;
- (c) in sub-paragraph (n), after “environmental authority”, insert “or other authority interested in the relevant project by reason of their local or regional competence”.

Substitution of Schedule 1 (matters to be taken into account in deciding whether relevant project likely to have a significant effect on the environment)

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

Substitution of Schedule 2 (contents of environmental statement)

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

Amendment of the Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010

22. In the Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010(a), omit article 2.

Transitional provisions in relation to the 1999 Offshore Regulations

23.—(1) Subject to paragraph (2) and (3), the following must be dealt with under the 1999 Offshore Regulations as if they had not been amended by these Regulations—

- (a) any application for consent or any application for the agreement of the Secretary of State in respect of a relevant project as referred to in regulation 5;
- (b) any application for a direction made under regulation 6(1) or (2);
- (c) any application for an opinion made under regulation 7;
- (d) any request for—
 - (i) the approval of the OGA of any proposals for the carrying out of a relevant project referred to in regulation 11(1);
 - (ii) the approval of the OGA to exercise powers under a licence to impose a requirement on a licensee to carry out a relevant project referred to in regulation 11(4); or
 - (iii) the agreement of the Secretary of State to allow the OGA to approve such proposals mentioned in paragraph (i) or exercise such powers mentioned in paragraph (ii); or
- (e) any information about a relevant project received from another EEA State under regulation 12A,

received by the OGA or by the Secretary of State before these Regulations come into force.

(2) This regulation is subject to regulation 13 (exempt projects).

(a) S.I. 2010/1513.

(3) Where paragraph (1) applies in respect of an application for an opinion under regulation 7, the 1999 Offshore Regulations as unamended by these regulations shall apply for all purposes, save for regulation 13, in respect of the relevant project to which the opinion relates.

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

PART 2

Amendment of the 1999 Pipe-line Regulations

Introduction

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

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

Amendment of regulation 2 (interpretation)

26. In regulation 2(1)—

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

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

(a) includes—

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

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

(c) may also include any features of the proposed pipe-line works or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment;”;

(b) after the definition of “the consultation bodies”, insert—

““the Directive” means Directive 2011/92/EU^(a) of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment;”;

(c) omit the definition of “environmental statement”, and insert—

(a) OJ L 26 28.1.2012 p1.

““environmental impact assessment” shall be interpreted in accordance with regulation 2A;

“environmental statement” has the meaning set out in regulation 2B;”;

(d) after the definition of “gas transporter”, insert—

““public website” means a website accessible to the public where the public can view and download information placed on it;”;

(e) in the definition of “relevant planning authority”, in paragraph (c), after “is required” insert “or in regulation 3A(1) (exempt pipe-line works);”;

(f) in the definition of “sensitive area”—

(i) for paragraph (h), substitute—

“(h) an area of outstanding natural beauty designated as such by an order made under section 82 (designation of areas) of the Countryside and Rights of Way Act 2000;(a)”;

(ii) at the end of paragraph (i), insert “or regulation 8 of the Conservation of Habitats and Species Regulations 2010(b)”;

(iii) at the end of paragraph (j), omit “and” and at the end of paragraph (k), insert “and”; and

(iv) after sub-paragraph (k), insert—

“(l) a wetland designated under paragraph 1 of Article 2 of the Ramsar Convention, as defined in section 37A of the Wildlife and Countryside Act 1981, for inclusion in the list of wetlands of international importance referred to in that Article(c).”.

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

27. After regulation 2, insert—

“Environmental impact assessment

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

- (a) the preparation and submission of an environmental statement by a gas transporter;
- (b) the carrying out of the consultations referred to in regulations 9 to 11A and, where relevant, regulation 13;
- (c) the Secretary of State’s consideration of the information presented in the environmental statement, any further information or additional information provided in accordance with regulation 11 or 11A, and any representations or opinions received as the result of the consultations referred to in sub-paragraph (b);
- (d) the Secretary of State’s reasoned conclusion as required by regulation 14(1); and
- (e) the integration of that conclusion into the decision as to whether the grant of consent is to be given as required by regulation 14(1).

(2) In carrying out the steps described in paragraph (1)(a), the gas transporter shall identify, describe and assess in an appropriate manner—

- (a) the direct and indirect significant effects of the proposed pipe-line works on the following factors—

(a) 2000 c. 37. Section 82 was amended by the Natural Environment and Rural Communities Act 2006 (c.16) section 105(1), Schedule 11, Part 1, paragraph 163(a) and (b), and SI 2013/755.

(b) S.I. 2010/490; this instrument was amended by S.I. 2012/1927.

(c) 1981 c.69 . Section 37A was inserted by the Countryside and Rights of Way Act 2000 (c. 37) and amended by the Natural Environment and Rural Communities Act 2006 (c.16) section 105(1), Schedule 11, Part 1, paragraph 86, the Planning (Wales) Act 2015 (anaw.4) section 16, Schedule 2, paragraphs 5 and 7 and S.I. 2013/755.

- (i) population and human health;
 - (ii) biodiversity, with particular attention to species and habitats protected under Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds;
 - (iii) land, soil, water, air and climate;
 - (iv) material assets, cultural heritage and the landscape; and
 - (v) the interaction between the factors referred to in sub-paragraphs (i) to (iv); and
- (b) the operational effects of the proposed pipe-line works (where the works will have operational effects) and the expected effects deriving from the vulnerability of the works to risks of major accidents or disasters that are relevant to the works concerned.

Environmental statement

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

- (a) a description of the works comprising information on the site, design, size and other relevant features of the works;
- (b) a description of the likely significant effects of the works on the environment;
- (c) a description of the features of the works or measures envisaged in order to avoid, prevent or reduce, and if possible, offset likely significant adverse effects on the environment;
- (d) a description of the reasonable alternatives studied by the gas transporter which are relevant to the works and their specific characteristics and an indication of the main reasons for the option chosen, taking into account the effects of the works on the environment;
- (e) a non-technical summary of the information referred to in sub-paragraphs (a) to (d); and
- (f) any additional information set out in Schedule 1 (information for the environmental statement) relevant to the specific characteristics of the particular proposed pipe-line works or type of works and to the environmental features likely to be affected.

(2) In preparing the environmental statement, the gas transporter shall also take into account any available results of other relevant assessments under EU or national legislation.

(3) Where the Secretary of State has given an opinion under regulation 7 on the matters to be included in the environmental statement, the statement shall be based on that opinion and include the information that may be reasonably required for reaching a reasoned conclusion on the significant effects of the proposed pipe-line works on the environment, taking into account current knowledge and methods of assessment.

(4) In order to ensure the completeness of the environmental statement, the gas transporter shall ensure that—

- (a) the statement is prepared by competent experts; and
- (b) the statement is accompanied by a statement from the gas transporter outlining the relevant expertise or qualifications of such experts.”.

Amendment of regulation 3 (environmental statements)

28. In regulation 3—

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

(b) after paragraph (5), insert—

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

(c) after paragraph (6), insert—

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

New regulation 3A (exempt pipe-line works)

29. After regulation 3, insert—

“Exempt pipe-line works

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

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

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

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

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

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

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

- (a) require the carrying out of such form of assessment as the Secretary of State considers appropriate in order to ensure a high level of protection of the environment and of human health;

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

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

30. In regulation 6—

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

“(1A) If the Secretary of State considers that proposed pipe-line works are highly likely to have a significant effect on the environment given the environmental sensitivity of the location of the works, the Secretary of State may determine that no request for an environmental determination may be made under regulation 6 in respect of those works and direct that an environmental statement be prepared in respect of those works, and sub-paragraphs (a) and (b) to regulation 3(3) shall apply.

(1B) Where a direction under paragraph (1A) is in force in respect of proposed pipe-line works, the Secretary of State shall not make an environmental determination under paragraph (2) in respect of those works (whether or not that project has been modified or is to be carried out in any particular manner or time).”;
- (c) in paragraph (2), at the end of sub-paragraph (a), insert “and the results of preliminary verifications or assessments on the environment carried out pursuant to European Union legislation other than the Directive”;
- (d) in paragraph (6)—
 - (i) after “for the same”, insert “as soon as possible and in any event”; and
 - (ii) at the end of paragraph (6), insert “where the application is in respect of proposed pipe-line works that are, in the Secretary of State's opinion, an exceptional case, for example in relation to their nature, complexity, location or size, and the agreement shall include the reasons why the Secretary of State considers the extra time is needed.”; and
- (e) for paragraph (7), substitute —

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

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

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

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

31. In regulation 7—

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

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

32. In regulation 8—

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

Amendment of regulation 9 (provision of information)

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

Amendment of regulation 10 (publicity for environmental statements)

34. In regulation 10—

- (a) for paragraph (4), substitute—

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

 - (a) in two successive weeks in—
 - (i) the Gazette, and
 - (ii) one or more local newspapers circulating in each area in which the proposed pipe-line works would be carried out; and
 - (b) on a public website, alongside the application for consent and the environmental statement.”; and
- (b) at the end of paragraph (7), insert “and also the address of the public website on which the notice was published in accordance with paragraph (4).”.

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

35. In regulation 11—

- (a) in paragraph (1), after “specify”, insert “which is directly relevant to enabling the Secretary of State to reach the reasoned conclusion on the significant effects of the proposed pipe-line works on the environment under regulation 14 (consent to pipe-line works)”; and
- (b) for paragraph (5), substitute—

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

 - (a) in two successive weeks in—
 - (i) the Gazette, and
 - (ii) one or more local newspapers circulating in each area in which the proposed pipe-line works would be carried out; and

- (b) on a public website alongside the further information and any supplementary information.”; and
- (c) at the end of paragraph (7), insert “and also the address of the public website on which the notice was published in accordance with paragraph (5).”.

Amendment of regulation 11A (additional information and publicity)

36. In regulation 11A—

- (a) for paragraph (4), substitute—
 - “(4) The notice referred to in paragraph (2)(a) shall be published—
 - (a) in two successive weeks in—
 - (i) the Gazette, and
 - (ii) one or more local newspapers circulating in each area in which the proposed pipe-line works would be carried out; and
 - (b) on a public website alongside the additional information.”; and
- (b) at the end of paragraph (7), insert “and also the address of the public website on which the notice was published in accordance with paragraph (4).”.

Amendment of regulation 13 (projects affecting other states)

37. In regulation 13—

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

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

38. In regulation 14—

- (a) in paragraph (1)—
 - (i) in sub-paragraph (b)(i), after “information”, insert “, ensuring that where necessary, advice has been obtained from persons with appropriate expert knowledge who have examined the statement”; and
 - (ii) at the end of sub-paragraph (b), omit “and”; and
 - (iii) for the words appearing after sub-paragraph (c), substitute—
 - “; and
 - (d) having reached a reasoned conclusion on the significant effects of the proposed pipe-line works on the environment, taking into account the information and representations referred to in sub-paragraph (b),
- shall, subject to paragraph (2), integrate that conclusion into the Secretary of State’s decision as to whether or not to consent to the carrying out of the proposed pipe-line works.”;
- (b) after paragraph (1), insert—
 - “(1A) If consent is to be given under paragraph (1), the consent should set out—
 - (a) any environmental conditions attached to the consent;

- (b) a description of any features of the proposed pipe-line works or measures envisaged to avoid, reduce or prevent and if possible offset any significant adverse effect on the environment; and
- (c) any measures to monitor conditions imposed to avoid, prevent, or reduce and if possible offset significant adverse effects on the environment (“a monitoring condition”).

(1B) If consent is to be refused under paragraph (1), the decision to refuse consent shall state the main reasons for the refusal.

(1C) The reasoned conclusion referred to in paragraph (1)(d) shall be up to date at the time that the decision to consent to the carrying out of the proposed pipe-line works is made but that conclusion shall be taken to be up to date if, in the opinion of the Secretary of State, it continues to address the significant effects that are likely to arise as a result of the proposed works.

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

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

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

(c) in paragraph (2)—

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

(d) in paragraph (4)—

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

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

“and

- (c) on a public website.”;

(f) for paragraph (5A), substitute—

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

(a) set out—

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

together with details of how those representations were taken into account;
and

- (b) specify where details of these matters may be obtained, including the address of the public website on which a copy of the notice is published.”;
- (g) omit paragraph (5B); and
- (h) at the end of paragraph (6), insert “and also the address of the public website on which the notice was published in accordance with paragraph (5).”.

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

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

New review regulation

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

“Review

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

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

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

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

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

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

Transitional provisions in respect of the 1999 Pipe-line Regulations

43.—(1) Subject to paragraphs (2) and (3), the following must be dealt with under the 1999 Pipe-line Regulations as if they had not been amended by these Regulations—

- (a) any notice of preparation of environmental statement referred to in regulation 3;
- (b) any request for an environmental determination referred to in regulation 6;
- (c) any pre-application request for an opinion referred to under regulation 7; or
- (d) any application for consent referred to in regulation 14,

received by the Secretary of State before these Regulations come into force.

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

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

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

PART 3

Amendment of the 2000 Regulations

Introduction

44. The 2000 Regulations are amended in accordance with this Part.

45. In the 2000 Regulations, for “28 days” or “four weeks”, wherever they occur, substitute “30 days”.

Amendment of regulation 2 (interpretation)

46. In regulation 2—

- (a) for the definition of “appropriate particulars”, substitute—
 - ““appropriate particulars” means the name and address of the applicant or prospective applicant and a description of the relevant pipe-line works which—
- (a) includes—
 - (i) the physical characteristics of the whole works, and where relevant, of demolition works;
 - (ii) the location of the works with particular regard to the environmental sensitivity of the geographical areas likely to be affected by the works;
 - (iii) the aspects of the environment likely to be significantly affected by the works;
 - (iv) any likely significant effects, to the extent of the information available on such effects, of the works on the environment resulting from—
 - (aa) the expected residues and emissions and the production of waste, where relevant; and
 - (bb) the use of natural resources, in particular soil, land, water and biodiversity;
- (b) takes into account the matters set out in Schedule 2 (matters to be taken into account in making an environmental determination etc.) and, where relevant, the results of other assessments of the effects on the environment carried out pursuant to EU legislation other than the Directive; and

- (c) may also include any features of the relevant pipe-line works or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment;”;
- (b) after the definition of “contravention”, insert—
 - ““the Directive” means Directive 2011/92/EU of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment(a);”;
- (c) for the definition of “environmental statement”, substitute—
 - ““environmental impact assessment” shall be interpreted in accordance with regulation 2A;
 - “environmental statement” has the meaning set out in regulation 2B;”;
- (d) after the definition of “public notice period”, insert—
 - ““public website” means a website accessible to the public where the public can view and download information placed on it.”.

New regulation 2A (environmental impact assessment), regulation 2B (environmental statement) and regulation 2C (exempt pipe-line works)

47. After regulation 2, insert—

“Environmental impact assessment

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

- (a) the preparation and submission of an environmental statement by a prospective applicant;
- (b) the carrying out of the consultations referred to in regulations 6 to 8A and, where relevant, regulation 10;
- (c) the Secretary of State’s consideration of the information presented in the environmental statement, any further information or additional information provided in accordance with regulations 8 or 8A and any representations or opinions received as the result of the consultations referred to in sub-paragraph (b);
- (d) the Secretary of State’s reasoned conclusion as required by regulation 3(2); and
- (e) the integration of that conclusion into the decision as to whether the grant of pipe-line construction authorisation is to be given as required by regulation 3(2).

(2) In carrying out the steps described in paragraph (1), the applicant shall identify, describe and assess in an appropriate manner—

- (a) the direct and indirect significant effects of the relevant pipe-line works on the following factors—
 - (i) population and human health;
 - (ii) biodiversity, with particular attention to species and habitats protected under Council Directive 92/43/EEC(b) on the conservation of natural habitats and of wild fauna and flora and Directive 2009/147/EC(c) of the European Parliament and of the Council on the conservation of wild birds;
 - (iii) land, soil, water, air and climate;
 - (iv) material assets, cultural heritage and the landscape; and
 - (v) the interaction between the factors referred to in paragraphs (i) to (iv); and

(a) OJ L 26 28.1.2012 p1.
 (b) OJ L 206 22.7.92 p.7.
 (c) OJ L 20 26.1.2010. p.7.

- (b) the operational effects of the relevant pipe-line works (where the works will have operational effects) and the expected effects deriving from the vulnerability of the works to risks of major accidents or disasters that are relevant to the works concerned.

Environmental statement

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

- (a) a description of the works comprising information on the location, design, size and other relevant features of the works;
- (b) a description of the likely significant effects of the works on the environment;
- (c) a description of the features of the works or measures envisaged in order to avoid, prevent or reduce, and if possible, offset likely significant adverse effects on the environment;
- (d) a description of the reasonable alternatives studied by the applicant which are relevant to the works and their specific characteristics and an indication of the main reasons for the option chosen, taking into account the effects of the works on the environment;
- (e) a non-technical summary of the information referred to in sub-paragraphs (a) to (d), and
- (f) any additional information set out in Schedule 1 (information for the environmental statement) relevant to the specific characteristics of the relevant pipe-line works or type of works and to the environmental features likely to be affected.

(2) In preparing the environmental statement, the applicant shall also take into account any available results of other relevant assessments under EU or national legislation.

(3) Where the Secretary of State has given an opinion under regulation 5 on the matters to be included in the environmental statement, the statement shall be based on that opinion and include the information that may be reasonably required for reaching a reasoned conclusion on the significant effects of the relevant pipe-line works on the environment, taking into account current knowledge and methods of assessment.

(4) In order to ensure the completeness of the environmental statement, the applicant shall ensure that—

- (a) the statement is prepared by competent experts; and
- (b) the statement is accompanied by a statement from the applicant outlining the relevant expertise or qualifications of such experts.

Exempt pipe-line works

2C.—(1) The Secretary of State may direct that—

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

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

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

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

- (a) has considered whether another form of assessment is appropriate, and
- (b) in a case where the Secretary of State considers that the relevant pipe-line works are likely to have significant environmental effects on the environment in another EEA State, is satisfied that a form of consultation with that state broadly equivalent to the form described in regulation 10 (projects affecting other EEA states) will take place before any pipe-line construction authorisation is given in respect of the relevant pipe-line works, and
- (c) has informed the Commission of the EU of the reasons justifying the exemption to be granted and has provided it with details of the information to be made available to the public pursuant to paragraph (5).

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

- (a) require the carrying out of such form of assessment as the Secretary of State considers appropriate in order to ensure a high level of protection of the environment and of human health;
- (b) require that all information relating to the main effects the works are likely to have on the environment collected pursuant to sub-paragraph (a) is to be made available to the public and specify the manner in which it is to be made available;
- (c) specify the extent to which these Regulations are to apply or that they are not going to apply at all; and
- (d) include a statement of the Secretary of State's reasons for giving the direction and the information on which that decision is based.

(6) The Secretary of State shall publish—

- (a) details of the direction given under paragraph (2) in the Gazette together with information as to how the public concerned may obtain a copy of the direction; and
- (b) the direction itself on a public website.”.

Amendment of regulation 3 (grant of pipe-line construction authorisation by Secretary of State in respect of relevant pipe-line works)

48. In regulation 3—

(a) after paragraph (1), insert—

“(1A) Where in relation to relevant pipe-line works there is, in addition to a requirement for an environmental statement to be submitted in accordance with these Regulations, also a requirement to carry out a Habitats Regulations Assessment, the Secretary of State shall where appropriate ensure that the preparation of the assessment and the environmental statement are coordinated.”;

(b) for paragraph (2), substitute—

“(2) Where an environmental statement is submitted to the Secretary of State in connection with an EIA application, the Secretary of State—

- (a) being satisfied that the requirements of regulations 7 to 8A, as appropriate, have been substantially complied with;
- (b) having taken into consideration—

- (i) the environmental statement and any supplementary information, ensuring that, where necessary, advice has been obtained by persons with appropriate expert knowledge who have examined the statement;
 - (ii) any further information or additional information;
 - (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 of the public; and
- (c) having reached a reasoned conclusion on the significant effects of the relevant pipe-line works on the environment taking into account the information, representations and opinions referred to in sub-paragraph (b),

shall, subject to paragraph (3), integrate that conclusion into the decision as to whether or not to grant a pipe-line construction authorisation in respect of the works.”;

(c) after paragraph (2), insert—

“(2A) If the decision in paragraph (2) is to grant the pipe-line construction authorisation, the decision shall set out—

- (a) any environmental conditions attached to the consent; and
- (b) a description of any features of the relevant pipe-line works or measure envisaged to avoid, reduce or prevent and if possible offset any significant adverse effect on the environment; and
- (c) any measures to monitor conditions imposed to avoid, prevent, or reduce and, if possible, offset significant adverse effects on the environment (“a monitoring condition”).

(2B) If the decision in paragraph (2) is to refuse the pipe-line construction authorisation, the decision shall state the main reasons for the refusal.

(2C) The reasoned conclusion referred to in paragraph (2)(c) shall be up to date at the time that the decision to grant the pipe-line construction authorisation is made but that conclusion shall be taken to be up to date if, in the opinion of the Secretary of State it continues to address the significant effects that are likely to arise as a result of the relevant pipe-line works.

(2D) When considering whether to impose a monitoring condition under paragraph (2A)(c), the Secretary of State shall—

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

(2E) The decision of the Secretary of State referred to in paragraph (2) shall be taken within a reasonable period of time, taking into account the nature and complexity of the relevant pipe-line works, from the date on which the Secretary of State has been provided with the information referred to in paragraph (2)(b).”;

(d) in paragraph (3)(c)(ii), after “reasonable time” insert “(in respect of the public, at least 30 days)”;

(e) in paragraph (4)—

- (i) after “Secretary of State shall”, insert “promptly”;
- (ii) at the end of sub-paragraph (b)(ii), insert “including where regulation 10 (projects affecting other EEA states) applies, any representations made by an EEA State

- affected by the relevant pipe-line works, the public concerned or authorities in that state”; and
- (iii) in sub-paragraph (b)(iv), after “relevant pipe-line works”, insert “, including any monitoring conditions”;
- (f) in paragraph (5), after sub-paragraph (b), insert—
- “; and
- (c) on a public website.”;
- (g) for paragraph (5A), substitute
- “(5A) A notice published under paragraph (5) shall—
- (a) set out—
- (i) the contents of the decision;
- (ii) the main reasons and considerations on which the decision is based;
- (iii) a summary of all representations made to the Secretary of State by any person in respect of the relevant pipe-line works including where regulation 10 (projects affecting other EEA states) applies, any representations made by an EEA State affected by the relevant pipe-line works, the public concerned or authorities in that state, together with details of how those representations were taken into account; and
- (b) specify where details of these matters may be obtained, including the address of the public website on which a copy of the notice is published.”;
- (h) omit paragraph (5B);
- (i) at the end of paragraph (6), insert “and also the address of the public website on which the notice was published in accordance with paragraph (5).” and
- (j) after paragraph (6), insert—
- “(7) In this regulation, “a Habitats Regulations Assessment” means an assessment under regulation 61 of the Conservation of Habitats and Species Regulations 2010 in respect of the relevant pipe-line works(a).”.

Amendment of regulation 4 (directions that no environmental statement need be prepared)

49. In regulation 4—

- (a) for paragraph (1)(a) substitute—
- “(a) no direction under paragraph (1A) is in force in respect of the relevant pipe-line works and a prospective applicant makes an application containing the appropriate particulars in respect of those works to the Secretary of State for the exercise the power conferred on the Secretary of State by sub-paragraph (b); and”;
- (b) after paragraph (1), insert—
- “(1A) If the Secretary of State considers that a relevant pipe-line works is highly likely to have a significant effect on the environment given the environmental sensitivity of the location of the works, the Secretary of State may direct that no application may be made under paragraph (1) in respect of those works and that an environmental statement shall be required before the Secretary of State can agree to the grant of a pipe-line construction authorisation in respect of those works.”;
- (c) at the end of paragraph (2), insert “and the results of any preliminary determinations or assessments on the environment carried out pursuant to EU legislation other than the Directive”;
- (d) after paragraph (6), insert—

(a) S.I. 2010/490; regulation 61 is amended by S.I. 2012/1927.

“(6A) The Secretary of State shall make a decision in relation to any application made under paragraph (1) as soon as possible and in any event within 90 days of receiving the application, unless paragraph (6B) applies.

(6B) Where an application referred to in paragraph (1) is for relevant pipe-line works that are, in the opinion of the Secretary of State, an exceptional case, for example in relation to their nature, complexity, location or size, the Secretary of State may extend the time limit referred to in paragraph (6A) by notifying the applicant as to when the decision is expected to be made and the reasons why the Secretary of State considers the extra time is needed.”; and

(e) for paragraph (7), substitute—

“(7) Paragraph (8) applies where either the Secretary of State—

(a) makes a direction under paragraph (1A); or

(b) directs, in response to an application under paragraph (1) that either—

(i) an EIA application in respect of those relevant pipe-line works needs to be accompanied by an environmental statement; or

(ii) an EIA application in respect of those relevant pipe-line works does not need to be accompanied by an environmental statement.

(8) Where this paragraph applies, the Secretary of State shall—

(a) publish notice of the direction in the Gazette and on a public website; and

(b) publish with the notice a written statement of the main reasons for the direction, making references to the relevant criteria set out in Schedule 2 and where the direction is that the EIA application does not need to be accompanied by an environmental statement, shall state any features of the proposed works or measures imposed that are proposed by the prospective applicant to avoid or prevent significant adverse effects.”.

Amendment of regulation 5 (pre-application opinion by the Secretary of State as to content of environmental statement)

50.—(1) In regulation 5—

(a) in paragraph (1), for “the information to be provided”, substitute “the scope and level of detail to be included by the applicant”; and

(b) in paragraph (2)(a)—

(i) after “into account”, insert “on the information provided”;

(ii) in paragraph (a)(i), after “works”, insert “including location and technical capacity”, and

(iii) omit paragraph (iv).

Amendment of regulation 7 (publicity for environmental statements)

51. In regulation 7—

(a) in paragraph (4)(a), for “satisfies the requirements of paragraph (5) below”, insert—

“(i) satisfies the requirements of paragraph (5); and

(ii) is also published on a public website alongside electronic copies of the EIA application, environmental statement and any supplementary information which accompanied the statement;”;

(b) at the end of paragraph (6), insert “and also the address of the public website on which the notice was published in accordance with paragraph (4).”.

Amendment of regulation 8 (further information and evidence respecting environmental statements)

52. In regulation 8—

- (a) in paragraph (1)—
 - (i) after “specify”, insert “which is directly relevant to enabling the Secretary of State to reach the reasoned conclusion referred to in regulation 3(2)(c)”; and
 - (ii) after “regulations 2, ”, insert “2A, ”;
- (b) for paragraph (5), substitute—

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

 - (a) in two successive weeks in—
 - (i) the Gazette, and
 - (ii) one or more local newspapers circulating in each area in which the relevant pipe-line works would be carried out; and
 - (b) on a public website alongside the further information.”; and
- (c) at the end of paragraph (7), insert “and also the address of the public website on which the notice was published in accordance with paragraph (5).”.

Amendment of regulation 8A (additional information and publicity)

53. In regulation 8A—

- (a) for paragraph (4), substitute—

“(4) The applicant shall publish the notice referred to in paragraph (2)(a)—

 - (a) in two successive weeks in—
 - (i) the Gazette, and
 - (ii) one or more local newspapers circulating in each area in which the relevant pipe-line works would be carried out; and
 - (b) on a public website alongside the additional information.”; and
- (b) at the end of paragraph (7), insert “and also the address of the public website on which the notice was published in accordance with paragraph (4).”.

Amendment of regulation 10 (projects affecting other EEA States)

54. In regulation 10, in paragraph (2)(a)(iii), after “these Regulations”, insert “including the address of the public website referred to in regulation 7(4)(a)”.

New review regulation

55. After regulation 15 (service of notices), insert—

“Review

- 16.—**(1) The Secretary of State must from time to time—
 - (a) carry out a review of the regulatory provision contained in these Regulations, and
 - (b) publish a report setting out the conclusions of the review.
- (2) The first report must be published before 16th May 2022.
- (3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015^(a) requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the Directive is implemented in other member States.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate; and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(6) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).”.

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

56. For Schedule 1, substitute the schedule that is set out in Schedule 5 to these Regulations.

Substitution of Schedule 2 (matters to be taken into account in giving a direction under regulation 4(2))

57. For Schedule 2, substitute the schedule that is set out in Schedule 6 to these Regulations.

Transitional provisions in respect of the 2000 Regulations

58.—(1) Subject to paragraphs (2) and (3), the following must be dealt with under the 2000 Regulations as if they had not been amended by these Regulations—

- (a) any EIA application for the grant of a pipe-line construction authorisation referred to in regulation 3;
- (b) any application for a direction that no environmental statement need be prepared referred to in regulation 4; or
- (c) pre-application request for an opinion as to the information to be provided in an environmental statement referred to in regulation 5,

received by the Secretary of State before the Regulations come into force.

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

(3) Where paragraph (1) applies in respect of an application for a pre-application request for an opinion under regulation 5, the 2000 Regulations as unamended by these regulations shall apply for all purposes, save for regulation 2C, in respect of the relevant pipe-line works to which the opinion relates.

(4) In this regulation, a reference to a numbered regulation is to that regulation so numbered in the 2000 Regulations.

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

PART 4

Miscellaneous amendments

Amendment of the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001

59. After regulation 8 (review of directions given by the Secretary of State) of the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001(a), insert—

“Review of existing decisions

8A.—(1) Where, before the date on which a site becomes a relevant site, the Secretary of State or the OGA has made an existing decision in respect of a plan or project to which regulation 5(1) (appropriate assessments) would apply if it were to be considered at that date, the Secretary of State shall, as soon as reasonably practicable, review that decision.

(2) The Secretary of State, for the purpose of carrying out the review under paragraph (1)—

- (a) shall make an appropriate assessment of the implications for the site in view of the site’s conservation objectives and the provisions of regulation 5(2) shall apply; and
- (b) may require a person to whom the existing decision applies to provide such information as the Secretary of State might reasonably require to enable the review to be carried out.

(3) Where the Secretary of State reviews an existing decision under this regulation, the Secretary of State shall—

- (a) where the existing decision was made by the OGA or is treated as made by the OGA(b), notify the OGA as to the outcome of the review and whether the OGA must affirm, revoke or modify the decision (and where the outcome is that the decision is to be modified, include details of the modifications to be made); or
- (b) where the existing decision was made by the Secretary of State, affirm, modify or revoke the decision.

(4) Nothing in this regulation—

- (a) requires a review where a site is a relevant site by reason of paragraph (c) of the definition of “relevant site” in regulation 2(1) (interpretation); or
- (b) affects anything done in pursuance of the existing decision before the date this regulation comes into force.

(5) In this regulation and regulation 8B, “an existing decision” means a consent, authorisation or approval.

Consideration on review

8B.—(1) This regulation applies where an existing decision falls to be reviewed under regulation 8A.

(2) In considering whether the continuance of a plan or project would adversely affect the integrity of the relevant site, the provisions of regulation 5(3) and regulation 6(1) to (3) apply with the appropriate modifications in relation to the decision on the review.

(a) S.I. 2001/1754. This instrument was amended by S.I. 2007/77, S.I. 2007/1842, S.I. 2010/1513, S.I. 2015/1431, S.I. 2016/529, S.I. 2016/912 and S.I. 2016/1042 and should be read with the modifications made by article 3 of S.I. 2010/1513.

(b) A decision made by the Secretary of State may, in certain circumstances, be treated as having been made by the OGA by virtue of regulation 2(2) of the Energy (Transfer of Functions, Consequential Amendments and Revocation) Regulations 2016 (S.I. 2016/912).

(3) The existing decision may be affirmed if it appears to the Secretary of State that action taken or to be taken will secure that the plan or project does not adversely affect the integrity of the relevant site.

(4) Where the avoidance of an adverse effect on the integrity of a relevant site may be secured in a number of ways, the Secretary of State shall seek to ensure that the action to be taken is the least onerous to those affected.

(5) Any modification or revocation under regulation 8A(4) shall be carried out under existing statutory procedures where such procedures exist.”.

Amendment of article 3 of the Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010

60. For article 3(5) of the Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010(a), substitute—

“(5) Regulations 5, 7, and 20A apply to an Energy Act licence that has been or is to be granted by the Oil and Gas Authority as they apply to a Petroleum Act licence, and for the purposes of those regulations and for regulation 8A, “consent” also includes a consent granted by the Secretary of State or the Oil and Gas Authority pursuant to an Energy Act licence, including any consent required pursuant to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999.”.

Amendment of Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015

61.—(1) The Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015(b) are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) after the definition of “major accident”, insert—

““obligation” includes a prohibition where relevant;”; and

(b) for the definition of “prospective offshore licensee”, substitute—

““prospective offshore licensee” means a person in respect of whom an application has been made to the licensing authority—

(a) for the grant of an offshore licence to that person; or

(b) for consent to a transfer of an offshore licence to that person (whether or not after the transfer the licence will be held jointly with another person, including an existing licence holder),

where that application has not been determined;”.

(3) For regulation 11(1), substitute—

“(1) The licensing authority may require an offshore licensee, prospective offshore licensee, operator or proposed operator to provide it with information—

(a) relevant for the performance of the licensing authority’s functions under regulation 3(1), 3(4) or 6(1); or

(b) relating to compliance with any obligation applying to that person under regulation 4, 5(1), 5(5), 8(6), or 9.”.

Nick Hurd

Minister of State

21st April 2017

Department for Business, Energy and Industrial Strategy

(a) S.I. 2010/1513. Article 3 of this instrument was amended by S.I. 2010/912 and SI 2016/1042.

(b) S.I. 2015/385, amended by the Energy Act 2016 c. 20, Schedule 1, paragraph 81. There are other amendments which are not relevant.

**MATTERS TO BE TAKEN INTO ACCOUNT IN DECIDING
WHETHER RELEVANT PROJECT LIKELY TO HAVE A
SIGNIFICANT EFFECT ON THE ENVIRONMENT**

Characteristics of the project

1. The characteristics of the relevant project having regard, in particular, to—
 - (a) the size and design of the project;
 - (b) the cumulation with other existing or approved projects;
 - (c) the use of natural resources in particular land, soil, water and biodiversity;
 - (d) the production of waste, pollution and nuisances;
 - (e) the risk of major accidents or disasters which are relevant to the project concerned including those caused by climate change, in accordance with scientific knowledge; and
 - (f) the risks to human health (for example, due to water contamination or air pollution).

Location of the project

2. The environmental sensitivity of geographical areas likely to be affected by the relevant project having regard, in particular, to—
 - (a) the existing and approved land use;
 - (b) the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground;
 - (c) the absorption capacity of the natural environment, paying particular attention to the following areas—
 - (i) wetlands, riparian areas, river mouths;
 - (ii) coastal zones and the marine environment;
 - (iii) mountain and forest areas;
 - (iv) nature reserves and parks;
 - (v) areas classified or protected under national legislation, Natura 2000 areas designated by member states pursuant to Directive 92/43/EEC(a) or Directive 2009/147/EC(b);
 - (vi) areas in which there has already been a failure to meet the environmental quality standards laid down in EU legislation and relevant to the project or in which it is considered that there is such a failure;
 - (vii) densely populated areas; and

(a) OJ L 206 22.7.92 p.7.

(b) OJ L 20 26.1.2010. p.7.

(viii) landscapes and sites of historical, cultural or archaeological significance.

Type and characteristics of the potential impact

3. The likely significant effects of the relevant project on the environment in relation to the criteria set out under paragraphs 1 and 2, and having regard in particular to the impact of the project on the factors specified in Article 3(1) of the Directive, taking into account—

- (a) the magnitude and spatial extent of the impact (for example geographical area and size of the population likely to be affected);
- (b) the nature of the impact;
- (c) the transboundary nature of the impact;
- (d) the intensity and complexity of the impact;
- (e) the probability of the impact;
- (f) the expected onset, duration, frequency and reversibility of the impact;
- (g) the cumulation of the impact with the impact of other existing or approved projects; and
- (h) the possibility of effectively reducing the impact.”

“SCHEDULE 2

Information for the Environmental Statement

1. A description of the relevant project, including in particular:
 - (a) a description of the location of the project;
 - (b) a description of the physical characteristics of the whole project, including, where relevant, requisite demolition works, and the land-use requirements during the construction and operational phases;
 - (c) a description of the main characteristics of the operational phase of the project (in particular any production process), for instance, energy demand and energy used, nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) used; and
 - (d) an estimate, by type and quantity, of expected residues and emissions (such as water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation) and quantities and types of waste produced during the construction and operation phases.
2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the undertaker, which are relevant to the relevant project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.
3. A description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without implementation of the project as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge.
4. A description of the factors set out in Article 3(1) of the Directive likely to be significantly affected by the project: population, human health, biodiversity (for example fauna and flora), land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydromorphological changes, quantity and quality), air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.
5. A description of the likely significant effects of the project on the environment resulting from, inter alia—
 - (a) the construction and existence of the project, including, where relevant, demolition works;
 - (b) the use of natural resources, in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources;
 - (c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the disposal and recovery of waste;
 - (d) the risks to human health, cultural heritage or the environment (for example due to accidents or disasters);
 - (e) the cumulation of effects with other existing or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources;

- (f) the impact of the project on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change;
- (g) the technologies and the substances used, and

these descriptions of the likely significant effects on the factors set out in Article 3(1) of the Directive must cover the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the project and should take into account environmental protection objectives established at EU or at national level relevant to the project.

6. A description of the forecasting methods or evidence, used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved.

7. A description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example the preparation of a post-project analysis).

8. The description in paragraph 7 should explain the extent to which significant adverse effects on the environment are avoided, prevented, reduced or offset, and should cover both the construction and operational phases.

9. A description of the expected significant adverse effects of the relevant project on the environment deriving from the vulnerability of the project to risks of major accidents or disasters which are relevant to the project.

10. Relevant information available and obtained through risk assessments pursuant to EU legislation such as Directive 2012/18/EU of the European Parliament and of the Council on the control of major accident hazards involving dangerous substances^(a) or Council Directive 2009/71/Euratom establishing a community framework for the nuclear safety of nuclear installations^(b) or relevant assessments carried out pursuant to national legislation may be used for describing the matters in paragraph 9, provided that the requirements of the Directive are met.

11. In describing the matters in paragraph 9, the undertaker should, where appropriate, include measures envisaged to prevent or mitigate the significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.

12. A non-technical summary of the information provided under paragraphs 1 to 11.

13. A reference list detailing the sources used for the descriptions and assessments included in the environmental statement.”

(a) OJ L 197 24.7.2012. p.1

(b) OJ L 172 2.7.2009. p.18.

“SCHEDULE 1

Information for the Environmental Statement

- 1.** A description of the proposed pipe-line works, including in particular:
 - (a) a description of the location of the works;
 - (b) a description of the physical characteristics of the whole works, including, where relevant, requisite demolition works, and the land-use requirements during the construction and operational phases;
 - (c) a description of the main characteristics of the operational phase of the works (in particular any production process), for instance, energy demand and energy used, nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) used;
 - (d) an estimate, by type and quantity, of expected residues and emissions (such as water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation) and quantities and types of waste produced during the construction and operation phases.

- 2.** A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the gas transporter, which are relevant to the proposed pipe-line works and their specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.

- 3.** A description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without implementation of the proposed pipe-line works as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge.

- 4.** A description of the factors set out in Article 3(1) of the Directive likely to be significantly affected by the proposed pipe-line works: population, human health, biodiversity (for example fauna and flora), land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydromorphological changes, quantity and quality), air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.

- 5.** A description of the likely significant effects of the proposed pipe-line works on the environment resulting from, inter alia:
 - (a) the construction and existence of the works, including, where relevant, demolition works;
 - (b) the use of natural resources, in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources;
 - (c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the disposal and recovery of waste;
 - (d) the risks to human health, cultural heritage or the environment (for example due to accidents or disasters);

- (e) the cumulation of effects with other existing or approved pipe-line works, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources;
- (f) the impact of the works on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the works to climate change;
- (g) the technologies and the substances used, and

these descriptions of the likely significant effects on the factors set out in Article 3(1) of the Directive must cover the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the works and should take into account environmental protection objectives established at EU or at national level relevant to the works.

6. A description of the forecasting methods or evidence, used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved.

7. A description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example the preparation of a post-project analysis).

8. The description in paragraph 7 should explain the extent, to which significant adverse effects on the environment are avoided, prevented, reduced or offset, and should cover both the construction and operational phases.

9. A description of the expected significant adverse effects of the proposed pipe-line works on the environment deriving from the vulnerability of the works to risks of major accidents or disasters which are relevant to the works concerned.

10. Relevant information available and obtained through risk assessments pursuant to EU legislation such as Directive 2012/18/EU of the European Parliament and of the Council on the control of major accident hazards involving dangerous substances or Council Directive 2009/71/Euratom establishing a community framework for the nuclear safety of nuclear installations or relevant assessments carried out pursuant to national legislation may be used for describing the matters in paragraph 9, provided that the requirements of the Directive are met.

11. In describing the matters in paragraph 9, the gas transporter should, where appropriate, include measures envisaged to prevent or mitigate the significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.

12. A non-technical summary of the information provided under paragraphs 1 to 11.

13. A reference list detailing the sources used for the descriptions and assessments included in the environmental statement.”

“SCHEDULE 2 Regulations 2(1) and 6(7)

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 the proposed pipe-line works having regard, in particular, to—
 - (a) the size and design of the proposed pipe-line works and of the proposed pipe-line;
 - (b) the cumulation with other existing or approved pipe-line works;
 - (c) the use of natural resources in particular land, soil, water and biodiversity;
 - (d) the production of waste, pollution and nuisances;
 - (e) the risk of major accidents or disasters which are relevant to the proposed pipe-line works or to the proposed pipe-line, including those caused by climate change, in accordance with scientific knowledge; and
 - (f) the risks to human health (for example, due to water contamination or air pollution).

Location of proposed pipe-line works

2. The environmental sensitivity of geographical areas likely to be affected by the proposed pipe-line works, having regard, in particular, to—
 - (a) the existing and approved land use;
 - (b) the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground;
 - (c) the absorption capacity of the natural environment, paying particular attention to the following areas—
 - (i) wetlands, riparian areas, river mouths;
 - (ii) coastal zones and the marine environment;
 - (iii) mountain and forest areas;
 - (iv) nature reserves and parks;
 - (v) areas classified or protected under national legislation, Natura 2000 areas designated by member states pursuant to Directive 92/43/EEC(a) or Directive 2009/147/EC(b);
 - (vi) areas in which there has already been a failure to meet the environmental quality standards laid down in EU legislation and relevant to the works or in which it is considered that there is such a failure;
 - (vii) densely populated areas; and
 - (viii) landscapes and sites of historical, cultural or archaeological significance.

(a) OJ L 206 22.7.92 p.7

(b) OJ L 20 26.1.2010. p.7.

Type and characteristics of the potential impact

3. The likely significant effects of the proposed pipe-line works on the environment in relation to the criteria set out under paragraphs 1 and 2, and having regard in particular to the impact of the works on the factors specified in Article 3(1) of the Directive, taking into account—

- (a) the magnitude and spatial extent of the impact (for example geographical area and size of the population likely to be affected);
- (b) the nature of the impact;
- (c) the transboundary nature of the impact;
- (d) the intensity and complexity of the impact;
- (e) the probability of the impact;
- (f) the expected onset, duration, frequency and reversibility of the impact;
- (g) the cumulation of the impact with the impact of other existing or approved pipe-line works; and
- (h) the possibility of effectively reducing the impact.”

“SCHEDULE 1

Information for the Environmental Statement

- 1.** A description of the relevant pipe-line works, including in particular:
 - (a) a description of the location of the works;
 - (b) a description of the physical characteristics of the whole works, including, where relevant, requisite demolition works, and the land-use requirements during the construction and operational phases;
 - (c) a description of the main characteristics of the operational phase of the works (in particular any production process), for instance, energy demand and energy used, nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) used;
 - (d) an estimate, by type and quantity, of expected residues and emissions (such as water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation) and quantities and types of waste produced during the construction and operation phases.

- 2.** A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the prospective applicant, which are relevant to the relevant pipe-line works and their specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.

- 3.** A description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without implementation of the relevant pipe-line works as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge.

- 4.** A description of the factors set out in Article 3(1) of the Directive likely to be significantly affected by the relevant pipe-line works: population, human health, biodiversity (for example fauna and flora), land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydromorphological changes, quantity and quality), air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.

- 5.** A description of the likely significant effects of the relevant pipe-line works on the environment resulting from, inter alia:
 - (a) the construction and existence of the works, including, where relevant, demolition works;
 - (b) the use of natural resources, in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources;
 - (c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the disposal and recovery of waste;
 - (d) the risks to human health, cultural heritage or the environment (for example due to accidents or disasters);

- (e) the cumulation of effects with other existing or approved pipe-line works, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources;
- (f) the impact of the works on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the works to climate change;
- (g) the technologies and the substances used, and

these descriptions of the likely significant effects on the factors set out in Article 3(1) of the Directive must cover the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the works and should take into account environmental protection objectives established at EU or at national level relevant to the works.

6. A description of the forecasting methods or evidence, used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved.

7. A description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example the preparation of a post-project analysis).

8. The description in paragraph 7 should explain the extent, to which significant adverse effects on the environment are avoided, prevented, reduced or offset, and should cover both the construction and operational phases.

9. A description of the expected significant adverse effects of the relevant pipe-line works on the environment deriving from the vulnerability of the works to risks of major accidents or disasters which are relevant to the works concerned.

10. Relevant information available and obtained through risk assessments pursuant to EU legislation such as Directive 2012/18/EU of the European Parliament and of the Council on the control of major accident hazards involving dangerous substances^(a) or Council Directive 2009/71/Euratom establishing a community framework for the nuclear safety of nuclear installations^(b) or relevant assessments carried out pursuant to national legislation may be used for describing the matters in paragraph 9, provided that the requirements of the Directive are met.

11. In describing the matters in paragraph 9, the applicant should, where appropriate, include measures envisaged to prevent or mitigate the significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.

12. A non-technical summary of the information provided under paragraphs 1 to 11.

13. A reference list detailing the sources used for the descriptions and assessments included in the environmental statement.”

(a) OJ L 197 24.7.2012. p.1.

(b) OJ L 172 2.7.2009. p.18.

“SCHEDULE 2

Regulations 2 and 4

**MATTERS TO BE TAKEN INTO ACCOUNT IN GIVING A
DIRECTION UNDER REGULATION 4(2)****Characteristics of relevant pipe-line works**

1. The characteristics of the relevant pipe-line works having regard, in particular, to—
 - (a) the size and design of the relevant pipe-line works and of the pipe-line;
 - (b) the cumulation with other existing or approved pipe-line works;
 - (c) the use of natural resources in particular land, soil, water and biodiversity;
 - (d) the production of waste, pollution and nuisances;
 - (e) the risk of major accidents or disasters which are relevant to the relevant pipe-line works or to the pipe-line, including those caused by climate change, in accordance with scientific knowledge; and
 - (f) the risks to human health (for example, due to water contamination or air pollution).

Location of relevant pipe-line works

2. The environmental sensitivity of geographical areas likely to be affected by the relevant pipe-line works, having regard in particular, to—
 - (a) the existing and approved land use;
 - (b) the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground;
 - (c) the absorption capacity of the natural environment, paying particular attention to the following areas—
 - (i) wetlands, riparian areas, river mouths;
 - (ii) coastal zones and the marine environment;
 - (iii) mountain and forest areas;
 - (iv) nature reserves and parks;
 - (v) areas classified or protected under national legislation, Natura 2000 areas designated by member states pursuant to Directive 92/43/EEC or Directive 2009/147/EC;
 - (vi) areas in which there has already been a failure to meet the environmental quality standards laid down in EU legislation and relevant to the project or in which it is considered that there is such a failure;
 - (vii) densely populated areas; and
 - (viii) landscapes and sites of historical, cultural or archaeological significance.

Type and characteristics of the potential impact

3. The likely significant effects of the relevant pipe-line works on the environment in relation to the criteria set out under paragraphs 1 and 2, and having regard in particular to

the impact of the works on the factors specified in Article 3(1) of the Directive, taking into account—

- (a) the magnitude and spatial extent of the impact (for example geographical area and size of the population likely to be affected);
- (b) the nature of the impact;
- (c) the transboundary nature of the impact;
- (d) the intensity and complexity of the impact;
- (e) the probability of the impact;
- (f) the expected onset, duration, frequency and reversibility of the impact;
- (g) the cumulation of the impact with the impact of other existing or approved developments; and
- (h) the possibility of effectively reducing the impact.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations—

- implement Directive 2014/52/EU^(a) of the European Parliament and of the Council of 16 April 2014 on the assessment of the effects of certain public and private projects on the environment (“the EIA Directive”) (as it applies offshore and to certain pipe-lines on land in Great Britain);
- implement an obligation under Article 6 of Council Directive 92/43/EEC^(b) on the conservation of natural habitats and of wild flora and fauna (“the Habitats Directive”) as it applies offshore to oil and gas activities, carbon capture storage and gas storage, and unloading; and
- make minor corrections to the Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015 (S.I. 2015/385).

The EIA Directive amends Directive 2011/92/EU^(c) (which is a consolidation of Council Directive 85/337/EEC^(d) as amended by Council Directive 97/11/EC^(e)). The EIA Directive is implemented via amendments to—

- the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (S.I. 1999/ 360) (“the 1999 Offshore Regulations”) as it relates in respect of certain offshore oil and gas projects. Certain amendments to the 1999 Offshore Regulations (see amendments to regulations 3, 4, 5 and 6) incorporate modifications made by article 2 of the Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010 (S.I. 2010/1513) (“the 2010 Order”), therefore implementing the EIA Directive as it applies to the storage and unloading of combustible gases and the permanent storage of carbon dioxide;
- the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (S.I. 1999/1672) (“the 1999 Pipe-line Regulations”) as it relates to pipe-line works by a public gas transporter; and
- the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (S.I. 2000/1928) (“the 2000 Regulations”) as it relates to oil, gas or chemical pipe-lines on land.

Directive 2011/92/EU, as amended by the EIA Directive, applies to the European Economic Area (“EEA”) (see article 74 of and Annex XX to the Agreement on the EEA (Cm 2073) as adjusted by the Protocol signed at Brussels on 17th March 1993 (Cm 2183) so that EEA States are able to participate in the decision-making regarding projects likely to have significant trans-boundary effect. Regulations 5, 6, 11 and 12 of the 1999 Offshore Regulations and regulations 13 and 14 of the 1999 Pipe-lines Regulations are amended to this effect.

There is a universal amendment across all three sets of regulations so that references to four weeks or 28 days are changed to 30 days, in line with Article 6(7) of the EIA Directive.

Part 1 contains amendments to the 1999 Offshore Regulations to implement the requirements of the EIA Directive and to bring modifications set out in article 2 of the 2010 Order into the 1999 Offshore Regulations. Regulation 22 revokes article 2 of that Order.

Part 2 contains amendments to the 1999 Pipe-lines Regulations to implement the EIA Directive.

Part 3 contains amendments to the 2000 Regulations to implement the EIA Directive.

(a) OJ L 124, 25.4.2014, p.1.

(b) OJ L 206 22.7.92 p.7.

(c) OJ L 26 28.1.2012, p 1.

(d) OJ L 175, 5.7.85, p.40.

(e) OJ L73, 3.3.97, p.5.

Regulations 23, 43 and 58 of these amending Regulations make transitional provisions for the 1999 Offshore Regulations, the 1999 Pipe-line Regulations and 2000 Regulations respectively.

Regulations 40 and 55 of these amending Regulations insert a new review requirement into the 1999 Pipe-line Regulations and 2000 Regulations.

Part 4 sets out miscellaneous amendments of other legislation:

- Regulation 59 amends the Offshore Petroleum Activities (Conservations of Habitats) Regulations 2001 (S.I. 2001/1754) to implement the requirement under the Habitats Directive (and under Directive 79/409 of April 2, 1979 on the conservation of wild birds^(a)) to review certain consents, approvals and authorisations that were granted before the creation of a special area of conservation or special protection area.
- Regulation 60 makes a consequential amendment to the Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010 (S.I. 2010/1513) to include consents issued under Energy Act licences in this review requirement.
- Regulation 61 amends the Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015 (S.I. 2015/385) in order to correct minor drafting errors.

An assessment of the effect that these Regulations will have on the costs of business and the voluntary sector is published alongside these Regulations, together with a Transposition Note setting out how the main elements of the EIA Directive are transposed in these Regulations, on www.legislation.gov.uk and is available from the Department for Business, Energy and Industrial Strategy at 1 Victoria Street, London, SW1H 0ET.

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(a) OJ 1979 L103/1. This has been replaced by Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20 26.1.2010 p.7.).

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<http://www.legislation.gov.uk/id/uksi/2017/582>