
STATUTORY INSTRUMENTS

2017 No. 582

The Offshore Petroleum Production and Pipelines (Environmental Impact Assessment and other Miscellaneous Provisions) (Amendment) Regulations 2017

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(1), 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(2), 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.

(1) [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](#).

(2) A decision made by the Secretary of State may, in certain circumstances, be treated as having being 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](#)).

- (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.

(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.”.