

# Guidance notes on the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999

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## Introduction

1. The carrying out of environmental impact assessment ("EIA") for certain types of pipe-line projects is required throughout the European Union by virtue of Council Directive 85/337/EEC on "the assessment of the effects of certain public and private projects on the environment", as amended by Council Directive 97/11/EC, ("the Directive"). EIA is now mandatory for proposed oil and gas pipe-line installations which are more than 800 mm in diameter and more than 40 km long (see Annex I of the Directive). EIA may also be required in relation to proposed pipe-lines falling below that threshold but only when the member State concerned considers that they are likely to give rise to significant environmental effects (see Annex II of the Directive).

2. Under the licensing regime introduced by the Gas Act 1995, companies wishing to convey gas may be licensed as a public gas transporter ("PGT"). Because PGTs are statutory undertakers, they have the benefit of permitted development rights under the Town and Country Planning (General Permitted Development) Order 1995 and, in Scotland, the Town and Country Planning (General Permitted Development) (Scotland) Order 1992. Permitted development rights facilitate the effective and prompt development of the gas pipe-line network to meet consumers' needs by relieving PGTs of the need to obtain either authorisation under the Pipe-lines Act 1962 or planning permission for the installation of underground pipe-lines. Accordingly, but for the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (S.I. 1999/1672) ("the Regulations"), PGTs would not be obliged to submit such pipe-line proposals for consideration of the need for EIA.

3. The purpose of the Regulations is to implement the Directive by requiring that proposed gas pipe-lines of a PGT enjoying permitted development rights should be subject to EIA where they are likely to have significant environmental effects. The Regulations include provisions determining which pipe-lines are to be made subject to EIA and provide that the

consent of the Secretary of State is required for the installation of any pipe-line for which EIA is necessary. Where EIA is required, the PGT must prepare an environmental statement covering the impact the proposed pipe-line works would have on the environment and measures which the PGT intends to take to mitigate the adverse effects, if any, of that impact. The environmental statement is made subject to a period of public consultation and is also sent to consultation bodies and planning authorities for their comments. In reaching his decision whether or not to issue a consent for the construction of a particular pipe-line, the Secretary of State must take into account the environmental statement, any comments on it received by him during the public notice period and any views of the PGT on those comments. The Regulations specify the information required to be included in the environmental statement and the manner in which that information is to be published, commented on and taken into consideration. Where the proposed pipe-line of a PGT is required to be subject to EIA under the Regulations, the PGT does not lose permitted development rights for that particular pipe.

4. These Guidance Notes are intended to assist PGTs, the consultation bodies and the public in understanding the process introduced by the Regulations and to indicate the roles of the participants. They are divided into three parts:

Part 1 - a brief summary of the Regulations.

Part 2 - an explanation of the procedures to be followed.

Part 3 - a description of the roles of the participants.

5. These Guidance Notes are not a technical manual on how to complete an environmental statement. Advice on how to compile one is available in other publications such as the "Guidance on the EIA of Cross-Country Pipe-lines" available from Her Majesty's Stationery Office ("HMSO"). The HMSO Publications Centre is at PO Box 276, London, SW8 5DT. Telephone orders can be made on 020 7873 9090. HMSO publications are also available from HMSO Bookshops and good booksellers. Although that guide applies, amongst other things, to pipe-lines which are subject to section 1 of the Pipe-lines Act 1962, it is inevitably relevant to the pipe-lines of a PGT.

6. The explanation of the requirements of the Regulations in these guidance notes does not attempt to address detailed issues and readers should consult the Regulations themselves for a full statement of all the requirements that may be relevant to them. Copies of the Regulations can be obtained from HMSO in the same way as mentioned above.

## **Part 1: The regulations**

### **Regulation 1**

This regulation provides for the title, commencement and extent of the Regulations and indicates those pipes to which the Regulations do not apply.

### **Regulation 2**

This regulation defines terms used in the Regulations.

### **Regulation 3**

This regulation sets out which proposed pipes are subject to EIA (regulation 3(1) and Part 1 of Schedule 3) and which pipes (Part 2 of Schedule 3) a PGT cannot construct without first either seeking a determination from the Secretary of State as to whether EIA is required (regulation 3(2)(a)) or giving the Secretary of State a notice of preparation of an environmental statement (regulation 3(2)(b)).

The Secretary of State must direct that EIA be carried out where he is of the opinion that it is necessary after consulting the PGT and any other body (regulation 3(3) and 3(4)).

In any case where EIA is required for particular pipe-line works or the PGT has given the Secretary of State a notice of preparation of an environmental statement, the PGT may not carry out pipe-line works (regulation 3(5)) without applying for and obtaining a consent from the Secretary of State under regulation 14.

Regulation 3(6) stipulates the content of an application to the Secretary of State under regulation 3(5)).

### **Regulations 4 and 5**

The purpose of these two regulations is to preserve a decision by the Secretary of State under the Regulations that EIA is or is not needed in respect of a proposed pipe-line, if that decision has been taken prior to a direction under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995 or the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 coming into effect. An Article 4 direction effectively withdraws permitted development rights for a particular proposed pipe-line which means that the PGT must then make an application for planning permission for the pipe. That application will be subject to the EIA Regulations governing planning applications save that, as a result of regulations 4 and 5 of these Regulations, no further determination will be required as to whether EIA is or is not necessary in relation to the pipe concerned.

Regulations 4(1) and 5(1) also have the effect that, in the converse case, the Regulations do not apply to pipe-line works in respect of which a prior direction under Article 4 of the relevant General Permitted Development Order has been given. In those cases, the need for EIA will fall to be determined under the normal planning procedures.

### **Regulation 6**

This regulation lays down the steps which the Secretary of State must take when he has received a request from a PGT for a determination as to whether proposed pipe-line works which either are covered by Part 2 of Schedule 3 or are covered by neither Part 1 nor Part 2 of Schedule 3 are required to be made subject to EIA. The Secretary of State is required to consult the relevant planning authorities and to take into account the criteria set out in Schedule 2 to the Regulations before making his determination.

### **Regulation 7**

This regulation lays down the steps the Secretary of State must take if he has received a request from a PGT for his opinion as to the scope of the information to be provided in an

environmental statement. The Secretary of State must consult the consultation bodies (relevant local planning authorities, English Nature, the Environment Agency, the Countryside Commission, Scottish Natural Heritage, the Scottish Environment Protection Agency and the Countryside Council for Wales as appropriate) as well as the PGT before giving an opinion. The regulation also sets out the criteria the Secretary of State must take into account in deciding what information is relevant.

#### **Regulation 8**

This regulation requires relevant planning authorities to ensure that documents sent to them by the Secretary of State under regulation 3(3) (a direction by the Secretary of State that EIA must be carried out) or regulation 6(2) (the Secretary of State's determination as to whether EIA should be carried out) are available for public inspection at reasonable hours.

#### **Regulation 9**

This regulation is made to assist PGTs to obtain information to prepare environmental statements where they are having difficulty doing so. The consultation bodies, on receiving from the Secretary of State notice that a pipe is required to be subject to EIA, must, if so requested, consult with the PGT to determine whether they have in their possession any information which they or the PGT consider relevant to the preparation of an environmental statement and make this available at a reasonable charge if necessary subject to any obligation of confidentiality.

#### **Regulation 10**

This regulation lays down what a PGT must do to publicise and make available an environmental statement which it has provided as part of an application for consent to pipeline works to the Secretary of State.

#### **Regulation 11**

This regulation allows the Secretary of State to obtain further information from a PGT concerning any matters dealt with in an environmental statement and lays down what the PGT must do to publicise this and make it available, if so required. The Secretary of State may also require a PGT to produce evidence in support of anything in an environmental statement.

#### **Regulation 12**

This regulation allows a PGT to make a reasonable charge to a member of the public to reflect the cost of printing and supplying a copy of an environmental statement or a copy of any further information. The same applies to the supply of any copy in excess of one to the consultation bodies.

#### **Regulation 13**

This regulation sets out what must be done where it appears that a proposed pipe is likely to have significant environmental effects on the environment of another member State.

#### **Regulation 14**

This regulation provides that the Secretary of State may consent to the proposed pipe-line works, with or without conditions or may refuse such consent. It prescribes the matters which the Secretary of State must take into account before making his decision, including the environmental statement, any further information provided by the PGT and any representations made by the consultation bodies or the public. The Secretary of State must notify the PGT and other bodies of his decision and the reasons for it and the PGT must publicise the consent.

#### **Regulation 15**

This regulation defines "the court" for England and Wales as the High Court and for Scotland as the Court of Session.

#### **Regulation 16**

This regulation allows a person aggrieved by the grant of a consent or by a condition attached to a consent to apply to the court within six weeks of the last date of publication by a PGT of the consent.

#### **Regulation 17**

This regulation allows the Secretary of State, where there has been a contravention of the Regulations, to apply for a Court order requiring that the PGT concerned shall not proceed with pipe-line works and, where appropriate, shall remove any pipe-line works which have already been carried out and reinstate the site.

#### **Regulation 18**

This regulation provides for the creation of offences in respect of the intentional or reckless submission of false or misleading information and, subject to certain exceptions, the carrying out of works without a consent granted under the Regulations or in breach of a condition of such a consent.

#### **Regulation 19**

This regulation sets out the ways in which notices can be given under the Regulations.

#### **Schedule 1**

This Schedule sets out the information which is to be included in the environmental statement.

#### **Schedule 2**

This Schedule sets out the matters that must be taken into account by the Secretary of State in making a determination as to whether EIA is required.

#### **Schedule 3**

Part 1 of this Schedule describes the pipes for which EIA is mandatory and Part 2 those for which the PGT must request the Secretary of State to determine whether EIA is required or

which the PGT can notify the Secretary of State that an environmental statement has been prepared.

## **Part 2: The procedure**

### **Preliminary work and consultation by a PGT**

1. In common with other pipe-line projects, a PGT will have to consider the environmental impact of a proposed gas pipe-line almost from the start of a project. A PGT, such as Transco, will normally do this through carrying out what is termed a "Level 1 Survey". In such a survey, the aim is to obtain relevant information on an "area of search" and to identify possible "route corridor" options. At the end of the Level 1 Survey, a PGT will usually carry out a "Level 2 Survey" the aim of which is to identify the pipe-line route through the preferred route corridor (or combination of route corridors). The information will be obtained through desk studies and consultations with relevant local authorities, environmental organisations, landowners etc. These consultations are very important. A "Level 3" survey will then be undertaken. More detailed information about the route will be collected and the landowners will be identified and consulted. This route is termed the "referenced route" and most of the environmental information will have been identified by that time. The referenced route is usually reached at the end of the first year of a major project typically lasting 21/2-3 years from conception to operation.

### **Requirement for an environmental statement**

2. As a result, by the time the Level 2 Survey has been completed, the PGT will be able to judge whether or not the route for the proposed pipe-line is likely to have significant environmental effects. When the pipe-line exceeds 800 mm in diameter and is over 40 km in length, EIA is mandatory (regulation 3(1)) and the PGT must give the Secretary of State notice (containing the information set out in regulation 3(6)) that it intends to prepare an environmental statement and must apply for consent for the carrying out of the relevant pipe-line works. If the proposed pipe-line does not meet those criteria but is a pipe-line any part of which goes into a sensitive area (as defined in the Regulations) or which has a design operating pressure exceeding 7 bar gauge, then the PGT must do one of two things. It must either ask the Secretary of State for a determination as to whether or not EIA is required (regulation 3(2)(a)) or give the Secretary of State notice that it intends voluntarily to submit an environmental statement (regulation 3(2)(b)). This notice must give information on the nature, location and purpose of the pipe-line works and give an early indication of what the environmental statement will cover (regulation 3(6)).

3. The thresholds which dictate whether a determination needs to be made as to whether EIA is required for a particular pipe have been carefully chosen to catch all pipes which it is thought are likely to have a significant adverse impact on the environment. In broad terms they are designed to catch all high pressure pipes (i.e. the transmission system) but to exclude low pressure pipes (i.e. the distribution system) except where the latter impinge on a sensitive area.

4. Whilst the thresholds discussed in paragraph 2 above are expected to cover all situations in which a development would be likely to have significant environmental effects, it is

nevertheless possible that there may be circumstances in which a pipe-line falling below those thresholds would be likely to have such effects. In such cases, it is open to others (for example, the local planning authority or consultation bodies) who believe EIA is merited to bring the pipe-line concerned to the attention of the Secretary of State. If the Secretary of State, after consulting the PGT and such other persons as he thinks appropriate and after taking into account the selection criteria (set out in Schedule 2 to the Regulations), considers that the pipe ought to be made subject to EIA, he is required to direct that an environmental statement be prepared (regulation 3(3)). The use of this procedure could expose a PGT to significant delay and expense if EIA became necessary unexpectedly after the project was committed. As a result, regulation 6(1)(b) allows a PGT to seek a determination as to whether EIA is needed for a pipe-line on a voluntary basis in cases of doubt, so avoiding the risk of a last-minute decision.

5. EIA will not automatically be required for all projects in respect of which a determination is requested. In all instances, the key factor is whether a project would be likely to have significant environmental effects. The Secretary of State will decide this in the light of individual circumstances and the responses from statutory consultees and any other bodies consulted.

6. Where EIA is required in respect of a pipe which is not automatically subject to EIA under regulation 3(1), i.e. where the Secretary of State has determined that EIA is required in response to a request for a determination (regulation 3(1)(a)) or has directed that an environmental statement be prepared under regulation 3(3), the PGT has to apply for the Secretary of State's consent to the carrying out of the relevant works.

7. The form and content of the application for consent (both in the cases described in paragraph 6 above and where EIA is mandatory under regulation 3(1)) are set out in regulation 3(6). The application for consent is in the form of a letter to the Secretary of State, accompanied by a copy of the environmental statement. The letter should contain the name and address of the PGT, the location of the proposed pipe-line works and a brief description of the nature and purpose of the proposed pipe-line works and of the main environmental consequences referred to in the environmental statement relating to the works.

### **Requests to the Secretary of State for a determination**

8. Requests to the Secretary of State for an environmental determination are dealt with in regulation 6. The request should include a plan at a scale of 1:10,000 or larger clearly identifying both the land and the proposed pipe-line; a description of the pipe-line involved (size, length, start and end points, local planning authority(ies) involved, purpose etc.); an indication of any nearby environmentally sensitive locations likely to be affected and a brief description of the possible effects of the proposed pipe-line works on the environment. It is quite likely that a request for a determination can be submitted at the end of the Level 2 survey although there is nothing to prevent such a request being submitted earlier than this if it is clear that the proposed route of the pipe is not going to traverse land such that it has significant environmental effects.

9. Where the Secretary of State is asked for a determination, he is obliged to consult the relevant local planning authority(ies) before reaching his decision unless the PGT has included in its request a copy of a letter from the local planning authority conveying that

authority's views on the request. It will be for the authority(ies) to liaise as necessary with other bodies for the purpose of giving the Secretary of State views as to whether there are likely to be significant environmental effects. The Secretary of State will pass any comments from them to the PGT if he thinks that to be appropriate and will take into account any views the PGT may put forward. If the Secretary of State (having taken into account the criteria set out in Schedule 2 to the Regulations) decides EIA is required, he must notify the PGT and the local planning authority(ies) of his decision giving his reasons. A decision by the Secretary of State that EIA is not required is valid for five years from the date it is made. If, after such a decision, there are re-routes to the pipe, then it is unlikely that the decision need be examined unless the re-routes are of such a magnitude to make such examination necessary.

### **Preparation of an environmental statement**

10. Preparation of the environmental statement is the responsibility of the PGT. It must at least cover the specified information in Schedule 1 to the Regulations which itself is based on Annex IV to the Directive. The Schedule also requires a non-technical summary of the environmental statement to be prepared. Regulation 7 allows a PGT to request the Secretary of State's opinion on what information the environmental statement should contain. This request can be made at the same time as a request to the Secretary of State for a determination as to whether EIA is required so that the response to both requests would be received by the PGT at the same time. In other words, at the same time as learning that EIA is required (if that is the case), the PGT would also know what information the Secretary of State expected to see in the environmental statement to be submitted.

11. The Secretary of State will give his response to a request regarding the information to be included in the environmental statement after having taken into account various factors described in regulation 7(2) and having sought the opinion of the consultation bodies. It would not be the intention of the Secretary of State to impose a scope but to reach a scope which was a shared understanding of the issues and requirements to be reached among the participants. Guidance on how to prepare an environmental statement is contained in "Guidelines for the EIA of Cross-Country Pipe-lines" which is available from HMSO. Whilst those Guidelines apply to proposed pipe-lines which are subject to section 1 of the Pipe-lines Act 1962 (which themselves are subject to the Directive through separate Regulations), much of the information they contain is relevant to the preparation of environmental statements for any onshore pipe-line. One new requirement however arising from the 1997 amendments to the Directive is that the environmental statement must now give an outline of the main alternatives studied by the PGT and the reasons for choosing the particular pipe-line works proposed.

12. The Regulations require the Secretary of State to notify the consultation bodies of pipe-lines in respect of which EIA is required so that if they have environmental information available which is not confidential and which could be of use to a PGT in preparing an environmental statement, they can make such information available on request or submit it voluntarily. The PGT can request access to such information whether the environmental statement is submitted as a result of a determination by the Secretary of State or whether it is submitted voluntarily by the PGT. The bodies with the information can make a reasonable charge for the information they provide. This provision is only intended to be used for



information which is not reasonably obtainable by the PGT by way of the normal published sources or commercial channels.

### **Publicity for an environmental statement and public consultation**

13. Having received an environmental statement from the PGT, the Secretary of State will require the PGT to publish, for two successive weeks, in newspapers whose area(s) cover(s) the route of the proposed pipe-line, a public notice stating that a copy of the application for consent and the environmental statement are available for inspection at the relevant local planning authority's offices at reasonable hours or can be obtained from the PGT from a specified location (for which the PGT may levy a reasonable charge). The notice, a sample form of which is at Annex I, will invite comments to be made to the Secretary of State within a specified timescale (which will be at least 28 days from the date of the last publication of the notice) from any interested persons or bodies. In addition to being published as described in local newspapers, such notices are also to be published in the London or Edinburgh Gazette, as appropriate, or in both if a proposed pipe crosses the border.

14. As a copy of the application and the environmental statement are to be available for inspection at the offices of each relevant planning authority, the PGT has to give each relevant planning authority a copy of those documents at least 7 days before the date of the first notice to be published and has to have enough copies of the environmental statement available to meet all reasonable demands made by the public.

15. PGTs are required to supply copies of the newspaper advertisements to the Secretary of State within 7 days of their publication.

16. The PGT is also required to serve a copy of the application for consent and the environmental statement on the consultation bodies, together with a notice inviting these bodies to submit comments to the Secretary of State within 28 days. A sample notice is at Annex II. Copies of any comments received by the Secretary of State will be passed to the PGT who will be invited to give its views on the comments.

(Comments should not be addressed directly to the Secretary of State himself but to an official of the Department named in the notices).

17. The Secretary of State is required to be satisfied that the requirements as to consultation and publicity have been substantially met before he can grant consent for a project to proceed.

### **Further information**

18. There may be occasions where the Secretary of State considers that he requires further information in addition to that already contained in the environmental statement submitted to him. In any case where such further information is provided and the Secretary of State considers that it ought to have been included in the environmental statement, he will notify the PGT accordingly (regulation 11(2)). In such cases, the PGT will then have to publicise the relevant information and invite comments on it from interested persons and bodies in exactly the same way as publicity and the invitation of comments were handled in relation to the environmental statement. The likelihood of further information being required will be in direct proportion to the quality of the environmental statement.

## Decision by the Secretary of State

19. Once the public notice period has ended, it will be the duty of the Secretary of State to reach a decision on whether the works should be allowed to proceed. In reaching his decision, the Secretary of State will consider whether the environmental impact of the pipeline has been adequately assessed and whether measures proposed for mitigation of adverse environmental impacts (if any) are sufficient. The Secretary of State will take into account the environmental statement, any representations received during the public notice period and any comments from the PGT on those representations (as well as any comments received on any further information which was required by him where that further information has been publicised).

20. For a number of projects, the environmental assessment will have shown that no significant environmental effects are likely as the processes and procedures of the project will have been designed to prevent these. For some, however, significant effects may remain. Where such effects could be further mitigated or removed by the application of practicable available technology or management procedures, these will normally be required as a condition of the consent. The likelihood of conditions being included in the consent may well also depend on the nature of the comments made on the environmental statement. If, for example, a proposed pipe is to cross a sensitive area, then a consultation body might wish to ensure the PGT carried out a certain activity by asking for it to be covered as a condition in the consent. The wording of any condition will be agreed in advance between the Secretary of State, the PGT and the body seeking insertion of the condition.

21. Any remaining cases will be considered in the light of their particular circumstances. The Secretary of State will normally form a view of the overall balance of advantage between any potential effects on the environment and any positive benefits to the interests of the nation of proceeding with the project. In reaching his view, the Secretary of State will usually consider amongst other matters the severity, extent, understanding and duration of the significant adverse effects, the availability of practicable alternatives, if any, and the desirability of the works being carried out in the interests of the development and maintenance of an efficient and economical system for the conveyance of gas as respects the PGT's authorised area, as well as any other potential economic or other advantages of the project proceeding.

22. If, after considering the environmental information and the comments made on it, the Secretary of State is satisfied that the project should be allowed to proceed, he will communicate his decision to the PGT in the form of a development consent under regulation 14, with or without conditions.

23. Conversely, if the Secretary of State considers that the project should not be allowed to proceed, he will tell the PGT so, giving his reasons. A consent will not be refused without prior discussion with the PGT. As a result of this dialogue, it may become apparent that deficiencies in the environmental statement can be rectified or mitigation of significant impacts can be achieved by modifications to the project and the submission of further information on the project under regulation 11. Where the obstacles to consent are significant, however, a more fundamental re-consideration of the project may be required and the withdrawal of the application for consent may be a more appropriate action. The aim would be for all points raised from study of both the environmental statement and the further information (if there were any) to be answered to the satisfaction of the bodies raising the

points. In the absence of agreement after consultation, the Secretary of State will decide the matter.

24. In all cases, the Secretary of State will notify the PGT, the relevant local planning authority(ies) and all those who made comments during the public notice period of his decision. This notification will include a statement containing the contents of the Secretary of State's decision and any conditions attached to it, the main reasons for reaching that decision and a description, if necessary, of any mitigation measures.

25. The PGT is required to inform the public of the Secretary of State's decision by publishing a notice in local newspapers covering the route of the proposed pipe-line stating the content of the decision and giving an address at which copies of the statement referred to in paragraph 24 above can be obtained.

26. It should be noted that the Regulations make no provision for a public inquiry or hearing and the Regulations themselves incorporate no appeals procedure against a decision by the Secretary of State. However, a person aggrieved by the grant of a consent or a condition attached to a consent may appeal to the Courts within six weeks of the date of the last publication by a PGT of details of the consent.

27. A flowchart indicating the steps to be followed is at Annex III and names and addresses of consultation bodies are at Annex IV.

## **Additional information on the procedure**

### **Duration of the procedure**

28. As mentioned above, the procedure would usually start when the PGT has reached the referenced route stage of a proposed pipe-line. For the larger pipe-lines, this is normally at the end of the first year of a project whose total duration is expected to be 2 1/2-3 years. For smaller pipe-lines, it may well be sooner. It is difficult to be precise about exactly how long it will take for the procedure for EIA to be completed. With informal consultation about the environmental impact of a proposed pipe-line having taken place from an early stage, it is reasonable to expect that it is unlikely that the formal procedure will produce any major new concerns. If this turns out to be the case, then it is possible that the whole procedure could be completed within six months from the time that the PGT submits an environmental statement voluntarily. It is likely to take somewhat longer if the PGT first requests the Secretary of State for a determination which results in EIA needing to be undertaken. If, on the other hand, major new concerns are identified, then the procedure is likely to take longer.

### **Permitted development rights**

29. PGTs have permitted development rights under Article 3 of and Part 17 of Schedule 2 to the Town and Country Planning (General Permitted Development Order) 1995 and Clause 39 of Part 13 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended. These rights, which obviate the need for PGTs to submit case-by-case planning applications for proposed underground pipe-lines, are not affected by the introduction of the Regulations. The Regulations require PGTs to obtain a consent which is separate from the general planning consent granted by the Town and Country Planning (General Permitted Development) Order 1995. Without a consent from the

Secretary of State under the Regulations, a PGT will not be able to commence installation of the proposed pipe-line if it is one which by virtue of the Regulations is required to be made subject to EIA.

### **Definition of "significant"**

30. The Directive states that Member States shall adopt all measures necessary to ensure that, before consent is given, "projects likely to have significant effects on the environment by virtue, inter alia, of their nature, size or location are made subject to an assessment with regard to their effects" (Article 2.1). There can be no hard and fast definition of what constitutes "significant" in relation to pipe-lines and hence no clear definition of those proposed pipe-lines of a PGT which will require EIA.

31. Whilst the criteria in regulations 3(1) and (2) are expected to cover all situations in which a development would be likely to have significant environmental effects, it is possible there may be circumstances in which such effects would be likely where the proposed development is not caught by either of those two provisions. In such instances, regulation 6(1)(b) provides for the PGT to request a determination from the Secretary of State as to whether EIA is required. There is also the safety net provided by the Secretary of State's power under regulation 3(3) to direct that an environmental statement be prepared in relation to any proposed pipe-line works which he considers likely to have significant environmental effects.

32. Situations in which these provisions might be used could include developments (which might include short pipe-lines) affecting listed buildings, areas of archaeological importance other than Scheduled Ancient Monuments (including Historic Town Centres), heritage coasts or areas of recognised local importance.

33. A decision on whether EIA is required will be taken on a case-by-case basis.

### **Transboundary effects**

34. Regulation 13 (Projects affecting other member States) is included in the Regulations because all Regulations implementing the Directive have to include such provision in order to implement the Directive correctly. The Department acknowledges, however, that it is very unlikely that any proposed pipe-line works to which the Regulations apply would be likely to have any significant environmental effects on the environment of another member State.

## **Part 3: The roles of the participants**

### **The PGT**

1. It is incumbent on the PGT to consult from an early stage with bodies who have an interest in the environmental impact of any pipe-line it proposes. The breadth and depth of its consultations, and its willingness to take on board concerns expressed, will help to determine how smoothly the statutory procedure proceeds and also will reduce the possibility of it having to supply further information at a later stage. However, it is not possible for a PGT to consult all interests - this can only be done through the public notice stage - and there therefore can be no guarantee that no new points will arise during the

public notice period. The likelihood of this happening is reduced in proportion to the level of consultation prior to the environmental statement being written.

2. Once a pipe-line has been identified as requiring EIA, a PGT will have to prepare the environmental statement in accordance with the Regulations. The Regulations are, of course, a minimum requirement and there is no reason why the environmental statement should not contain information in addition to that in the Schedule to the Regulations, should that be considered necessary. A PGT must then submit the environmental statement to the Secretary of State. Once the environmental statement has been publicised, the role of the PGT will be to examine any comments (which will have been sent to it by the Secretary of State) that arise out of the public notice period and be prepared to act on them if necessary and if they are relevant and soundly based. Any relevant comments received and any revisions to the environmental statement will be considered by the Secretary of State in deciding whether to issue consent.

Local planning authorities, bodies concerned with the environment and the general public

3. Because of their detailed knowledge of the local area, a PGT will consult local planning authorities almost from the outset about the environmental impact of a proposed pipe-line. They will be in a position to be able to give practical advice to the PGT at all stages of a project. There is no reason why such advice should not continue to be given or why there should not continue to be an exchange of views even when an environmental statement has been submitted to the Secretary of State. In addition, a PGT will consult with bodies concerned with the environment such as those included as the consultation bodies (English Nature, the Countryside Agency, the Environment Agency, Scottish Natural Heritage, the Scottish Environment Protection Agency and the Countryside Council for Wales as appropriate) and others both informally and in accordance with the Regulations.

4. The Secretary of State will consult local authorities when he has received a request from a PGT for determination as to whether or not EIA is required for a proposed pipe-line. He will consult the consultation bodies (including relevant planning authorities) on receipt of a request from a PGT as to what information should be included in an environmental statement.

5. Once an environmental statement has been submitted to the Secretary of State and has become subject to public notice, then comments from anyone with an interest including the general public are expected.

6. Relevant planning authorities are under a duty to make available premises at which copies of the applications for consent, environmental statements and further information, if any, can be inspected by the public (regulations 10(6) and 11(4)).

7. In addition, relevant planning authorities are required to ensure that copies of various documents issued by the Secretary of State are available for public inspection at the place where the planning register is kept for a period of up to two years. These documents are copies of determinations by the Secretary of State as to whether EIA is required, opinions given by the Secretary of State as to the information to be provided in environmental statements, directions by the Secretary of State under regulation 3(3) and, finally, copies of the statement by the Secretary of State which accompanies his decision as to whether or not to consent to a project. See regulation 8 and regulation 14(7).

## **The Secretary of State**

8. The Secretary of State is the competent authority for the Regulations. He will decide whether EIA is required in cases of doubt or where a PGT disputes this. He may also direct that EIA is required in cases where there is no requirement for a PGT to notify him of the proposal. He will also decide ultimately, on the basis of all the information supplied to him, whether EIA has been adequately carried out as required by the Regulations. Although the final decision in all instances rests with the Secretary of State, he cannot take any decision without proper advice. The role therefore of the consultation bodies is of crucial importance.

9. If the Secretary of State concludes, on the basis of the EIA, that adequate provision will be made to overcome any significant environmental effects arising from the proposed pipe-line, he will issue to the PGT a development consent in accordance with the Regulations which will permit it to commence installation of the pipe. Such a consent may or may not include conditions. If the Secretary of State refuses to give consent, then he will say so giving his reasons.

## **Annex I: Sample notice for publication**

### **a) Notice for an Environmental Statement**

Public Gas Transporter Pipe-line Works (Assessment of Environmental Effects) Regulations 1999

[Name and address of PGT] has applied to the Secretary of State of Trade and Industry for consent to construct a [diameter in mm] natural gas pipe-line starting at [ ] and ending at [ ]. In accordance with the above mentioned Regulations, this application is accompanied by an environmental statement a copy of both of which may be inspected between [ ] a.m. and [ ] p.m. on business days at

[Name and address of each relevant planning authority].

until close of business on [dd/mm/yy].

Copies of the application for consent and the environmental statement may be obtained from [name and address of suitable PGT office(s)] at a charge [£x] for each copy of the environmental statement.

Members of the public have until [dd/mm/yy] to make representations in relation to the application for consent and the environmental statement to the

Secretary of State for Trade and Industry  
1 Victoria Street  
Department of Trade and Industry  
London  
SW1H 0ET

marked for the attention of Graeme Cobb and bearing the reference AAC/2/xx

[Date of Notice]

## **b) Notice for Further Information**

Public Gas Transporter Pipe-line Works (Assessment of Environmental Effects) Regulations 1999

[Name and address of PGT] has applied to the Secretary of State of Trade and Industry for consent to construct a [diameter in mm] natural gas pipe-line starting at [ ] and ending at [ ]. In accordance with the above mentioned Regulations, this application and the environmental statement which accompanied it were previously subject to public notice in the period [dd/mm/yy] to [dd/mm/yy].

Comments on the environmental statement have resulted in further information being now available. A copy of the application, environmental statement and further information may be inspected between [ ] a.m. and [ ] p.m. on business days at

[Name and address of each relevant planning authority].

until close of business on [dd/mm/yy].

Copies of the environmental statement and/or the further information may be obtained from [name and address of suitable PGT office(s)] at a charge [£x] for each copy.

Members of the public have until [dd/mm/yy] to make representations in relation to the application for consent, environmental statement and further information to the

Secretary of State for Trade and Industry  
1 Victoria Street  
Department of Trade and Industry  
London  
SW1H 0ET

marked for the attention of Graeme Cobb and bearing the reference AAC/2/xx.

[Date of Notice]

## **Annex II: Sample notice for serving on consultation bodies**

Notice for an environmental statement

Public Gas Transporter Pipe-line Works (Assessment of Environmental Effects) Regulations 1999

[Name of PGT] hereby gives notice in accordance with the provisions of regulation 10(2) of Public Gas Transporter Pipe-line Works (Assessment of Environmental Effects) Regulations 1999 that it has applied to the Secretary of State for Trade and Industry for consent to construct a [diameter in mm] natural gas pipe-line starting at [ ] and ending at [ ].

Attached to this notice are copies of the application for consent and the environmental statement.

Representations concerning the environmental statement may be made by [dd/mm/yy] to

The Secretary of State for Trade and Industry

Department of Trade and Industry  
1 Victoria Street  
London  
SW1H 0ET

and marked for the attention of Graeme Cobb and bearing the reference AAC/2/xx.

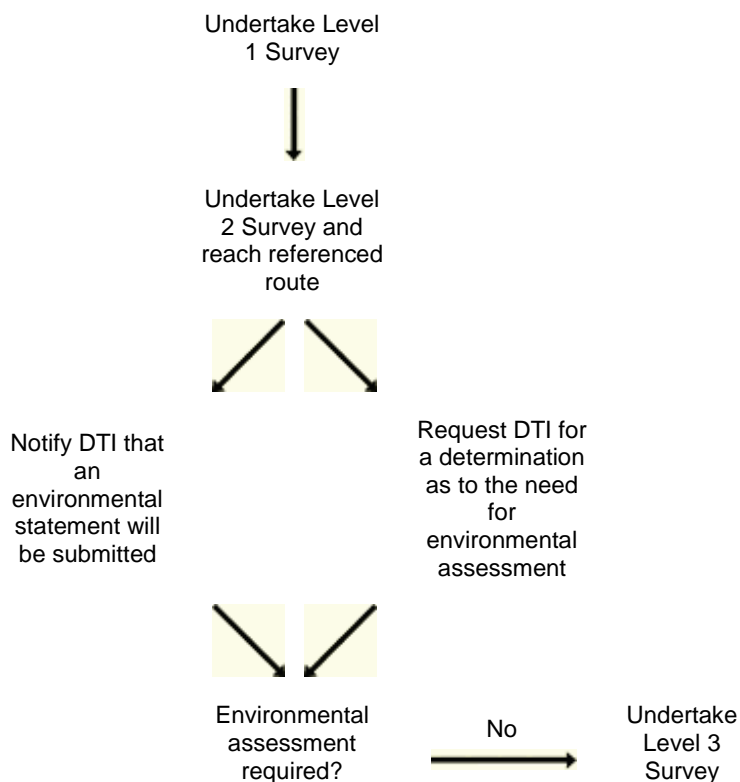
[Date of notice]

#### Notes

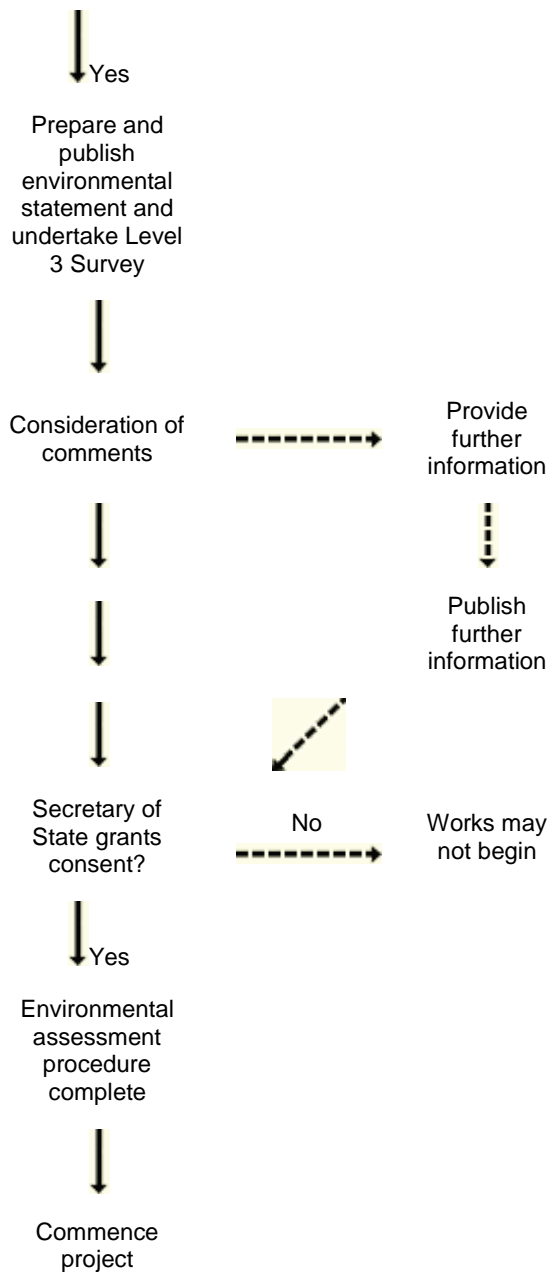
a) the PGT will need to ask the Department of Trade and Industry for the correct file reference.

b) the application for consent is the letter submitted by the PGT to the Secretary of State in accordance with regulation 3(9) enclosing a copy of the environmental statement.

### Annex III: Procedure for environmental assessment regulations







## Annex IV: Names and addresses of consultation bodies

This list does not include name and addresses of relevant planning authorities which are also consultation bodies.

### England

The Countryside Agency  
 John Dower House  
 Crescent Place  
 Cheltenham  
 Gloucestershire

GL50 3RA  
Tel: 01242 521381

English Nature  
Head Office  
English Nature  
Northminster House  
Peterborough  
PE1 1UA  
Tel: 01733 455101

### **Local Area Teams**

Beds, Cambs & Northants  
Ham Lane House  
Ham Lane  
Orton Waterville  
Peterborough  
PE2 5UR  
Tel: 01733 391100  
Cumbria

Juniper House  
Murley Moss  
Oxenholme Road  
Kendal  
LA9 7RL  
Tel: 01539 792800

### **Devon**

The Old Mill House  
37 North Street  
Okehampton  
Devon  
EX20 1AR  
Tel: 01837 55045

### **Cornwall**

Trevint House  
Strangways Villas  
Truro  
Cornwall  
TR1 2PA  
Tel: 01872 262550

### **Dorset**

Slepe Farm  
Arne  
Wareham  
Dorset BH20 5BN  
Tel: 01929 556688  
East Midlands

The Maltings  
Wharf Road  
Grantham  
Lincs  
NG31 6BH  
Tel: 014765 568431

### **Essex, Herts & London**

Harbour House  
Hythe Quay  
Colchester  
Essex  
CO2 8JF  
Tel: 01206 796666

### **London**

Ormond House  
26-27 Boswell Street  
London  
WC1 3JZ  
Tel: 020 7831 6922

### **Hants & Isle of Wight**

1 Southampton Road  
Lyndhurst  
Hampshire  
SO43 7BU  
Tel: 01703 283944

### **Humber to Pennines**

Bullring House  
Northgate  
Wakefield  
West Yorkshire  
WF1 3BJ  
Tel: 01924 387010

### **Kent**

The Countryside Management Centre  
Coldharbour Farm

Wye  
Ashford  
Kent  
TN25 5DB  
Tel: 01233 812525

### **Norfolk**

60 Bracondale  
Norwich  
Norfolk  
NR1 2BE  
Tel: 01603 620558

### **North & East Yorkshire**

Genesis 1  
Science Park  
University Road  
Heslington  
York  
YO1 5DQ  
Tel: 01904 435500

### **Leyburn**

Thornborough Hall  
Leyburn  
North Yorkshire  
DL8 5ST  
Tel: 01969 623447

### **Northumbria**

Archbold House  
Archbold Terrace  
Newcastle-upon-Tyne  
NE2 1EG  
Tel: 0191 281 6316

### **North West**

Pier House  
Wallgate  
Wigan  
Lancs  
WN3 4AL  
Tel: 01942 820342

### **Environment Agency**

Head Office  
Rio House  
Waterside Drive  
Aztec West  
Almondsbury  
Bristol  
BS32 4UD  
Tel: 01454 624400

**Anglian Regional Office**

Kingfisher House  
Goldhay Way  
Orton Goldhay  
Peterborough  
PE2 5ZR  
Tel: 01733 371811

**North West Regional Office**

Richard Fairclough House  
Knutsford Road  
Warrington  
WA4 1HG  
Tel: 01925 653999

**North East Regional Office**

Rivers House  
21 Park Square South  
Leeds  
LS1 2QG  
Tel: 0113 2440191

**Midlands Regional Office**

Sapphire East  
550 Streetsbrook Road  
Solihull  
West Midlands  
B91 1QT  
Tel: 0121 711 2324

**Southern Regional Office**

Guildbourne House  
Chatsworth Road  
Worthing  
Sussex  
BN11 1LD  
Tel: 01903 832000

## **South West Regional Office**

Manley House  
Kestrel Way  
Exeter  
EX2 7LQ  
Tel: 01392 444000

## **Thames Regional Office**

Kings Meadow House  
Kings Meadow Road  
Reading  
RG1 8DQ  
Tel: 0118 9535000

## **Scotland**

Scottish Natural Heritage  
Head Office  
12 Hope Terrace  
Edinburgh  
EH9 2AS

## **Area Offices**

North Highland  
Main Street  
Golspie  
Sutherland  
KW10 6TG

## **Grampian**

16/17 Rubislaw Terrace  
Aberdeen  
AB1 1XE

## **Strathclyde and Ayrshire**

Caspian House  
Mariner Court  
Clydebank Business Park  
Clydebank G81 2NR

## **Tayside**

Battleby  
Redgorton

Perth  
PH1 3EW

### **Dumfries and Galloway**

Carmont House  
The Crichton  
Bankend Road  
Dumfries  
DG1 4ZF

### **Argyll and Stirling**

The Beta Centre  
Innovation Park  
University of Stirling  
Stirling FK9 4NF

### **Forth and Borders**

Laundry House  
Dalkeith Country Park  
Dalkeith  
Midlothian EH22 2NA

### **West Highland**

The Governor's House  
The Parade  
Fort William  
Inverness-shire  
PH33 6BA

### **East Highland**

Fodderty Way  
Dingwall Business Park  
Dingwall  
IV15 9XB

### **Northern Isles**

Ground Floor  
Stewart Building  
Alexandra Wharf  
Lerwick  
ZE1 0LL

### **Western Isles**

32 Francis Street  
Stornoway  
Isle of Lewis HS1 2ND

### **Scottish Environment Protection Agency**

Head Office  
Erskine Court  
The Castle Business Park  
Stirling  
FK9 4TR  
Tel: 01786 457700

### **Northern Region HQ**

Graesser House  
Fodderty Way  
Dingwall  
IV15 9XB  
Tel: 01349 862021

### **West Region HQ**

SEPA West  
5 Redwood Crescent  
Peel Park  
East Kilbride  
G74 5PP  
Tel: 01355 574200

### **East Region HQ**

Clearwater House  
Heriot-Watt Research Park  
Avenue North  
Riccarton  
Edinburgh  
EH14 4AP  
Tel: 0131 449 7296

### **Wales**

Countryside Council for Wales  
Head Office  
Plas Penrhos  
Fford Penrhos  
Bangor  
Gwynedd



LL57 2LQ  
Tel: 01248 385500

### **North East Area**

Victoria House  
Grosvenor Street  
Mold  
Flintshire  
CH7 1EJ  
Tel: 01352 706600

### **North West Area**

Bryn Menai  
Bangor  
Gwynedd  
LL57 2JA  
Tel: 01248 373100

### **West Area**

Plas Gogerddan  
Aberyswyth  
Ceredigion  
SY23 3EE  
Tel: 01970 821100

### **East Area**

3rd Floor  
The Gwalia  
Ithon Road  
Llandrindod Wells  
Powys  
LD1 6AA  
Tel: 01597 824661

### **South Wales Area**

Unit 4  
Castleton Court  
Fortran Road  
St Mellons  
Cardiff  
CF3 0LT  
Tel: 01222 772440

### **Environment Agency**

Welsh Regional Office  
Rivers House  
St Mellons Business Park  
St Mellons  
Cardiff  
CF3 0LT  
Tel: 01222 770088