

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

Department for Business, Energy and Industrial Strategy

**RPC rating: confirmed as a non-qualifying regulatory
provision**

The measure is confirmed as a non-qualifying regulatory provision. As a result of the Department's response to the RPC's initial review, the RPC is content with the Department's cost assessment that gross costs to business will not exceed £1 million in any year (the fast track low cost threshold for measures implemented during the 2015-17 parliament).

Description of proposal

The measure transposes into UK law the requirements of amending Directive 2014/52/EU on the assessment of the effects on the environment of certain public and private projects in respect of consenting regimes for offshore hydrocarbon-related developments (i.e. oil & gas extraction operations, gas unloading/storage operations, and CO₂ storage operations) and onshore pipe-line projects. The Department describes the regulatory changes as principally comprising small-scale tweaks to procedures; clarification of definitions; and updates to requirements and timings. A summary of the changes is provided on page 3 of the assessment. These include clarification around the criteria to be applied when screening projects to determine whether the full environmental impact assessment (EIA) process applies and a maximum timeframe not exceeding 90 days (extendable in exceptional circumstances) for competent authorities to provide screening decisions to project developers.

Impacts of proposal

Overall, the Department considers that the measure would result in comparatively low costs to developers in the offshore hydrocarbon and onshore pipe-line sectors because most of the changes reflect what already happens in practice (page 4 of the assessment). Nevertheless, the Department expects businesses to incur small costs in relation to the minor regulatory changes. These include the cost of assessing extra factors when preparing an environmental statement (ES - the detailed assessment of

the likely significant effects of projects on the environment) or a 'direction application' (that no ES is required). The assessment lists the average number of EIA applications currently submitted and expects these numbers to be broadly maintained. For example, for offshore hydrocarbon-related developments (including pipe-lines), the number of applications supported by an ES is around three to five per year, while applications seeking a direction that no ES is required are approximately 220 per year.

The Department has made estimates of the likely staff time involved to meet the additional requirements and assumptions about salary levels. For example, assessing the extra factors for an ES is estimated to take 37-57 hours at an average cost of £75-£100 per hour. The latter appears to allow for some use of consultants. Using the expected number of applications, the Department is able to estimate a total cost. Low, medium and high cost estimates are set out in annex B of the assessment. These show annual costs typically around £0.7 million, with a highest estimate of just under £1.0 million in 2022.

The Department states that its approach to transposition represents the minimum required to meet obligations under the 2014 directive (page 6). It also states that no issue of gold plating was raised by either the Department's legal advisers during the drafting of the regulations or by stakeholders during the consultation (page 3).

Quality of submission

As initially submitted, the Department's original submission was not confirmed. This was on the basis that the Department's assessment of costs differed significantly from estimates provided by industry (in response to questionnaires issued in August to September 2016) without adequate justification for this difference. In particular, the RPC was concerned that industry estimated monitoring costs to be between £500,000 and £1 million, compared to the £200,000 to £300,000 estimated by the Department.

The Department has now provided additional information on this issue. In particular, this explains that:

- the Department asked environmental consultants who prepare ESs for operators for their assessment of the industry estimates. The consultants confirmed that the cost would, generally, be much lower than those submitted in 2016 by industry since most of the requirements reflect current practice;
- the Department's cost benefit analysis (CBA) formed part of the public consultation in February to March 2017. Only two of the ten respondents

questioned the assumptions in the CBA. One respondent stated that the salary of an in-house environmental manager was higher than the figure used in the CBA but the Department explains how its CBA uses an established source for this estimate (Hayes Oil & Gas Salaries Guide);

- the other respondent did raise a concern over the Department's estimated £200,000 to £300,000 monitoring costs, as mentioned in the RPC's initial review. However, the Department has now explained further the basis for its estimate and why it considers that this respondent over-estimated what would be needed to comply with the measure. The Department's assessment used information from two companies experienced in environmental surveys. These companies outlined the scope of the environmental surveys that would be required to comply with monitoring conditions and assessed that they would be in the range of £200,000 to £300,000. The companies agreed that more expensive surveys are unlikely to be necessary for an environmental survey required to support an environmental submission or to satisfy an EIA monitoring condition.

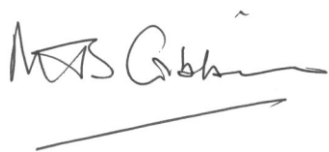
The RPC is able to confirm that the proposal is a non-qualifying regulatory provision, on the basis that it does not go beyond the minimum requirements of the directive. The Department has now provided sufficient information to support its assessment that the cost to business will not exceed £1 million in any year. The assessment would be improved by inclusion of this information.

Departmental assessment

Classification	Non-qualifying regulatory provision (EU)
Equivalent annual net direct cost to business (EANDCB)	Not applicable (low cost non-qualifying regulatory provision)

RPC assessment

Classification	Non-qualifying regulatory provision (EU)
Small and micro business assessment	Not required (low-cost non-qualifying regulation)



Michael Gibbons CBE, Chairman