
STATUTORY INSTRUMENTS

2007 No. 1067

The Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (England and Northern Ireland) Regulations 2007

PART 4

PERMISSIONS FOR DREDGING

Decisions on applications

13.—(1) Before deciding whether to grant or to refuse permission on an application under regulation 10, the regulator shall determine whether or not the application relates to a project which constitutes a habitats project unless, within the 12 months prior to the submission of the application, a preliminary determination has been made in response to an application under regulation 6(1)(b) that the same project would not constitute a habitats project.

(2) The applicant shall provide such information as the regulator may reasonably require to enable the regulator to make the determination under paragraph (1).

(3) Before deciding whether to grant or to refuse permission for a project which the regulator has determined would constitute a habitats project (whether under this regulation or under regulation 6(1)(b)) the regulator shall make an appropriate assessment of the implications for the European site affected, in view of its conservation objectives and paragraph 2 of Schedule 3 shall apply for that purpose.

(4) Before deciding whether to grant or to refuse permission the regulator may give the opportunity of making representations (whether in person or in writing) to a person appointed by the regulator for that purpose, to the applicant, the owner (if the owner is not the applicant) and any other person whom the regulator considers should be given such an opportunity.

(5) In deciding whether to grant or to refuse permission the regulator shall take into consideration—

- (a) the information provided in the application;
- (b) the environmental statement, where one has been provided;
- (c) any further information supplied under regulation 11 and any other information submitted by the applicant;
- (d) any relevant representations made in response to the notice issued under regulation 12(1), or by anyone to whom a copy of the application has been sent under regulation 12(4) or to whom a notice has been sent under regulation 12(5);
- (e) any opinion forwarded to the Secretary of State under regulation 15(4);
- (f) any reports and advice that have been issued to the regulator;
- (g) the report of any person appointed under paragraph (4);

- (h) any published policy of the Secretary of State or a Northern Ireland Department⁽¹⁾ whichever is applicable, in relation to the extraction of minerals by marine dredging either generally or in the region concerned; and
 - (i) the results of any assessment carried out under paragraph (3).
- (6) A grant of permission—
- (a) may be subject to such conditions as the regulator considers appropriate, including—
 - (i) conditions intended to implement any policy taken into account under paragraph (5)(h) which contains regional limits on the tonnage of minerals which may be dredged; and
 - (ii) conditions as to the fees, determined in accordance with regulation 25, to be paid in respect of the regulator’s expenses incurred in assessing and interpreting the results of any monitoring of compliance with the conditions attached to the permission carried out in accordance with such conditions;
 - and
 - (b) shall be made to, and subject to any transfer under regulation 16, shall enure for the benefit of, the owner.
- (7) The regulator shall send notice of the decision to—
- (a) the applicant;
 - (b) the owner (if the owner is not the applicant);
 - (c) any person who has made representations in respect of the application; and
 - (d) the appropriate consultation bodies who were consulted under regulation 12(4);
- and the notice shall state—
- (i) the main reasons for the decision;
 - (ii) the main considerations on which the decision is based including, if relevant, information about the public participation process;
 - (iii) where permission is granted, any conditions imposed under paragraph (6)(a), and, where applicable, the main measures to be taken to avoid, reduce and, if possible, offset any major adverse effects; and
 - (iv) that the decision may be challenged and the procedures for doing so.
- (8) Within the period of 28 days beginning with the date of the decision, the regulator shall publish, in the same or similar manner in which notice relevant to the application was published under regulation 12, a notice containing—
- (a) a statement that the regulator has granted or, as the case may be, refused permission;
 - (b) a description of the dredging for which permission has been granted or, as the case may be, refused; and
 - (c) the address in the United Kingdom at which any person may inspect a copy of the notice issued under paragraph (7).

(1) A Northern Ireland Department means a Northern Ireland Department as specified by section 21 of the Northern Ireland Act 1998 (1998 c. 47).