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Reg. No. 1065 of 11 December 1992: Regulations relating to implementation in Norwegian law of EEA Agreement Annex IV item 1 (Council Regulation (EEC) No 1056/72 of 18 May 1972) on notification of investment projects of interest to the European Economic Area in the petroleum, natural gas and electricity sectors.

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Regulations relating to implementation in Norwegian law of EEA Agreement Annex IV item 1 (Council Regulation (EEC) No 1056/72 of 18 May 1972) on notification of investment projects of interest to the European Economic Area in the petroleum, natural gas and electricity sectors.

Section 1. EEA Agreement Annex IV item 1 (Council Regulation (EEC) No 1056/72 of 18 May 1972 and (EEC) No 1215/76¹ of 4 May 1976) on notification of investment projects of interest to the European Economic Area in the petroleum, natural gas and electricity sectors applies as regulations with the amendments and additions following from Annex IV, Protocol 1 of the Agreement and the Agreement in general.

¹ See the annex to the Regulations.

Section 2. Notifications as described in Council Regulation (EEC) No 1056/72, Article 2, shall be submitted to the Ministry of Industry and Energy¹ no later than 15 January each year.

¹ For the electricity sector the reports shall be made to the Norwegian Water Resources and Energy Administration.

Section 3. These regulations do not apply to Svalbard.

Section 4. These regulations enter into force from the date the Agreement on the European Economic Area enters into force for Norway.

Annex

THE COUNCIL OF THE EUROPEAN COMMUNITIES,¹

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 5 and 213 thereof;

Having regard to the proposal from the Commission;

Having regard to the opinion of the European Parliament;

Having regard to the opinion of the Economic and Social Committee;

Whereas the introduction of a common energy policy is one of the objectives of the Communities; whereas it is the task of the Commission to propose the measures to be taken for this purpose;

Whereas, after studying the communication made to it by the Commission on 18 December 1968 on initial guidelines for a Community energy policy, the Council, during its 88th meeting held on 13 November 1969:

- approved the basic principles of that communication in the light of the report from the Committee of Permanent Representatives;
- requested the Commission to put before it as soon as possible the most urgent concrete proposals in this field;
- agreed to study these proposals as soon as possible in order to establish a Community energy policy;

Whereas obtaining an overall picture of the development of investments in the Community is one feature of such a policy; whereas this will, in particular, enable the Community to make the necessary comparisons;

Whereas the accomplishment of that task requires the most accurate information possible on investments; whereas, with regard to coal and atomic energy, undertakings are under an obligation, pursuant to the Treaty establishing the European Coal and Steel Community and the Treaty establishing the European Atomic Energy Community, to notify their investment projects; whereas it is desirable to supplement such information with particulars relating to petroleum, natural gas and electricity; whereas, to this end, the Commission should be informed of investment projects which are of interest to the Community in the sectors concerned;

Whereas, so that the Commission may carry out its task, it should also be informed in good time of any fundamental alteration in such projects, in particular as regards the period required for carrying them out and the planned capacity; whereas in consequence communication of such particulars is similarly indispensable;

Whereas Member States should for this purpose communicate to the Commission, with any comments they may have, particulars of investment projects concerning production, storage and distribution of petroleum, natural gas or electric power planned in their territory; whereas to this end the persons and undertakings concerned must be under an obligation to communicate to the Member State the information in question; whereas it is desirable to enable the Commission to prescribe, where appropriate, certain practical details, such as the form and content of the notifications to be made;

Whereas observance of the obligations provided for in this Regulation and the confidential nature of the information collected should be ensured.

THE COUNCIL OF THE EUROPEAN COMMUNITIES,²

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 5 and 213 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 187 and 192 thereof,

Having regard to the draft from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas Regulation (EEC) No 1056/72 (3) provides that Member States shall communicate to the Commission at the beginning of each year information concerning investment projects relating to the production, transport, storage or distribution of petroleum, natural gas or electric power which are scheduled to start within three years from 1 January of the current year;

Whereas experience has shown that, because of the technical, financial, industrial and social aspects of investment projects in the electricity sector, there is a growing tendency to formulate such projects at least five years before the expected commencement of work;

Whereas it is therefore necessary to ensure that the Commission is notified of investment projects in the electricity sector on which work is expected to commence within five years from 1 January of the current year;

Whereas experience has shown that the Commission was not notified of some investment projects because one or more of their major features was subject to further review;

Whereas Article 2 (1) of Regulation (EEC) No 1056/72 provides that certain features of investment projects communicated to the Commission shall be indicated;

Whereas experience has shown that in order to assess the significance of an investment project the Commission needs to know what stage decisions on it have reached and its place in national plans;

Whereas experience has shown that the list of investment projects set out in the Annex to Regulation (EEC) No 1056/72 is not sufficiently comprehensive to ensure that the

Commission has adequate information for carrying out its task in connection with the Community's common energy policy, particularly in the petroleum refining and electric power generation and transmission sectors;

Whereas, in the case of petroleum refining, investment in desulphurisation plants for residues, gas oil and feedstock is of increasing importance in view of the strict quality standards to be adopted within the Community in order to control pollution;

Whereas Council Regulation (EEC) No 1056/72 does not extend to investment in the electricity sector relating to nuclear electricity generating plants;

Whereas Articles 41 and 42 of the Treaty establishing the European Atomic Energy Community provide that the Commission must receive notification of any kind of nuclear investment project not later than three months before the first contracts are concluded with the suppliers or three months before the work begins; whereas this means that notification of projects is given when they are at a very advanced stage and then only at the initiative of and on the date chosen by the person or undertaking making the investment;

Whereas the establishment of a common energy policy is one of the agreed objectives of the Community and the Commission has been instructed to propose measures for the attainment of this objective; whereas, if the objectives set out in the Council resolution of 17 December 1974 concerning Community energy policy objectives for 1985 (1), the Council resolution of 17 December 1974 on a Community action programme on the rational utilisation of energy (2) and the Council resolution of 13 February 1975 concerning measures to be implemented to achieve the Community's energy policy objectives adopted by the Council on 17 December 1974 (3) are to be achieved, greater use must be made of the Community's industrial potential, particularly in the nuclear sector;

Whereas in order to assist manufacturing industry in undertaking the investment and adjustments necessary for the supply of heavy plant under the investment programmes relating to electric power supplies, the Commission must be informed of the projects involved in these programmes sufficiently far in advance of their implementation to be able to provide industry with information - the exact form varying according to the degree of final commitment reached with regard to the construction plans - which will enable an accurate assessment to be made of the technical, financial and social risks involved;

Whereas, in the electricity sector, investment projects relating to underground and submarine transmission cables, which constitute essential links in national or international interconnecting networks, are of interest to the Community; whereas the Commission needs information on such projects to enable it to carry out its task in the electricity sector; whereas provision should be made to ensure that such projects are communicated to the Commission,

HAS ADOPTED THIS REGULATION:

Article 1

1. The EFTA States shall, before 15 February of each year, communicate to the Standing Committee of the EFTA States and EFTA Surveillance Authority³ the information they

have obtained on the basis of the provisions of paragraph 2 concerning investment projects listed in the Annex which relate to the production, transport, storage and distribution of petroleum, natural gas or electric power and on which work is scheduled to start within three years, in the case of projects in the petroleum and natural gas sectors, or within five years, in the case of projects in the electricity sector; such communication must take account of the latest developments in the situation.

The EFTA States shall add to their notifications any comments they may have.

2. In order to fulfil the obligation laid down in paragraph 1, the persons and undertakings concerned shall, before 15 January of each year, communicate details of investment projects referred to in paragraph 1 to the EEA State⁴ in whose territory they are planning to carry them out.

3. The notifications provided for in paragraphs 1 and 2 shall, moreover, indicate the volume of capacities in commission or under construction or which are scheduled to be taken out of commission within three years.

4. When calculating capacities or dimensions mentioned in the Annex, EEA States, persons or undertakings concerned shall take into account all parts of a project, insofar as together they constitute a technically indivisible whole, even where the project is carried out in several successive stages.

5. The notifications provided for in paragraphs 1 and 2 shall also cover investment projects of which the major features (location, contractor, undertaking, technical features, etc.) may, in whole or in part, be subject to further review or to final authorisation by a competent authority.

Article 2

1. With regard to investment projects planned or in progress, any communication as referred to in Article 1 shall indicate the following:

- the name, and address or seat of the person or undertaking planning to make the investments;
- the precise purpose and nature of such investments;
- the planned capacity or power;
- the date when work is due to begin and the probable date of commissioning;
- the type of raw materials used.

In the case of investment projects which are at the planning stage, the notifications shall include the following information on the stage reached in the decisions on each project:

- whether or not firm decisions have been taken concerning all the major features of the project (location, contractor, undertaking, technical features, etc.);
- what the place of the project is in national plans.

As regards any proposed withdrawal from service, communications shall indicate the following:

- the character and the capacity or power of the installations concerned;

- the probable date when the installations will be withdrawn from service.

2. Within the limits laid down by this Regulation and the Annex thereto, the EFTA Surveillance Authority⁵ is authorised to adopt implementing provisions concerning the form, content and other details of the communications provided for in Article 1.

Article 3

The Standing Committee of the EFTA States shall place before the EEA Joint Committee a summary of the information obtained pursuant to this Regulation.

Article 4

Information forwarded pursuant to this Regulation shall be treated as confidential. This provision shall not prevent the publication of general information or of summaries not containing particulars concerning individual undertakings.

Article 5

The EEA States shall take appropriate measures to ensure observance of the obligations arising under Articles 1 (2) and 4.

Article 6

This Regulation shall enter into force one month⁶ after its publication in the Official Journal of the European Communities.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 18 May 1972.

For the Council

M. Mart

The President

ANNEX

INVESTMENT PROJECTS

1. Petroleum

1.1 Refining

- distillation plants with a capacity of not less than 1 000 000 metric tons a year,
- extension of distilling capacity beyond 1 000 000 metric tons a year,
- reforming/cracking plants with a minimum capacity of 500 metric tons a day,
- desulphurisation plants for residual fuel oils/gas oil/feedstock.

Chemical plants which do not produce fuel oil and/or motor fuels, or which produce them only as by-products, are excluded.

1.2 Transport

- crude oil pipelines with an installed or planned capacity of not less than 3 000 000 metric tons per year, which are not less than 30 kilometres long,
- petroleum product pipelines with an installed or planned capacity of not less than 1 500 000 metric tons a year, which are not less than 30 kilometres long,
- extension or lengthening by not less than 30 kilometres of pipelines coming within the categories mentioned above.

Pipelines for military purposes and those supplying plants outside the scope of item 1.1, are excluded.

1.3 Supply/distribution

- tanks for storing crude oil and petroleum products with a capacity of not less than 100 000 m³.

Tanks intended for military purposes and those supplying plants outside the scope of item 1.1, are excluded.

2. *Natural gas*

2.1 Transport

- gas pipelines with an installed or planned capacity of not less than 1000 million m³ per year.
- extension or lengthening by not less than 30 kilometres of such gas pipelines,
- terminals for the importation of liquefied natural gas.

Gas pipelines and terminals for military purposes and those supplying chemical plants which do not produce energy products, or which produce them only as by-products, are excluded.

2.2 Distribution

- underground storage installations with a capacity of not less than 150 000 000 m³.

Installations for military purposes and those supplying chemical plants which do not produce energy products, or which produce them only as by-products, are excluded.

3. *Electricity*

3.1 Production

- thermal power stations (generators with a unit capacity of 200 MW or more),
- hydro-electric power stations (power stations having a capacity of 50 MW or more).

3.2 Transport

- overhead transmission lines, if they have been designed for a voltage of 345 kV or more,
- underground and submarine transmission cables, if they have been designed for a voltage of 100 kV or more and constitute essential links in national or international interconnecting networks.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 4 May 1976.

For the Council

G. THORN

The President

- 1 The preambles of the acts referred to in the EEA Agreement annexes are not adapted for the purposes of the EEA Agreement, cf. the EEA Agreement Protocol 1(1), which states that they are relevant to the extent necessary for the proper interpretation and application, within the framework of the EEA Agreement, of the provisions contained in such acts.
- 2 This annex includes the preambles of both regulations referred to in the title. The preamble of the second regulation, (EEC) No 1215/76, starts here.
- 3 Cf. the EEA Agreement Protocol 1(4) litra a: When an EC Member State is to submit information in the EC Commission, an EFTA State shall submit such information to the EFTA Surveillance Authority which shall pass it on to the Standing Committee of the EFTA States. The EC Commission and the EFTA Surveillance Authority shall exchange information they have received.
- 4 Cf. sector adaptation stated by way of introduction in Annex IV: the term "Member State" shall be deemed as also including the EFTA countries. Here the word "EEA State" is used instead of "Member State".
- 5 Cf. the EEA Agreement Protocol 1(4) litra d: Within the EEA, the administrative functions of the EC Commission shall for the EFTA States be carried out according to procedures established among them. According to the agreement on the EFTA Surveillance Authority, Protocol 1, Article 1, litra i, the duties of the Commission with respect to implementing the procedures established in Community law shall for the EFTA States be carried out by the EFTA Surveillance Authority in accordance with the procedure stipulated in the Regulation. In the EC the Member States will continue to deal with the Commission as today. The "EEA adaptations" undertaken in the regulation text and that apply to the EFTA States' obligations vis-à-vis each other and vis-à-vis the EFTA Surveillance Authority do not in other words show the obligations that EC Member States will continue to have - but now also as an EEA obligation vis-à-vis the EFTA States, because the Regulation has been made part of the EEA Agreement. The provision here must also be viewed in the context of Article 92 of the Main Part of the EEA Agreement, which states that the EEA Joint Committee shall ensure effective implementation and operation of the Agreement. The Contracting Parties may carry out exchanges of views and information within the entire scope of the Agreement, and consultations shall be held on any point of relevance to the Agreement giving rise to a difficulty.
- 6 The date for entry into force will be as for the rest of the EEA Agreement.