

2009 No. 1302

INFRASTRUCTURE PLANNING

**The Infrastructure Planning (National Policy Statement
Consultation) Regulations 2009**

<i>Made</i> - - - -	<i>21st May 2009</i>
<i>Laid before Parliament</i>	<i>28th May 2009</i>
<i>Coming into force</i> - -	<i>22nd June 2009</i>

The Secretary of State for Communities and Local Government, in exercise of the powers conferred by sections 7 and 232(3) of the Planning Act 2008(a), makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Infrastructure Planning (National Policy Statement Consultation) Regulations 2009 and shall come into force on 22nd June 2009.

Interpretation

2. In these Regulations—

“the Act” means the Planning Act 2008;

“AONB Conservation Boards” are established under section 86 of the Countryside and Rights of Way Act 2000(b);

“fire and rescue authority” means an authority determined as such under section 1 of the Fire and Rescue Services Act 2004(c);

“Integrated Transport Authority” has the same meaning as that given by section 77(2) of the Local Transport Act 2008(d);

“internal drainage board” is a board constituted as such under section 1 of the Land Drainage Act 1991(e);

“joint waste authority” means an authority established by an order under section 207(1) or section 210(1) of the Local Government and Public Involvement in Health Act 2007(f);

“local authorities” means—

- (a) a county council, or district council, in England;
- (b) a London borough council;

(a) 2008 c.29.
(b) 2000 c.37.
(c) 2004 c.21. Section 1 was amended by the Civil Contingencies Act 2004, section 32(1), Schedule 2, Pt 1, paragraph 10(1), (2).
(d) 2008 c.26.
(e) 1991 c.59.
(f) 2007 c.28.

- (c) the Common Council of the City of London;
- (d) the Greater London Authority;
- (e) the Council of the Isles of Scilly;
- (f) a county council, or county borough council, in Wales;
- (g) a National Park Authority;
- (h) the Broads Authority;
- (i) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(a);

“local resilience forum” has the meaning given by regulation 4 of the Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005(b);

“NPS” means national policy statement;

“Passenger Transport Executive” has the same meaning as in section 9 of the Transport Act 1968(c);

“police authority” means an authority established under section 3 of the Police Act 1996(d);

“regional development agencies” means the regional development agencies established by section 1 of the Regional Development Agencies Act 1998(e);

“regional planning body” means a body recognised as such by a direction given by the Secretary of State under section 2 of the Planning and Compulsory Purchase Act 2004(f);

“relevant Northern Ireland department” in relation to an NPS, means the Northern Ireland department responsible for the matter, or as the case may be, for the matters to which the NPS relates (if more than one department is responsible, the reference is to all of them);

“statutory undertaker” has the same meaning as in section 5(10) of the Act;

“Strategic Health Authority” means a Strategic Health Authority established under, or continued in existence by, section 13 of the National Health Service Act 2006(g);

“The National Association of Local Councils” means the unincorporated association of that name which was established in 1947;

“waste authorities” means–

- (a) a waste collection authority;
- (b) a waste disposal authority; or
- (c) a joint waste authority;

“waste collection authority” means an authority mentioned in section 30(3) of the Environmental Protection Act 1990(h); and

“waste disposal authority” means an authority mentioned in section 30(2) of the Environmental Protection Act 1990(i).

(a) 1994 c.39.

(b) S.I. 2005/2042

(c) 1968 c.73. Section 9 has been amended by the Transport Act 1985 (c.67), section 57(1)(a), (b) and (d), section 58(1) and (2), section 139(3), Schedule 3, paragraph 3 and Schedule 8: the Local Government (Scotland) Act 1973 (c.65), section 150(1), Schedule 18 paragraph 1(f): the Local Government etc (Scotland) Act 1994 (c.39) section 180(1), Schedule 13, paragraph 80(1) and (2): and the Local Transport Act 2008 (c.26) sections 77(5), Schedule 4, Part 1, paragraphs 1, 2(1) to (9) and section 98(4), Schedule 7, Part 4.

(d) 1996 c.16.

(e) 1998 c.45.

(f) 2004 c.5.

(g) 2006 c.41.

(h) 1990 c.43. Section 30(3) has been amended by the Local Government (Wales) Act 1994, Schedule 9, paragraph 17 and Schedule 18 and the Local Government etc. (Scotland) Act 1994, Schedule 13, paragraph 167.

(i) Section 30(2) has been amended by the Local Government (Wales) Act 1994, Schedule 9, paragraph 17 and the Local Government etc. (Scotland) Act 1994, Schedule 13, paragraph 167.

Consultation

3.—(1) This regulation prescribes, for the purposes of section 7 of the Act, the persons to be consulted by the Secretary of State under that section.

(2) The persons listed in paragraph (3) of this regulation must be consulted in every case in which the Secretary of State proposes to designate a statement as a NPS or to amend a NPS.

(3) The persons referred to in paragraph (2) are—

- (a) The Scottish Executive;
- (b) The Welsh Ministers;
- (c) The relevant Northern Ireland Department;
- (d) Regional planning bodies;
- (e) Local authorities;
- (f) Strategic Health Authorities;
- (g) The Local Government Association;
- (h) The Association of Chief Police Officers;
- (i) The Chief Fire Officers Association;
- (j) The Health and Safety Executive;
- (k) The Environment Agency;
- (l) Natural England^(a);
- (m) Regional development agencies;
- (n) The Commission for Sustainable Development;
- (o) The Equality and Human Rights Commission;
- (p) The Joint Nature Conservation Commission;
- (q) Waste Authorities;
- (r) The Joint Committee of the National Amenity Societies;
- (s) Transport for London;
- (t) The Crown Estate Commissioners;
- (u) The Committee on Climate Change^(b);
- (v) The National Association of Local Councils;
- (w) AONB Conservation Boards;
- (x) The National Consumer Council^(c);
- (y) The Chartered Institute of Environmental Health.

(4) Where, in such a case as described in paragraph (2), any of the circumstances described in column 2 of Table 1 also apply, the person specified in the corresponding entry in column 1 of that Table must also be consulted by the Secretary of State.

(5) Where, in such a case as described in paragraph (2)—

- (a) the Secretary of State proposes to designate a statement, or to amend a NPS, which includes policies identifying one or more locations as suitable (or potentially suitable) for a specified description of development, and
- (b) any of the circumstances described in column 2 of Table 2 apply,

the person specified in the corresponding entry of column 1 of that Table must also be consulted by the Secretary of State.

(a) See section 1 of the Natural Environment and Rural Communities Act 2006 (c.16).

(b) See section 32 of the Climate Change Act 2008 (c.27).

(c) See section 1 of the Consumers, Estate Agents and Redress Act 2007 (c.17).

(6) Nothing in this regulation shall preclude consultation of such other bodies as, in any particular case, the Secretary of State may think fit.

Table 1

<i>Column 1; Consultee</i>	<i>Column 2; Circumstances</i>
The Civil Aviation Authority	Where a NPS relates to airports or which is likely to affect aviation activity
The Rail Passengers Council	Where a NPS is likely to affect the rail passenger industry
The Disabled Persons Transport Advisory Committee	Where a NPS is likely to affect access for disabled people
The Coal Authority	Where a NPS is likely to affect past, present or potential coal mining operations
The Office of Rail Regulation and approved operators ⁽¹⁾	Where a NPS is likely to affect railways or the rail transport industry
The Gas and Electricity Markets Authority	Where a NPS is likely to affect gas and electricity markets
The Water Services Regulation Authority	Where a NPS is likely to affect the water industry
The Forestry Commission	Where a NPS is likely to affect the protection or expansion of forests and woodlands
The British Waterways Board	Where a NPS is likely to affect inland waterways or land adjacent to inland waterways
The Commission for Architecture and the Built Environment	Where a NPS is likely to affect matters relevant to its objectives
The Health Protection Agency	Where a NPS includes policies relating to chemicals, poisons or radiation which could potentially cause harm to people
Statutory undertakers	Where a NPS includes policies relevant to their functions as statutory undertakers
Trinity House ⁽²⁾	Where a NPS includes policies likely to affect navigation in tidal waters
The Royal Commission on the Ancient and Historical Monuments of Wales	Where a NPS is likely to affect the historic environment in Wales
The Commission for Integrated Transport	Where a NPS is likely to affect transport
The Countryside Council for Wales	Where a NPS is likely to affect Wales
The Welsh Local Government Association	Where a NPS is likely to affect Wales
The Historic Buildings and Monuments Commission for England ⁽³⁾	Where a NPS is likely to affect historic buildings or the historic environment
The Commission for Rural Communities	Where a NPS is likely to affect rural communities
The Homes and Communities Agency	Where a NPS is likely to affect matters relevant to the Agency's objectives ⁽⁴⁾
The Maritime and Coastguard Agency	Where a NPS is likely to affect marine or coastal environment
Integrated Transport Authorities and Passenger Transport Executives	Where a NPS is likely to affect transport

⁽¹⁾ For the definition of "approved operators" see section 25 of the Planning Act 2008.

⁽²⁾ The Corporation of Trinity House of Deptford Strond.

⁽³⁾ See section 32 of the National Heritage Act 1983 (c. 47).

⁽⁴⁾ See section 2 of the Housing and Regeneration Act 2008 (c. 17).

Table 2

<i>Column 1; Consultee</i>	<i>Column 2; Circumstances</i>
The relevant police authority and any police authority sharing a boundary with that authority	Where a police authority has responsibility for some or all of the area identified in a NPS
The relevant fire and rescue authority and any fire and rescue authority sharing a boundary with that authority	Where a fire and rescue authority has responsibility for some or all of the area identified in an NPS
The relevant internal drainage board	Where an internal drainage board has responsibility for some or all of the area identified in a NPS
The relevant local resilience forum	Where a local resilience forum has responsibility for some or all of the area identified in a NPS

Signed by authority of the Secretary of State

21st May 2009

Iain Wright
Parliamentary Under Secretary of State
Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 2 of the Planning Act 2008 provides for the Secretary of State to designate policy statements as national policy statements. These statements may set out national policy in relation to certain major infrastructure developments and for the purposes of the determination of applications for development consent under the Act. The Act sets out a number of consultation and publicity requirements which must be fulfilled before a statement can be designated as a national policy statement.

These Regulations prescribe the persons whom the Secretary of State must consult before designating a statement as a national policy statement. Table 1 contains a list of persons and the circumstances in which they must be consulted. Table 2 contains an additional list of persons and the circumstances in which they must be consulted before the Secretary of State designates a statement which includes locationally specific policy as a national policy statement.

An Impact Assessment has not been prepared for this instrument as the policy options do not have an additional impact on business, charities or the public sector beyond what was examined in the Impact Assessment that accompanied the Planning Bill when it was introduced in Parliament on 27th November 2007. That Impact Assessment can be found on the Communities and Local Government website (<http://www.communities.gov.uk>).

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STATUTORY INSTRUMENTS

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