

A guide to regulation 13A of the Pipelines Safety Regulations 1996

Preface

1 This guidance is aimed at operators of iron pipes conveying natural gas and should be read in conjunction with *A guide to the Pipelines Safety Regulations 1996* L82. It relates to regulation 13A of the Pipelines Safety Regulations 1996 (SI 1996/825) which was inserted by the Pipelines Safety (Amendment) Regulations 2003 (SI 2003/2563) and came into force on 3 November 2003.

Introduction

2 In Great Britain gas is distributed through a network of around 275 000 km of cast iron, ductile iron, steel and polyethylene pipes. Iron pipes (which include cast iron, spun iron and ductile iron) are known to be at risk of failure through fracture and corrosion and this can result in serious gas explosions. Iron pipes within 30 m of buildings present the greatest hazard and are referred to as 'at-risk' pipes. The major gas distribution network operators have designed successive decommissioning programmes to manage the risk from their at-risk iron pipes.

3 The extent of the at-risk iron pipe population means that it is not practicable for the major gas distribution network operators to ensure the integrity of all of their at-risk iron pipes. Regulation 13A allows each operator to prepare a programme setting out the length of at-risk iron pipe that will be decommissioned over a specified period. The programme will not identify specific locations of lengths of pipe, but will set out the arrangements for prioritising which pipes will be decommissioned in that particular programme.

4 If the Health and Safety Executive (HSE) is satisfied that a programme is suitable and sufficient for the period it relates to, it must approve it. The operator then has a duty to comply with the approved programme, so far as reasonably practicable. Operators with approved programmes are given a defence from prosecution under regulation 13 provided the requirements of regulation 13A (6) are met. Regulation 13 of the Pipelines Safety Regulations 1996 requires operators of gas distribution networks to maintain the gas pipes in an efficient state, in efficient working order and in good repair.

5 Since 2002 HSE has published an enforcement policy for the management of risk from at-risk iron pipes (www.hse.gov.uk/gas/supply/mainsreplacement/index.htm). HSE's Enforcement Policy for the iron mains risk reduction programme 2013–2021 explains how the major gas distribution network operators, by taking a risk-based approach, are able to comply with regulation 13A and sets out the basis on which a submitted programme is judged to be suitable and sufficient.

6 Under the Gas Safety (Management) Regulations 1996, the gas distribution network operators' safety cases should describe their arrangements for decommissioning their at-risk iron pipes. This should include the findings of their risk assessment, a description of the methodology used to identify and prioritise pipes for decommissioning, and particulars to demonstrate that the management system is adequate to ensure compliance with the Pipelines Safety Regulations 1996, regulation 13A.

7 Although regulation 13A (6) provides a defence for failing to comply with the duty in regulation 13 to maintain pipelines where, for example, the pipe was included within an approved programme which was not then due for completion, it does not provide a defence for failure to comply with the other duties in the Pipelines Safety Regulations 1996 (eg requirements to provide safety systems, or to have arrangements in place for incidents and emergencies), or for a failure by operators to comply with their duties under the Health and Safety at Work etc Act 1974. For example, a regulation 13A approval does not affect or lessen an operator's duty to provide adequate:

- emergency response to gas escapes;
- network pressure management;
- network gas odourisation;
- up-to-date and accurate asset record keeping;
- resources for the repair and maintenance of network assets other than iron mains within 30 m of occupied buildings.

Guidance

Regulation 13A

(1) *Subject to paragraph (3), the Executive shall approve –*

- (a) *with or without modification by it, a programme prepared by the operator of a pipeline; or*
- (b) *a programme, which after approval has been modified by the operator or by itself,*

if it is satisfied that the programme or modified programme is suitable and sufficient for the period to which it relates.

8 The meaning of 'programme' is set out in regulation 13A (7). The operator may prepare a programme which HSE must approve if it is satisfied that it is suitable and sufficient for the period to which it relates. Operators should begin discussions with HSE in good time to agree and approve future programmes.

(2) *Subject to paragraph (3), the Executive may prepare and approve a programme for a period for which no suitable and sufficient programme has been prepared by the operator.*

(3) *The Executive shall consult the operator before it approves a programme, which it has itself modified or prepared.*

9 If HSE prepares a programme itself or modifies one prepared by an operator, it must consult the operator before approving the programme. In practice, it is expected that operators will prepare programmes themselves and that HSE, if not

satisfied with a programme, will discuss the necessary changes with the operator and agree them. The operator would then amend the programme and resubmit it for approval. Only in exceptional circumstances would HSE prepare or amend a programme itself.

(4) *An approval under this regulation –*

- (a) *shall be in writing;*
- (b) *shall be notified to the operator and published in such manner as the Executive may approve; and*
- (c) *may be withdrawn by the Executive by reasonable notice in writing at any time.*

10 This sets out the administrative arrangements for approving programmes.

(5) *The operator shall so far as is practicable comply with a programme approved under this regulation.*

11 The operator has a duty to comply with their approved programme 'so far as is practicable'. However, an operator's risk-based approach to the delivery of their approved programme may allow them to reschedule the order in which at-risk pipes are decommissioned. Operators are expected to use this flexibility to select alternative pipes for decommissioning should they encounter difficulties during the delivery of their approved programme, for example if events outside the operator's control prevent them from being able to work to the original details of their approved programme.

12 If an operator were to be prosecuted for non-compliance with their approved programme, it would be a defence for them to show that they had complied with the programme 'so far as is practicable' and that their inability to comply was due to matters outside their control.

13 Matters outside the operator's control include:

- an extended spell of severe weather;
- external events such as terrorist activity, epidemics (eg foot and mouth or flu), fuel crisis;
- conflicting legislative requirements;
- industrial action;
- sites with archaeological or environmental significance.

14 However, the operator would not be able to rely on this defence where they failed to make adequate provision for matters within their control and this led to their failure to comply with the approved programme.

15 Matters within the operator's control include:

- the availability of resources;
- network complexity;
- the need to maintain continuity of supply;
- liaison with third parties, for example landowners, pressure groups.

16 Where an operator fails to comply with their approved programme, HSE will take action in line with its enforcement policy.

(6) *In any proceedings for an offence for a contravention of regulation 13 it shall be a defence for the person charged to prove that at the relevant time –*

- (a) *any pipe to which the contravention related was of a description, apart from its geographical location, to which a programme –*
 - (i) *approved by the Executive; and*
 - (ii) *not then due for completion, applied; and*
- (b) *where the proceedings arise from an event involving a failure of a pipe, the operator did not know and could not reasonably be expected to have known that there was a risk to safety concerning the pipe, which required immediate attention.*

17 The Executive will provide written confirmation to an operator once a programme has been approved. This will specify the description of pipes to which it applies, the length of pipe to be decommissioned, and the period to which the approval applies. The approval will be on condition that operators select pipes for decommissioning in accordance with the risk-based policy and procedures referred to in their programme submission. When approving a programme the Executive recognises that at-risk iron pipes operated by the major gas distribution network operators will be decommissioned over several years and lower-risk pipes will remain in use until scheduled for decommissioning.

18 Pipes which were scheduled for decommissioning under earlier approved programmes, and not decommissioned during the period specified, cannot then be included in subsequently approved programmes. HSE will consider agreeing separate arrangements with the operator to ensure that overdue decommissioning takes place.

19 If an operator is prosecuted for a breach of regulation 13 in connection with the failure of a pipe then they will have a defence under regulation 13A (6) providing they can prove the following:

- the pipe was 'of a description', apart from its geographical location, to which an approved programme applied. Approved programmes only apply to at-risk iron pipes and will exclude any pipes that should have been decommissioned in an earlier programme. There is no defence under this regulation for pipes made of other materials such as polyethylene and steel. Also, there is no defence if the failure has been on an iron pipe which, for whatever reason, has not been recognised as needing decommissioning in this or any previous programme. For example, a pipe recorded as polyethylene on an asset register which is in reality iron, would not have formed part of an approved programme and therefore no defence applies; and
- the operator did not know and could not reasonably have been expected to know that there was a risk to safety concerning a pipe that required immediate attention. However, the defence would not apply if the operator had knowledge, or should have had knowledge, that would have indicated that a particular pipe was likely to fail and that immediate action should have been taken.

(7) *Any reference in this regulation to a programme is a reference to a programme for the decommissioning of any description of iron pipe used in a pipeline.*

20 A programme should describe the population of pipes to which it applies the length of iron pipe to be decommissioned in the period and the policy and procedures used to select which pipes are to be decommissioned. Where an operator's population of at-risk pipes covers an extensive area of the country, the

programme may also be broken down into geographical areas, but the specific location of the pipes to be decommissioned is not required.

21 An iron pipe is decommissioned when it is permanently put beyond use. Where a polyethylene or other pipe has been inserted into an existing iron pipe, or a spray-lining has been applied that uses an existing iron pipe as a mould, the iron pipe will be considered decommissioned only where the new internal pipe or spray-lining is capable of enabling the operator to meet the requirements of the Pipelines Safety Regulations 1996.

22 An at-risk pipe found by the operator to be in an efficient state, in efficient working order and in good repair and whose decommissioning has been deferred to a later date, in accordance with HSE's enforcement policy, will continue to be included within the population of pipes covered by the operator's approved programme.

(8) In paragraph (7) "iron" does not include steel.

23 Iron includes cast iron, spun cast iron, and ductile iron. Pipes made from steel are not covered by regulation 13A. However, steel and pipelines made from other materials still have to be maintained in good repair under the Pipelines Safety Regulations 1996, regulation 13.

Further information

A guide to the Pipelines Safety Regulations 1996. Guidance on Regulations L82
HSE Books 1996 ISBN 978 0 7176 1182 9 www.hse.gov.uk/pubns/books/L82.htm

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