

Pipelines Safety Regulations 1996

Documentation of Work Completed During Consultation on the Proposed Amendment to Regulations 25 (Testing of Emergency Plans) and 26 (Charging for Testing).

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Introduction

The Pipeline Safety Regulations 1996 (PSR) includes a duty on local authorities to prepare and review emergency plans for major hazard pipelines. There is currently no requirement for the local authority to test the plan or to charge the operator for any testing that is carried out (charging is only a feature for preparing the plans). When PSR 96 was enacted, HSE proposed amendments to Regulations 25 and 26 to place a duty on local authorities to test the pipeline emergency every three years, and to make provision for local authorities to charge the pipeline operator for testing of the emergency plan. These amendments were agreed by HSC and actioned formally through the Advisory Committee on Dangerous Substances.

Informal consultation relating to the proposed amendments commenced in October 1996. In response to this, HSE initiated the Pipeline Emergency Planning Forum, to facilitate stakeholder discussions, resolve issues and progress actions. An extensive period of consultation ensued, which involved the following major stakeholders at all stages:

HSE Policy, HSE HID
UKOPA
Local Authority Emergency Planners
Emergency Services

The chronology of the consultation is summarised in Appendix 1.

Joint Programme of Work with Other Stakeholders

In February 2001, the HSE Policy Unit presented a paper to ACDS which recommended that the amendments were progressed, and that the outstanding stakeholder issues should be addressed through an ACoP. ACDS supported the recommendation, which was reported to the PEPF in May 2001. Following this, UKOPA and the LA Emergency Planning representatives agreed to participate in a joint programme of work with HSE to prepare the Consultation Document, including ACoP and Guidance for the amended regulations. The agreement is given in Appendix 2.

Agreed Key Principles for ACoP and Guidance

The joint programme of work produced a document which outlined the key principles for inclusion in the ACoP and Guidance text, as agreed through detailed discussion

and correspondence between the stakeholders. This document is given in Appendix 3.

Draft ACoP and Guidance

Following completion of the joint Outline ACoP document, HSE supplied a draft copy of the Consultation Document for the amended regulations to UKOPA. Additional ACoP and Guidance text based on the Outline ACoP document was included and agreed between the representatives for UKOPA, LA Emergency Planning and HSE. This document set out the existing regulations, proposed changes and the ACoP and guidance that would support the amended regulations, as agreed by UKOPA, Local Authority Emergency Planners and HSE in December 2002 following extensive discussion and consultation. This document is included in Appendix 4.

Alternative Draft Consultation Document Prepared by P Sargent HSE

In February 2003, HSE issued an alternative draft consultation document, replacing that which had been agreed in consultation, and sought support for the alternative consultation document through the Chemicals and Pipelines Emergency Planning Liaison Group, CAPEPLG, in September 2003. This document is included in Appendix 5.

UKOPA and LA Emergency Planning Representatives registered protests on the basis that the alternative draft cut across agreed work with no justification. CAPEPLG actioned a Work Group of stakeholders involved in the original consultation document to resolve differences. This Work Group met in March 2004.

Notes of CAPEPLG Pipelines Sub-Group Meeting 10th March 2004

Prior to the CAPEPLG Work Group Meeting, UKOPA EPWG reviewed the alternative consultation document, and confirmed support in principle for the guidance subject to confirmation of how the amended regulations would influence the number, type and scope of emergency plan tests involving pipelines. LA Emergency Planning and Emergency Services representatives on the CAPEPLG Work group required similar confirmation, and following discussions it was agreed that HSE (P Sargent) would discuss how the regulation could specifically address the following:

- Local authorities should deal with pipelines through generic plans dealing with all major accident hazards in their areas with pipeline-specific elements kept to the minimum.
- Local authorities should seek to coordinate tests between local authority areas and the operators in those areas so that the number of tests required nationally could be kept to a minimum.
- Table-top testing should be the chosen method of test wherever possible.
- Local authorities to agree both method/scope of a test and the costs before tests are carried out.

The notes of the meeting issued by HSE are included in Appendix 6 and those issued by UKOPA are included in Appendix 7.

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The above issues remain outstanding.

Current Status

In July 2004, HSE announced that the proposed amendments to PSR 96 have been withdrawn, and there are currently no plans to change the existing duties.

Record of Work Completed for Future Reference and Use

This document had been approved by the ACDS MHSC Working Group on Pipelines as a record of the work that has been carried out by stakeholders, and has been submitted to and accepted by ACDS for future reference.

In this connection it is considered that the proposed changes requiring testing of pipeline emergency plans are likely to be progressed at a future date, when the European Pipeline Safety Instrument is progressed. This document therefore provides a detailed record of the consultation process for the proposed amendments to PSR 96, the issues involved and the status of agreement achieved between key stakeholders, and should be used as a starting point for further discussions in order to avoid unnecessary duplication of effort and associated time and cost.

Appendix 1

Testing of Pipeline Emergency Plans

Background and Summary of UKOPA Involvement in Consultation to Date.

Prepared by:- UKOPA Emergency planning Work Group, February 2004.

PSR 96 came into force in April 1996. HSE announced that amendments to regulations 25 (testing of emergency plans) and 26 (charging for testing) would be proposed and published once these issues were resolved for the COMAH Regulations. Consultation has been underway for nearly 8 years. Consultation was co-ordinated by HSE via the Pipelines Emergency Planning Forum, which met first in May 1997. A summary of the key stages of the consultation and UKOPA involvement is as follows:

- 1) Dec 96 – Letter to HSE expressing concerns and requesting discussions.
- 2) May 97 – April 2000 – full involvement in HSE Pipeline Emergency Planning Form, PEPF (Transco, Shell, BP and Huntsman representatives).
- 3) July 1999 – UKOPA pipeline emergency Plan test Pilot – arranged by Transco at Hollinwood.
- 4) July 1999 – Meeting with Stakeholders to establish Principles of Agreement
- 5) September 1999 – open publication and wide circulation of Pilot test report and Principles of Agreement.
- 6) August 2000 – Correspondence with all Local Authorities, requesting views on joint testing etc.
- 7) Jan 2001 – report of correspondence exercise and outline draft requirements for ACoP.
- 8) Feb 2001 HSE ACDS paper – confirmation of decision to progress.
- 9) May 2001 ACoP action agreed via PEPF.
- 10) Jan 2002 – draft outline agreed by UKOPA, plus joint work programme with LAs.
- 11) July 2002 – Meeting with LA EPs and HSE to agree ACoP.
- 12) September – agreement and finalisation of document by correspondence.
- 13) November 2002 – Draft consultation document in ACoP format provided by HSE agreed by UKOPA, LA EPs and HSE.
- 14) Dec 2002 – N Briscoe retires, P Sargent takes responsibility.
- 15) April 2003 – Revised consultation document issued by P Sargent.
- 16) May 2003 – WPG requests to be kept informed of development wrt to consultation, P Sargent agrees to discuss redraft of requirements with HSE Solicitor.
- 17) September 2003 – P Sargent issues paper and actions consultation via CAPEPLG. CAPEPLG actions discussion via stakeholder Group.
- 18) March 2004 - Stakeholder Group meets at Easingwold, actions for resolution are agreed.
- 19) April 2004 – No progress on actions is reported by HSE to WGP.
- 20) July 2004 – HSE announce that the proposed amendments to PSR 96 are withdrawn.

Appendix 2

Work Programme to Develop ACoP and Guidance for Pipeline Emergency Plan Testing and Charging

Joint Initiative by UKOPA and Local Authorities

Prepared by: UKOPA EPWG
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D McIntosh Aberdeen City Council EPO, Grampian Emergency
Planning
A Thayne HSE

Background

Amendments to PSR 1996 Regulation 25 to include testing of pipeline emergency plans, and 26 to include charging for testing of pipeline emergency plans have been agreed by ACDS and are being progressed by HSE. Stakeholder consultation progressed by the Pipeline Emergency Planning Form (PEPF) with respect to the proposed amendments to PSR 1996 Regulations 25 and 26 resulted in the expression of a number of concerns and proposed ways forward. A recommendation supported by key stakeholders was the development of an ACoP and additional guidance relating to the amendments. The development of an effective and practical model requires the expertise and experience of both local authorities and pipeline operators emergency planning and response, cost effective resource management and sharing of good practice. A joint initiative between UKOPA and LA representatives has been created to develop an ACoP and Guidance for pipeline emergency plan testing and charging. The development of the ACoP and Guidance document is progressing in consultation with HSE.

Purpose

The purpose of the joint programme of work is to share expertise, experience and resources in order to establish a pipeline emergency plan testing and charging regime that meets the requirements of both local authorities and pipeline operators.

Current Status

HSE propose to prepare and issue a draft Consultative Document (CD) covering the proposed amendments to CAPEPLG for informal comment, followed by submission to MHSC, ACDS and HSC for formal sanction. Following stakeholder comment, HSE have proposed that the CD will consist of draft regulations, interpretive guidance and an ACoP, the interpretive guidance and ACoP being published as one document. The interpretive guidance and ACoP would not need to go through the formal process, ie they would not need to be published as part of the CD, but the CD would make reference to them, and they would be presented to CAPEPLG, MHSC and ACDS for

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comment. A joint group comprising local authority, UKOPA and HSE representatives is working on the drafting of such a document to cover the interests of all stakeholders.

Drafting of ACoP and Guidance

The joint group involving local authority and UKOPA representatives is developing an interpretive guidance and ACoP document for Pipeline Emergency Plan Testing and Charging in accordance with the following requirements:

- i) Appropriate HSE consultation and support for the joint development has been sought.
- ii) The document scope and format includesⁱ
 - a. Regulations (ie amendments to PSR 1996),
 - b. ACoP (i.e. methods for compliance),
 - c. Guidance (i.e. background and explanation).

Summary Programme of Work:

Action:	Status
1 Agree scope of draft interpretive guidance and ACoP	Complete 26.07.02
2 Establish communication and liaison mechanisms	Complete 26.07.02
3 Prepare draft document in accordance with scope	Complete 26.07.02
4 Circulate draft to CAPEPLG for informal consultation	Agreed 26.07.02
5 Collate and assess response, and hold open Workshop if required to present and agree response	Agreed 26.07.02
6 HSE progress formal Consultation Document	
7 HSE publish amended regulations with ACoP and interpretive Guidance	

Appendix 3**Pipelines Safety Regulations
ACoP and Guidance to support amended Regulations 25 and 26 covering
Pipeline Emergency Plan Testing and Charging****Draft Outline**

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1 Introduction**1.1 Purpose**

The purpose of a local authority emergency plan is to ensure that the response of all key partners to an accident protects the public and is co-ordinated in the most effective way. It is important that the interpretation and approach between local authorities, pipeline operators, emergency services and other key partners, such that the interface between parties is clear and allocation of responsibilities in the event of an accident is transparent, and therefore involvement in and charges for tests are clearly understood.

As major accident hazard assets, pipelines have particular characteristics (see section 1.3) which are likely to affect the planning and resourcing of tests, and should be taken into account in testing. The Regulations require that plans are fully tested over a three year interval. The scope and scheduling of tests covering specific aspects may need to accommodate specific local requirements. Planning and co-ordinating of tests must be efficient and effective to maximise the value obtained. An auditable process for documentation of programmes, decisions and actions raised in testing of pipeline emergency plans which demonstrates compliance with the Regulations is therefore recommended.

Properly planned and executed tests will result in costs for which justifiable charges should be made by the local authority on the pipeline operator. A transparent approach to costing and charging which is sufficiently flexible to allow for local differences in organisation, infrastructure and resources is required.

1.2 Application

The recommendations and guidance applies to the testing of and charging for emergency plans for major accident hazard pipelines (MAHPs) as defined in PSR.

1.3 Characteristics Particular to Pipelines

As major accident hazard assets, pipelines have particular characteristics which require consideration when planning and co-ordinating emergency plan tests. These characteristics are summarised as follows:

- Pipelines are long, linear distributed assets which are laid on 3rd party land and cross boundaries of several LAs.
- Pipelines are generally remotely located in rural areas, are unmanned and remotely operated.
- Pipelines are buried, so the general public may not be aware of pipeline presence/ location.
- In the event of an incident, the Emergency Services are likely to be the first to be notified, and could be the first to arrive at the scene of the incident.
- Rendezvous points may not be known in advance.

The above characteristics can affect the scope, scale and scheduling of reasonable emergency plan tests, and any decisions or accommodations made should be clearly documented and reflected in the LA's 3 year schedule of tests.

1.4 Testing of Characteristics Particular to Pipelines

Based on the characteristics described above, the following aspects are of particular importance in testing of pipeline emergency plans:

- The diagnostic period – including initial reporting and mobilisation
- Communication between all agencies.
- Interface with the media and provision of information to the public.

2 Testing

2.1 Objectives

- To validate the pipeline emergency plan.
- Test characteristics particular to pipelines.
- Define what, how and when to test.
- Ensure the response of pipeline operators, emergency services and other key partners dovetails under the LA plan.
- Ensure that programmes, decisions and actions raised in testing pipeline emergency plans are auditable

2.2 Scope

The scope of the test should cover the characteristics particular to pipelines, and should be sufficient to validate the plan and ensure it is adequate.

The scope of a pipeline emergency plan test would normally include:

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- Incident identification.
- Process for establishing communications.
- Strategy for mobilisation of resources.
- Emergency response by all agencies.

It would not normally include physical deployment of resources, off-site support and welfare facilities stand down and recovery and restoration, all of which are general to all emergency response requirements.

2.3 Methods

Various methods can be applied to the testing of pipeline emergency plans:

2.3.1 Communication Exercises

Communication exercises test the essential direct links, contact numbers and contact details which are required in the event of an emergency.

Communication exercises in which the direct communications links and contacts between key stakeholders are tested to confirm accuracy and reliability are an essential.

2.3.2 Control post testing

This is the recommended method for testing communications, which is an essential component of the emergency plan and must be included in every test programme.

A control post communication exercise examines the adequacy of communications between all key players in an emergency. Testing in this way involves resources based at the posts and locations that they would take up in the event of an accident. This means that without deploying any resources, personnel work through the communications involved in the roles, decisions and actions that arise in response to an accident. The exercise may include simulating some of the potential problems that can be experienced during real incidents.

2.3.3 Table Top Exercises

Table top exercises bring together the appropriate personnel and resources in one place to work through their roles in the event of an emergency in a realistic way. Table top exercises are flexible, and can test the response to more than one of the identified hazards with very little additional effort and expense.

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at the posts and locations that they would take up in the event of an accident. This means that without deploying any resources, personnel work through the communications involved in the roles, decisions and actions that arise in response to an accident. The exercise may include simulating some of the potential problems that can be experienced during real incidents.

Other methods of testing are:**Internet-based Communications Software, Information Technology or Virtual Reality Systems**

These systems being developed allow realistic simulations of accidents and the response to them. Such systems have the potential to enable effective and practical testing, and to enhance the scope of the exercise.

Table top testing is considered to be a relevant and effective means of testing emergency plans, and is the recommended method for testing of pipeline emergency plans.

Seminar, Workshop or Discussion Based Tests

These test exercises are aimed at informing participants about the organisation and procedures which would be invoked in response to an accident. This approach can be used to provide information on current developments, and generally focus on particular aspects of response to an accident.

Live Exercises

Live exercises involve the deployment of appropriate resources in a simulation of their actual response to an accident scenario selected from the identified hazards. This type of testing is time consuming and resource intensive, and requires careful planning to ensure maximum benefit is gained.

2.4 Planning and Co-ordinating

The test scenario and the scope and scale of the test of the pipeline emergency plan should be agreed between local authorities, pipeline operators and emergency services at an exercise planning meeting, held before the test is carried out, and developed any subsequent planning meetings required.

The exercise planning meeting should be fully documented, as an auditable stage in the LAs management of the programme of testing duties. The aims and objectives, scope and scale of the test, including how the value of the test is maximised and how learning will be shared, should be clearly documented. The elements of the plan to be tested should be clearly defined together with the programme for testing of other aspects of the plan to demonstrate that all relevant aspects are tested over the three year interval specified in the regulations. Documentation of the exercise should be initiated, and this documentation should include the aims and objectives of each party

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involved, together with what they wish to achieve. The benefit of the test to all partners involved should consider, to ensure that the value of the test is maximised at the earliest opportunity. The LA(s) should present a reasonably accurate estimate of the cost of the proposed schedule for agreement with the operator(s).

Meetings should confirm and record agreement between the LA(s) and pipeline operator(s) regarding all aspects of the operator's involvement and charges to be allocated for the test.

Pipelines cover large distances and are likely to cross the boundaries of several LA and emergency service organisations, so tests should be planned to cover a practical geographic area which enables the interfaces between key partners to be examined.

In selecting the geographic area for and therefore participants in the test, consideration of the use of Police Authority Areas is recommended, but other locally determined areas or groups may be determined. However, the selected geographic area should take account of local requirements and enable maximum benefit to be gained.

Where possible the test should involve more than one pipeline operator. As pipelines are remotely located and their operation is unmanned, the diagnostic period may involve interfaces between the emergency services and all pipeline operators present. In addition, the most effective response to an accident may involve input from more than one pipeline operator.

Test programmes should be co-ordinated with adjacent areas to ensure reasonable involvement of the operational resources. In many cases, pipeline operators have responsibilities for pipelines which cross the boundaries of several LA and emergency service organisations. Test programmes should therefore be co-ordinated to minimise the disruption to operational resources caused by involvement in a number of different tests, and programmed with them to ensure all participating agencies to ensure there are no unrealistic burdens on any one of them in the same year, whilst nevertheless ensuring that plans are adequately tested.

2.5 Evaluation

The key stages test should be identified and reviewed in accordance with HS(G)65 principles, and each stage should be evaluated in a structured way to identify shortcomings, successes, learning points and actions. Once actions have been identified, a programme, responsibilities and timescales to address these should be established.

Debriefings following an emergency plan test should be carried out in an open and blame free atmosphere. This should allow any problems in implementing the emergency plan to be identified, the reasons for the problems to be discussed and appropriate solutions to be considered.

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Debriefings should be organised to ensure involvement by all relevant parties, and scheduled appropriately, ie

- a) On the day multiagency debriefing, involving all key partners involved in the test,
- b) Follow up meeting to obtain direct single agency feedback if required,
- c) Test report – including a summary of learning points and actions with responsibilities and timescales for completion,
- d) Communication of lessons learned to other LAs and operators.

3 Charging

Before any test of a pipeline emergency plan is carried out, the local authority should reach agreement with the operator on the scale and scope of the test (see 2.4) and charges for cost recovery which will be made.

The charges that local authorities make for testing should only cover the costs of testing to make sure that plans are accurate, complete and practical. If the scope of the test is increased for other reasons, such as to provide peripheral training opportunities, then charges should not be extended to cover additional costs.

3.1 Approach

A cost model and a reasonably accurate estimate of the costs of the proposed testing should be presented to the operator(s) for agreement at the exercise planning meeting, or otherwise at the earliest opportunity and before significant costs are incurred. The cost model should include the system for recording work done by the local authority to enable costs to be recovered. Principles for handling additional essential but unplanned costs should be agreed.

3.2 Definition of Reasonable Costs:

LAs should present charges to operators as itemised, detailed statements of work done, resources used and costs incurred, in accordance with the cost model agreed at the exercise planning meeting.

Reasonable costs are considered to include arranging and attending planning meetings, preparation of exercise documentation, setting up the accommodation for the table top exercise (including room hire, catering etc), attendance at and taking part in the exercise and preparation of the exercise report.

3.3 Charging Mechanism

In presenting a charge to an operator, the local authority should provide an itemised, detailed statement of the work done and costs incurred in accordance with the methodology agreed at the exercise planning meetings.

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A detailed invoice should be submitted to the pipeline operators which should include:

- a detailed statement of work done
- full details of personnel included in charges, including times and rates
- details of specific overheads included in rates (eg equipment, facilities,)
- Travel and expenses
- Identification of other costs submitted (eg room hire, catering, materials).

Appendix 4

Pipelines Safety Regulations 1996

ACoP and Guidance to support amendments to Regulations 25 and 26 covering Pipeline Emergency Plan Testing and Charging

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The Pipeline Safety Regulations 1996 (PSR) includes a duty on local authorities to prepare and review emergency plans for major hazard pipelines. There is currently no requirement for the local authority to test the plan or to charge the operator for any testing that is carried out (charging is only a feature for preparing the plans). HSE proposed amendments to Regulations 25 and 26 to place a duty on local authorities to test the pipeline emergency every three years, and to make provision for local authorities to charge the pipeline operator for testing of the emergency plan.

This document sets out the existing regulations, proposed changes and the guidance that would support it, as agreed by UKOPA, Local Authority Emergency Planners and HSE HID in December 2002 following extensive discussion and consultation. The proposed amendments to PSR 1996 have been withdrawn, and there are currently no plans to change the existing duties. It is considered that the proposed changes are likely to be progressed at a future date.

This document therefore provides a detailed record of the issues involved and the status of agreement achieved between key stakeholders. The formats included are:

Regulation text is shown in bold italics.

Mandatory requirements for compliance and agreed as ACoP is given in red, bold text.

Guidance for compliance is given in normal text, underlined where the guidance is new and additional to existing guidance for regulations 25 and 26.

Paragraph numbering relates to this document only.

Emergency plans in case of major accidents

25. *-(1) A local authority which has been notified by the Executive that there is, or is to be a major accident hazard pipeline in its area shall before the pipeline is first used or within 9 months of such notification, whichever is later, and subject to paragraph (5), prepare an adequate plan detailing how an emergency relating to a possible major accident in its area will be dealt with.*

(2) In preparing the plan pursuant to paragraph (1) a local authority shall consult the operator of the pipeline, the Executive and any other persons as may appear to the authority to be appropriate.

(3) A local authority which has prepared a plan pursuant to paragraph (1) shall at suitable intervals not exceeding 3 years -

(a) review and where necessary revise the plan; and

(b) test the plan and take reasonable steps to arrange for the emergency services to participate in the test to such an extent as is necessary,

and any such review shall take into account changes occurring in the area of the local authority and within the emergency services concerned, new technical knowledge, and knowledge concerning the response to major accidents.

(3A) The local authority shall endeavour to reach agreement with the operator of the pipeline and the emergency services as to how the plan is tested.

(a) A local authority which has prepared a plan pursuant to paragraph (1) shall take reasonable steps to put it into effect without delay when an emergency for which it was prepared occurs.

(b) in paragraph (6) by substituting the words "in relation to a single plan prepared by them" for the words "where they prepare a single plan"

(4) The operator of a major accident hazard pipeline shall ensure that every local authority through whose area the pipeline will pass is furnished promptly with such information as it may reasonably require in preparing the plan referred to in paragraph (1).

(5) It shall be deemed to be sufficient compliance with the requirement in paragraph (1) as to the time by which a plan is to be prepared, where such time is exceeded by reason of obtaining of the information referred to in paragraph (4) which has been promptly required.

(6) Where a pipeline is to pass through the areas of two or more local authorities the duties under this regulation may be discharged by them in relation to a single plan prepared by them.

ACoP

1. The pipeline emergency plan test should address characteristics specific to pipelines, which are long, linear distributed assets laid on 3rd party land, generally in rural areas, and are buried and remotely operated so the general public may not be aware of their presence. The following aspects are of particular importance in testing pipeline emergency plans:

- the diagnostic period, including initial reporting and mobilisation**
- communications between all agencies**
- interface with the media and provision of relevant safety information to be relayed to the public.**

2. Table-top testing is the recommended method for testing pipeline emergency plans, although other methods are available. Table top testing is

recommended as this brings together all appropriate personnel in one place to work through their roles and responsibilities, is flexible and can test the response to more than one of the identified hazards effectively and by its nature allows all participants to gain an overview of proceedings.

3. Table top testing should be supplemented by control post testing, which confirms the accuracy and reliability of direct communication links between key agencies and is therefore the recommended method of communications testing.

4. Local authorities should agree the test scenario and the scope and scale of the test of the pipeline emergency plan with the pipeline operator and the emergency services at an exercise planning meeting(s) held before the test is carried out. The agreement of the aims, objectives, scope and scale of the test should be clearly documented. The elements of the plan to be tested should be clearly defined and agreed with the pipeline operator, together with the programme for testing of all relevant aspects of the plan over the three year period specified in the Regulations.

5. Tests should be planned to cover a practical geographic area which enables the interfaces between key agencies to be examined. Where relevant, the test should involve more than one pipeline operator.

6. Test programmes should be co-ordinated with adjacent areas to ensure reasonable involvement and minimal disruption of operational resources.

Guidance

7. Local Authorities, as defined in the regulations, once notified of a pipeline by HSE, are required by this regulation to prepare an emergency plan for each major accident hazard pipeline passing through their area. The requirement under these

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Regulations is for emergency plans which should specifically relate to the protection of the health and safety of people, not environmental damage.

8. Though Local Authorities will already have general emergency plans, it will be necessary to either have pipeline specific plans or to include specific reference to each major accident pipeline and how their emergency arrangements are integrated into the existing emergency provisions in the area covered by the authority.

9. It is intended that emergency plans should only be drawn up or amended after consultation with bodies that may be able to contribute information or advice. In all cases this will include the emergency services (fire, police and ambulance), health authorities, and in Scotland, health boards, hospitals, the pipeline operators, adjacent local authorities and HSE. Other bodies to be consulted will depend on circumstances and could include other local authorities further along the route of the pipeline, government departments dealing with agriculture, the Environment Agency or its Scottish equivalent, the Scottish Environment Protection Agency, and companies providing water services.

10. Full liaison and effective two-way flow of information is required between the pipeline operator and the local authority. Information from the pipeline operator is needed to enable the authority to draw up the emergency plan, and information from the authority should be available to the pipeline operator to assist in the preparation of the pipeline emergency procedures so as to achieve dovetailing between the pipeline emergency procedures and the LA's emergency plan.

11. The pipeline operator should provide information about the type and consequences of possible major accidents and the likely effects. Information should also be provided on the route of the pipeline, the fluid conveyed and the operating conditions, location of shut-off valves and emergency control arrangements.

12. In the event of an incident involving a pipeline, it is important there is effective communication between the emergency services and [the] pipeline control centre.

13. The emergency plan should be a written document, in a format which can be used readily in emergencies, and kept up to date to reflect changes in risk, procedures, hardware and personnel. The authors of the plan must address all relevant aspects including the following:

- a) The types of accidents to people to be taken into account;
- b) Organisations involved including key personnel and responsibilities and liaison arrangement between them;
- c) Communication links including telephones, radios and standby methods;
- d) Special equipment including fire fighting materials, damage control and repair items;
- e) Technical information such as chemical and physical characteristics and dangers of the substance conveyed;

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- f) Information about the pipeline including route of the pipeline, location of shut-off valves and emergency control arrangements;
- g) Evacuation arrangements
- f) Contacts and arrangements for obtaining further advice and assistance e.g. meteorological information, transport, first aid and hospital services, water and agricultural authorities.
- i) Arrangements for dealing with the press and other media interests.
- o) Arrangements for the review, test and revision of the emergency plan.

14. Since an incident on a pipeline could occur at any point along its length, it is often inappropriate to provide location specific advice along the whole length of the pipeline. The plan is likely to focus of those parts of the pipeline which are vulnerable to damage such as road, rail and river crossings and other areas of higher risk. Pipeline plans for this reason are likely to be generic and flexible in nature.

15. In discharging their duties, local authorities must take reasonable steps to ensure that they are preparing plans which will prove adequate in the event of major accidents. This will involve checking and testing the various components of each plan during its development.

16. The duty to implement the emergency plan lies with the local authority and not the individuals who actually prepare the plan. That duty will have been discharged when there are systems in place to ensure that no reasonable delays between the discovery of a major accident, or an incident that may lead to a major accident, and

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subsequent activation of the emergency plan. There should be a clear and logical decision making system in place to ensure that as soon as a relevant event has occurred, the plan will be initiated immediately, by those duly authorised.

17. HSE guidance on pipeline emergency plans and their preparation has been published and is contained in the document "Further Guidance on Emergency Plans for Major Accident Hazard Pipelines". Copies are obtainable either from HSE Books or good booksellers, quoting ISBN reference 0-7176-1393-3.

Relationship with other regulations

18. Under The Control of Major Accident Hazards Regulations 1999 (COMAH), those preparing emergency plans have a duty to take reasonable steps to put their plans into effect without delay when a major accident occurs, or when an uncontrolled event occurs, which could reasonably be expected to lead to a major accident. Explanatory guidance - Emergency Planning for Major Accidents [ref no] - has been published and is obtainable from HSE Books.

19. Each set of guidance stresses the importance of dovetailing operators arrangements with those of the local authority, and the importance of active co-operation and co ordination during an emergency. A local authority should consider how all the requirements covering off-site emergency plan implementation under COMAH, might link with PSR, in the light of its overall emergency planning arrangements and emergency response

20. The local authority shall review and test, and where necessary, revise and update the plan at suitable intervals so that it can be relied upon to work effectively in an emergency. The maximum interval for both review and test of the emergency plan should not exceed three years.

21. The review is a fundamental process which examines the adequacy and effectiveness of all the components of the emergency plan and how they operate and function together. The review process by its very nature will also demonstrate that work on the emergency plan is ongoing and is clearly recognised as a live document.

22. The review process should take into account:

- i) new additions and major modifications to the pipeline, including change of operator;
- ii) new developments in the vicinity of the pipeline;
- iii) any changes, including organisational restructuring, in the emergency services and others, identified as relevant to the plan;
- iv) advances in technical knowledge, which might lead to greater understanding of hazard and the risk consequences;
- v) knowledge gained as a result of major incidents either on the specific pipeline or elsewhere;
- vi) the testing of the emergency plan;

and,

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vii) the views of pipeline operators, emergency services and those others who may have an interest.

23. An emergency plan test is a task or series of tasks undertaken to give confidence in the accuracy, completeness and practicability of the emergency plan. The local authority must undertake a reasonable level of testing in order to have confidence in the plan. Whilst the cost and resource implications of applying the test arrangements should be considered by the local authority, this should be done without jeopardising health and safety, with the task or tasks chosen being justified and quantified in terms of risk.

24. The method recommended for testing a pipeline emergency plan is a table top exercise, as this brings together all appropriate personnel in one place thus allowing all participants to obtain an overview of issues associated related to emergency response to accidents affecting buried pipelines located remotely on 3rd party land. In addition, this method of testing is flexible and can test the response to more than one of the identified hazards with little additional effort. Control post testing is recommended for communications testing, in which direct communication links and contacts between key parties are tested to confirm accuracy and reliability. Communications are an essential component of the emergency plan and must be included in every test programme.

25. Alternative methods of testing are:

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i) Live Exercises, which involve the deployment of resources in a simulation of their actual response to an accident scenario selected from identified hazards. Whilst they have clear “hands-on” benefits for the staff involved, they are time consuming and resource intensive, and their use needs to be carefully considered in order to gain the maximum benefit

ii) Seminar, workshop or discussion based tests, which are aimed at informing participants about the organisation and procedures which would be invoked in response to an accident. This approach can be used to provide information on current developments, and generally focus on particular aspects of response to an accident.

iii) Internet-based communications or virtual reality systems, which can be used to generate realistic simulations of accidents and the response to them. Such systems have the potential to enable effective and practical testing, and to enhance the scope of the exercise.

26. The test will usually examine the response immediately following the report of an incident. Testing should be carried out at least once every three years, or as a managed programme of tests of specific aspects of the plan carried out over a three year period.

27. Tests are normally based on a simulated event, or events, drawn from local circumstances and the hazards identified by the pipeline operator, and agreed with the pipeline operator.

28. The emergency plan test should be supplemented by operational checks, for example accessibility to critical locations on the pipeline route by the emergency services. Whilst being able to gain access to any point along the route of the pipeline is important, for certain parts access is likely to be critical. By identifying those sites with potential access problems, and then testing out the logistics of actually getting emergency vehicles and equipment to them, might be considered worthwhile. Alternatively, key sites could be identified for visit by emergency personnel, where they would assess accessibility.

29. The testing of a pipeline emergency plan should not be confused with the normal training arrangements of any of the parties involved. Whilst testing can provide a training benefit, the purpose of the test is to demonstrate that the plans are accurate, complete and practicable.

30. Testing offers local authorities and the emergency services a valuable opportunity to build up levels of understanding that can be reflected in the review and subsequent revision of both the pipeline emergency plan, and other emergency response plans. Experiences gained and lessons learned also have a transfer value, and local authorities should give thought to how they might be shared with other local authorities and emergency services.

Where a pipeline carries across several local authority areas and is controlled by the same operator, the scope for joint testing arrangements should always be considered by the respective local authorities, in an effort to avoid any unnecessary duplication

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of resource and effort, by all likely to be involved, and unjustified costs falling on the pipeline operator. Even where joint testing is not appropriate, it is important that all the local authorities agree phased test arrangements with the operator.

31. In planning the extent of test arrangements, the local authority should set out to reach agreement with the pipeline operator, the emergency services and adjacent local authorities on the arrangements to be put in place. An exercise planning meeting(s) should be arranged which would fully document, as an auditable stage in the local authorities management of the programme of testing duties, the aim, objectives, scope and scale of the test. The elements of the plan to be tested should be clearly defined, together with the programme of testing of other aspects of the plan to demonstrate that all relevant aspects are tested over the three year interval specified in the regulations. The meeting(s) should confirm and record agreement between the local authority(ies) and pipeline operator(s) regarding all aspects of the operator's involvement in the test.

32. The scope of the pipeline emergency plan test should cover the characteristics particular to pipelines, and should be sufficient to validate the plan and ensure it is adequate. The scope would normally include:

- Incident identification
- Process for establishing communications
- Strategy for mobilisation of resources
- Emergency response by all agencies.

33. It will be the role of the local authority to frame, and agree, the objectives for the test drawing from the objectives set by each participating organisation. Typical recommended objectives are:

- to validate the pipeline emergency plan
- to test characteristics particular to pipelines
- to ensure the response of emergency services, pipeline operators and other key agencies dovetails under the local authority plan.
- to ensure that programmes, decisions and actions raised in testing pipeline emergency plans are auditable.

34 Close liaison and active involvement with all participating organisations is essential to a successful outcome and the local authority should consider how this might be achieved. One option might be the setting up of a high level liaison group, with senior representatives from all participating bodies, advising on all aspects of emergency planning, including, the appropriateness of test arrangements proposed, consistency of approach by all the parties involved, linkage with other legislative requirements, and liaison with other local authorities. Such a liaison group might also fulfil a disputes role, particularly where the local authority fails to reach agreement with the parties on the extent of its test proposals.

35. Local authorities and other parties involved should consider the extent to which wider geographical groupings might be effective. The interfaces between key agencies should be examined. In selecting a geographic area for and therefore

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participants in the test, consideration of the use of for example, Police Authority Areas is recommended, but other locally determined groups may be identified. The selected area should take account of local requirements and enable maximum benefit to be gained.

36. Where relevant the test should involve more than one pipeline operator. As pipelines are remotely located and their operation is unmanned, the diagnostic period may involve interfaces between the emergency services and all pipeline operators present within the area. In addition, the most effective response to an accident may involve input from more than one pipeline operator.

37. Further guidance on preparing, reviewing, revising and testing of emergency plans has been published by HSE and is contained in the publication“.....”, and is obtainable from
 [THE PLAN IS TO REVISE THE EXISTING GUIDANCE ON EMERGENCY PLANS TO INCLUDE SECTIONS ON TESTING AND..... - THE PIPELINE EMERGENCY PLANNING FORUM COULD BE CALLED UPON TO PROVIDE EXPERTS TO CUSTOMISE COMAH GUIDANCE TO REFLECT PIPELINES]

38. For all new pipelines, the plan is required before the pipeline is brought into use, or within nine months of notification of the pipeline to the LA by HSE, whichever is the later.

Charge by the local authority for a plan

26. *-(1) A local authority may charge the operator of a pipeline for performing its functions under regulation 25.*

(2) The fee shall not exceed the sum of the costs reasonably incurred by the local authority in performing its functions under regulation 25 in relation to the pipeline including (but without prejudice to the generality of the foregoing provision of this paragraph) any costs reasonably incurred by the local authority in arranging for the emergency services to participate in the testing of the plan relating to it.

(3) In determining the fee no account shall be taken of costs other than the costs of discharging functions which relate to the protection of health or safety of persons and which were costs incurred after the coming into force of these Regulations.

(4) The local authority may determine the cost of employing a graded officer for any period on work appropriate to his grade by reference to the average cost to it of employing officers of his grade for that period.

(5) When requiring payment the local authority shall send or give to the operator of the pipeline a detailed statement of the work done and costs incurred including the date of any visit to any place and the period to which the statement relates; and the fee, which shall be recoverable only as a civil debt, shall become payable one month after the statement has been sent or given.

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39. A cost model and a reasonably accurate estimate of the costs of the planned test should be presented to the pipeline operator(s) for agreement at the exercise planning meeting, or otherwise at the earliest opportunity and before any significant costs are incurred. The cost model should include the system for recording work done by the local authority to enable costs to be recovered.

Principles for handling additional essential but unplanned costs should be agreed.

40. Reasonable costs include arranging and attending planning meetings, preparation of exercise documentation, set-up of the table top exercise (room hire, catering etc) participation in the exercise and preparation of the exercise report.

41. Local authorities should present charges to operators as itemised, detailed statements of work done, resources used and costs incurred, in accordance with the cost model agreed at the exercise planning meeting.

Guidance

42. This regulation enables the local authorities who are responsible for preparing, testing and keeping up to date emergency plans required under regulation 25 to recover the cost of undertaking this work from the pipeline operator, including any costs incurred by the emergency services in testing the plan. The provision does not extend to the costs incurred by the emergency services in the preparation, review and revision of the emergency plan.

43. The local authority, when preparing or updating the pipeline emergency plan, should enter into full discussion with all likely to be involved. This will always include the pipeline operators and the emergency services A fundamental area for discussion and agreement will always be the detailed arrangements for testing the emergency plan. Whilst the responsibility for testing the plan remains with the local authority, it must always be able to demonstrate that the approach chosen and its frequency can be justified. It is important that at this early stage the local authority

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provides the pipeline operator with indicative costs, and what they include, in respect of itself and the emergency services.

44. The local authority may only recover costs that have been reasonably incurred. In locations where several pipelines are co-located, the local authority may decide to prepare one emergency plan covering all the pipelines. In such an event the each pipeline operator should be charged for only that part of the costs which can be attributed to the pipeline under his control.

45. The charge made by the local authority may only be for its costs of preparing the plan, plus its own and the costs of the emergency services for testing the plan itself, and of any changes necessary to keep it up to date. It does not cover the cost of purchase of emergency plant and equipment (e.g. fire appliances) considered necessary for the operation of the plan, and would not normally include physical deployment of resources, off-site support and welfare facilities, stand down, recovery and restoration, which are not specific to pipeline emergencies. Furthermore, the charge should relate only to those parts of the emergency plan concerned with the health and safety of people, not with environmental damage. However, local authorities may elect to test such issues in conjunction with the pipeline emergency plan test.

46. Where the test arrangements are extended beyond ensuring their accuracy, completeness and practicability, and broadened to include training, or the

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requirements of other regulations, the additional charges should not be passed on to the operator.

47. The charge made may be based on the time spent by officers of appropriate grades. The average costs of their employment overheads as well as salary may be taken into account. A local authority may decide to contract -out some part of the work to another organisation, in which case, the local authority may recover the costs associated with the contract, provided that they are still reasonable.

48. In presenting a charge to a pipeline operator, the local authority should provide an itemised, detailed statement of work done and costs incurred, in a form discussed with the operator. Any dispute arising over the charge has to be decided in the civil courts, HSE has no enforcement role for the recovery of cost incurred by a local authority in respect of emergency planning.

Relationship with other regulations

49. Part 4 of the Control of Major Accident Hazards Regulations 199x (COMAH), details the regulatory provision for fixed installations with regard to emergency planning and the arrangements for testing and charging. As actions to be undertaken by the local authority to fulfil their duties under the emergency planning requirements of both sets of regulations take a similar form, they should consider the benefits of setting up a single accounting system. Local authorities should look at ways in which the testing arrangements set for pipeline emergency plans and off-site

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emergency plans for fixed installations may be considered together. Where this is not practicable, lessons learned from one situation, at least, should be considered as responses to another.

Appendix 5

Pipelines Safety Regulations Amendments to Regulations 25 and 26 covering Pipeline Emergency Plan Testing and Charging – Alternative Draft Consultation Document Prepared by P Sargent HSE

INTRODUCTION

The Pipeline Safety Regulations 1996 (PSR) includes a duty on local authorities to prepare and review emergency plans for major hazard pipelines. There is currently no requirement for the local authority to test the plan or to charge the operator for any testing that is carried out (charging is only a feature for preparing the plans). The proposed new duties will make provision for local authorities to charge the pipeline operator for testing of the emergency plan, which should be carried out every three years.

The following text sets out the existing regulations, proposed changes and the guidance that would support it.

EMERGENCY PLANS IN CASE OF MAJOR ACCIDENT

25(1) A local authority which has been notified by the Executive that there is, or is to be a major accident hazard pipeline in its area shall before the pipeline is first used or within 9 months of such notification, whichever is later, and subject to paragraph (5), prepare an adequate plan detailing how an emergency relating to a possible major accident in its area will be dealt with.

25(2) In preparing the plan pursuant to paragraph (1) a local authority shall consult the operator of the pipeline, the Executive and any other persons as may appear to the authority to be appropriate

HSE guidance on pipeline emergency plans and their preparation has been published and is contained in the documents "A Guide to the Pipelines Safety Regulations 1996" and "Further Guidance on Emergency Plans for Major Accident Hazard Pipelines". Copies are obtainable either from HSE Books or good booksellers, quoting ISBN reference 0-7176-1393-3.

25(3) A local authority which has prepared a plan pursuant to paragraph (1) shall at suitable intervals not exceeding 3 years: -

- (a) review and where necessary revise the plan; and
- (b) test the plan and take reasonable steps to arrange for the emergency services to participate in the test to such an extent as is necessary,

and any such review shall take into account changes occurring in the area of the local authority and within the emergency services concerned, new technical knowledge, and knowledge concerning the response to major accidents.

Testing

1. The pipeline emergency plan test will usually examine the response immediately following the report of an incident. Testing should be carried out at least once every three years, or as a managed programme of tests of specific aspects of the plan carried out over a three-year period.
2. A pipeline emergency plan test is a task or series of tasks undertaken to give confidence in the accuracy, completeness and practicability of the emergency plan. The local authority must undertake a reasonable level of testing in order to have confidence in the plan. Whilst the local authority should consider the cost and resource implications of applying the test arrangements, this should be done without jeopardising health and safety, with the task or tasks chosen being justified and quantified in terms of risk.
3. Testing offers local authorities and the emergency services a valuable opportunity to build up levels of understanding that can be reflected in the review and subsequent revision of both the pipeline emergency plan, and other emergency response plans. Experiences gained and lessons learned also have a transfer value, and local authorities should give thought to how they might be shared with other local authorities and emergency services.
4. The pipeline emergency plan test should cover the characteristics peculiar to pipelines. It should be sufficient to validate the plan and ensure it is adequate. Pipelines are long, linear distributed assets laid on 3rd party land, generally in rural areas, and are buried and remotely operated so the general public may not be aware of their presence. The test would normally include:
 - Incident identification
 - Process for establishing communications
 - Strategy for mobilisation of resources
 - Emergency response by all agencies.
 - interface with the media and provision of relevant safety information to be relayed to the public

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5. Tests should be planned to cover a practical geographic area, which enables the interfaces between key agencies to be examined. Where relevant, the test should involve more than one pipeline operator. Test programmes should be co-ordinated with adjacent areas to ensure reasonable involvement and minimal disruption of operational resources.
6. Tests are normally based on a simulated event, or events, drawn from local circumstances and the hazards identified by the pipeline operator, and agreed with the pipeline operator.
7. Tabletop testing is the recommended method for testing pipeline emergency plans, although other methods are available. Table top testing is recommended as this brings together all appropriate personnel in one place to work through their roles and responsibilities, is flexible and can test the response to more than one of the identified hazards effectively and by its nature allows all participants to gain an overview of proceedings. In addition, this method of testing is flexible and can test the response to more than one of the identified hazards with little additional effort.
8. Tabletop testing should be supplemented by control post testing, which confirms the accuracy and reliability of direct communication links between key agencies and is therefore the recommended method of communications testing. Communications are an essential component of the emergency plan and must be included in every test programme.
9. Alternative methods of testing are:
 - Live Exercises, which involve the deployment of resources in a simulation of their actual response to an accident scenario selected from identified hazards. Whilst they have clear “hands-on” benefits for the staff involved, they are time consuming and resource intensive, and their use needs to be carefully considered in order to gain the maximum benefit
 - Seminar, workshop or discussion based tests, which are aimed at informing participants about the organisation and procedures, which would be invoked in response to an accident. This approach can be used to provide information on current developments, and generally focus on particular aspects of response to an accident.
 - Internet-based communications or virtual reality systems, which can be used to generate realistic simulations of accidents and the response to them. Such systems have the potential to enable effective and practical testing, and to enhance the scope of the exercise.
10. The emergency plan test should be supplemented by operational checks, for example accessibility to critical locations on the pipeline route by the emergency services. Whilst being able to gain access to any point along the route of the pipeline is important, for certain parts access is likely to be critical. By identifying those sites with potential access problems, and then testing out the logistics of actually getting emergency vehicles and equipment to them, might be considered worthwhile. Alternatively, key sites could be identified for visit by emergency personnel, where they would assess accessibility.

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11. The testing of a pipeline emergency plan should not be confused with the normal training arrangements of any of the parties involved. Whilst testing can provide a training benefit, the purpose of the test is to demonstrate that the plans are accurate, complete and practicable.
- 25 (3A) The local authority shall endeavour to reach agreement with the operator of the pipeline and the emergency services as to how the plan is tested.**
12. In planning the extent of test arrangements, the local authority should set out to reach agreement with the pipeline operator, the emergency services and adjacent local authorities on the arrangements to be put in place. An exercise planning meeting(s) should be arranged which would fully document, as an auditable stage in the local authorities management of the programme of testing duties, the aim, objectives, scope and scale of the test. The elements of the plan to be tested should be clearly defined, together with the programme of testing of other aspects of the plan to demonstrate that all relevant aspects are tested over the three-year interval specified in the regulations. The meeting(s) should confirm and record agreement between the local authority (ies) and pipeline operator(s) regarding all aspects of the operator's involvement in the test.
13. Local authorities should agree the test scenario and the scope and scale of the test of the pipeline emergency plan with the pipeline operator and the emergency services at an exercise planning meeting(s) held before the test is carried out. The agreement of the aims, objectives, scope and scale of the test should be clearly documented. The elements of the plan to be tested should be clearly defined and agreed with the pipeline operator, together with the programme for testing of all relevant aspects of the plan over the three-year period specified in the Regulations.
14. It will be the role of the local authority to frame, and agree, the objectives for the test drawing from the objectives set by each participating organisation. Typical recommended objectives would be to:
- validate the pipeline emergency plan
 - test characteristics particular to pipelines
 - ensure the response of emergency services, pipeline operators and other key agencies dovetail under the local authority plan
 - ensure that programmes, decisions and actions raised in testing pipeline
 - emergency plans are auditable.

3(a)i A local authority which has prepared a plan pursuant to paragraph (1) shall take reasonable steps to put it into effect without delay when an emergency for which it was prepared occurs.

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15. The duty to implement the emergency plan lies with the local authority and not the individuals who actually prepare the plan. That duty will have been discharged when there are systems in place to ensure that no reasonable delays between the discovery of a major accident, or an incident that may lead to a major accident, and subsequent activation of the emergency plan. There should be a clear and logical decision making system in place to ensure that as soon as a relevant event has occurred, the plan will be initiated immediately, by those duly authorised.

Relationship with other Regulations

16. Under The Control of Major Accident Hazards Regulations 1999 (COMAH), those preparing emergency plans have a duty to take reasonable steps to put their plans into effect without delay when a major accident occurs, or when an uncontrolled event occurs, which could reasonably be expected to lead to a major accident. Explanatory guidance - Emergency Planning for Major Accidents [ref no] - has been published and is obtainable from HSE Books.
17. Each set of guidance stresses the importance of dovetailing operators' arrangements with those of the local authority, and the importance of active co-operation and co-ordination during an emergency. A local authority should consider how all the requirements covering off-site emergency plan implementation under COMAH, might link with PSR, in the light of its overall emergency planning arrangements and emergency response.

25(4) The operator of a major accident hazard pipeline shall ensure that every local authority through whose area the pipeline will pass is furnished promptly with such information as it may reasonably require in preparing the plan referred to in paragraph (1).

25(5) It shall be deemed to be sufficient compliance with the requirement in paragraph (1) as to the time by which a plan is to be prepared, where such time is exceeded by reason of obtaining of the information referred to in paragraph (4), which has been promptly required.

25(6) Where a pipeline is to pass through the areas of two or more local authorities the duties under this regulation may be discharged by them in relation to a single plan prepared by them.

18. Where a pipeline carries across several local authority areas and is controlled by the same operator, the scope for joint testing arrangements should always be considered by the respective local authorities. This seeks to avoid any unnecessary duplication of resource and effort, by all likely to be involved, and unjustified costs falling on the pipeline operator. Even where joint testing is not appropriate,

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it is important that all the local authorities agree phased test arrangements with the operator.

19. Where relevant the test should involve more than one pipeline operator. As pipelines are remotely located and their operation is unmanned, the diagnostic period may involve interfaces between the emergency services and all pipeline operators present within the area. In addition, the most effective response to an accident may involve input from more than one pipeline operator.
20. Close liaison and active involvement with all participating organisations is essential to a successful outcome and the local authority should consider how this might be achieved. One option might be the setting up of a high level liaison group, with senior representatives from all participating bodies, advising on all aspects of emergency planning, including, the appropriateness of test arrangements proposed, consistency of approach by all the parties involved, linkage with other legislative requirements, and liaison with other local authorities. Such a liaison group might also fulfil a disputes role, particularly where the local authority fails to reach agreement with the parties on the extent of its test proposals.
21. Local authorities and other parties involved should consider the extent to which wider geographical groupings might be effective. The interfaces between key agencies should be examined. In selecting a geographic area for and therefore participants in the test, consideration of the use of for example, Police Authority Areas is recommended, but other locally determined groups may be identified. The selected area should take account of local requirements and enable maximum benefit to be gained.

Charge by the local authority for a plan

26(1) A local authority may charge the operator of a pipeline for performing its functions under regulation 25.

22. Local authorities who are responsible for preparing, testing and keeping up to date emergency plans required under regulation 25 may recover the cost of undertaking this work from the pipeline operator, including any costs incurred by the emergency services in testing the plan.

26(2) The fee shall not exceed the sum of the costs reasonably incurred by the local authority in performing its functions under regulation 25 in relation to the pipeline including (but without prejudice to the generality of the foregoing provision of this paragraph) any costs reasonably incurred by the local authority in arranging for the emergency services to participate in the testing of the plan relating to it.

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23. The provision does not extend to the costs incurred by the emergency services in the preparation, review and revision of the emergency plan.
24. The local authority may only recover costs that have been reasonably incurred. In locations where several pipelines are co-located, the local authority may decide to prepare one emergency plan covering all the pipelines. In such an event each pipeline operator should be charged for only that part of the costs, which can be attributed to the pipeline under his control.
25. The charge made by the local authority may only be for its costs of preparing the plan, plus its own and the costs of the emergency services for testing the plan itself, and of any changes necessary to keep it up to date. It does not cover the cost of purchase of emergency plant and equipment (e.g. fire appliances) considered necessary for the operation of the plan, and would not normally include physical deployment of resources, off-site support and welfare facilities, stand down, recovery and restoration, which are not specific to pipeline emergencies.
26. The local authority is responsible for preparing, updating and testing the emergency plan and it is expected to enter into full discussion with all likely to be involved. This will always include the pipeline operators and the emergency services. A fundamental area for discussion and agreement will always be the detailed arrangements for testing the emergency plan. Whilst the responsibility for testing the plan remains with the local authority, it must always be able to demonstrate that the approach chosen and its frequency can be justified. It is important that at this early stage the local authority provides the pipeline operator with indicative costs, and what they include, in respect of itself and the emergency services.
27. A cost model and a reasonably accurate estimate of the costs of the planned test should be presented to the pipeline operator(s) for agreement at the exercise planning meeting, or otherwise at the earliest opportunity and before any significant costs are incurred. The cost model should include the system for recording work done by the local authority to enable costs to be recovered. Principles for handling additional essential but unplanned costs should be agreed.
28. Reasonable costs include arranging and attending planning meetings, preparation of exercise documentation, set-up of the tabletop exercise (room hire, catering etc) participation in the exercise and preparation of the exercise report.
29. Local authorities should present charges to operators as itemised, detailed statements of work done, resources used and costs incurred, in accordance with the cost model agreed at the exercise-planning meeting. Any dispute arising over the charge has to be decided in the civil courts, HSE has no enforcement role for the recovery of cost incurred by a local authority in respect of emergency planning.
30. The charge made may be based on the time spent by officers of appropriate grades. The average costs of their employment overheads as well as salary may be taken into account. A local authority may decide to contract-out some part of the work to another organisation, in which case, the local authority may recover the costs associated with the contract, provided that they are still reasonable.

26(3) In determining the fee no account shall be taken of costs other than the costs of discharging functions, which relate to the protection of health or safety of persons and which were costs incurred after the coming into force of these Regulations.

31. The charge should relate only to those parts of the emergency plan concerned with the health and safety of people, not with environmental damage. However, local authorities may elect to test such issues in conjunction with the pipeline emergency plan test
32. Where the test arrangements are extended beyond ensuring their accuracy, completeness and practicability, and broadened to include training or the requirements of other regulations, the additional charges should not be passed on to the operator.

26(4) The local authority may determine the cost of employing a graded officer for any period on work appropriate to his grade by reference to an average cost of it employing officers for his grade for that period.

26(5) When requiring payment the local authority shall send or give to the operator of the pipeline a detailed statement of the work done and costs incurred including the date of any visit to any place and the period to which the statement relates; and the fee, which shall be recoverable only as a civil debt, shall become payable one month after the statement has been sent or given.

Relationship with other regulations

33. Part 4 of the Control of Major Accident Hazards Regulations 1999 (COMAH), details the regulatory provision for fixed installations with regard to emergency planning and the arrangements for testing and charging. As actions to be undertaken by the local authority to fulfil their duties under the emergency planning requirements of both sets of regulations take a similar form, they should consider the benefits of setting up a single accounting system. Local authorities should look at ways in which the testing arrangements set for pipeline emergency plans and off-site emergency plans for fixed installations may be considered together. Where this is not practicable, lessons learned from one situation, at least, should be considered as responses to another.

Appendix 6

CHEMICALS AND PIPELINES EMERGENCY PLANNING LIAISON GROUP

PIPELINES SUB-GROUP

Notes of Meeting held at Emergency Planning College, Easingwold on 10 March 2004 Prepared by HSE

Present:

Peter Sargent	(HSE, Chairman)
Val Bowman	EPS
Jane Haswall	UKOPA
Neil Jackson	UKOPA
Nick James	HSE
Peter Metcalfe	ACPO
Ian Shuttleworth	LGA

Apologies:

Dave McIntosh	COSLA
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Background

The Pipeline Safety Regulations 1996 (PSR) place a duty on local authorities to prepare emergency plans for major accident hazard pipelines in their areas but do not create a duty to test those plans. This situation was the result of a decision taken when PSR was being prepared ie to wait for the introduction of the COMAH Regulations so that any testing required by PSR could reflect that done for COMAH purposes. HSE are now planning to introduce an amendment to PSR so that these emergency plans will have to be tested.

Consultation on the amendment is being undertaken through the Chemicals and Pipelines Emergency Planning Liaison Group (CAPEPLG). The question of how many tests would be required or should be permitted was proving to be the most difficult issue to resolve and CAPEPLG set up this small sub-group to look at the issue and propose a way forward.

Discussions at the meeting

Industry were concerned that an open duty (e.g. local authorities shall test their emergency plans at least every 3 years) would, potentially, give any local authority that wished to carry out a large number of tests the ability to do so and pass the bills back to them. Local authorities were concerned that a tightly worded regulation would remove their flexibility and would prevent them being able to discharge their duty to carry out adequate testing.

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The local authority and emergency service representatives outlined how the testing regime for fixed sites (under the COMAH regulations) operated and resulted in relatively modest costs to industry and how they saw testing under PSR working in practice. They pointed out that most emergency plans are generic with site-specific material for individual sites being small and easily tested by table-top exercise. They anticipate that live testing will be minimal. Industry representatives said they would be content with the level of testing described but would like the regulation to be set in such a way that gave them confidence that it could not be expanded indefinitely by an individual local authority that might wish to.

A number of issues that the regulation could address to give this confidence were identified as follows:

- local authorities should deal with pipelines through generic plans dealing with all major accident hazards in their areas with pipeline-specific elements kept to the minimum
- local authorities should seek to coordinate tests between local authority areas and the operators in those areas so that the number of tests required nationally could be kept to a minimum
- table-top testing should be the chosen method of test wherever possible
- local authorities to agree both method/scope of a test and the costs before tests are carried out

It was agreed that Peter Sargent would explore this possibility that the regulation could address to give this confidence were identified as follows:

with HSE solicitor and report back, probably by correspondence.

Action: Peter Sargent

Appendix 7

Notes of CAPEPLG Pipelines Sub-Group Meeting held on 10th March at Easingwold Prepared for UKOPA

Attendance:

P Sargent	HSE
N James	HSE
V Bowman	EPS
I Shuttleworth	LGA
P Metcalfe	ACPO
N Jackson	UKOPA
J Haswell	UKOPA

Summary of Discussion

P Sargent opened the meeting, stating the only agenda item was to discuss how the amendments to regulations 25 and 26 can be progressed. Noting the requirement to introduce the duty to test emergency plans into PSR, he stated that the problem anticipated was the number of tests that this could result in, and the resulting costs to operators. P Sargent confirmed that it is his objective to issue a Consultation Document by late summer 2004, and invited discussion.

Key points are noted as follows:

N Jackson/J Haswell - The main issues for pipeline operators are associated with implementation, i.e. number of tests, scope of test, operational disruption and costs.

N Jackson - Test scheduling (particularly with respect to adjacent tests) is of major importance, and should involve more than one LA/operator/pipeline. One test should satisfy requirements for all pipelines and operators in an area.

V Bowman/I Shuttleworth – the requirement to test the emergency plan should not lead to a large number of tests. LAs need to minimise resourcing and disruption. It is essential however that LAs are able to use the test to confirm adequacy of the plan.

It was unanimously agreed that the consultation process has been lengthy and frustrating for all stakeholders. J Haswell stated that consultation has involved significant resource and therefore cost from a number of UKOPA member companies. P Metcalfe stated that the emergency services had been involved with detailed discussions relating to COMAH emergency plan testing for 3 years with no progress. I Shuttleworth stated LA EPs had been actively involved for nearly 8 years.

I Shuttleworth – a significant amount of work had been invested in the production of the draft ACoP, this document contained the key issues to be addressed and it must not be lost.

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V Bowman, N Jackson and J Haswell strongly supported this.

P Metcalfe – The majority of the emergency plan is generic and is not specific to a pipeline, site or operator/organisation.

P Metcalfe – most live play requirements are requested by industry, not emergency services.

V Bowman - Resilience Groups (Regional and Local) to be set up under Civil Contingencies Bill could provide a way of influencing implementation issues such as number of tests and parties involved. The local resilience Group would be relevant; this is based on Police Force Areas. It was noted however that CCB excludes major accident emergency response.

P Metcalfe - The test covers the plan, and is not targeted at individual assets or operators. Industry involvement is necessary to develop realistic scenarios and to test industry specific aspects (e.g. contacts, communications, call-out arrangements etc).

I Shuttleworth – under COMAH, costs are agreed with operator at planning stage. In the event that costs are contested, the issue would need to be resolved by HSE.

P Metcalfe – an open transparent cost methodology has been developed by the emergency services. Typical costs for Emergency services involvement are £3k. Actual costs vary according to area charges.

I Shuttleworth - Costs for testing of EPs is significantly lower than originally thought (eg £7 – 8k for a multi agency test, typical COMAH test involving table top followed by practical testing of some aspects - £5k).

Requirements for Amendment to PSR:

P Sargent noted there appeared to be reasonable agreement on the issues, and requested that consideration be given to the requirements for the duty. He stated the options were to introduce either a broad-based duty (as in the draft wording previously circulated) and rely on guidance to cover the detailed requirements, or a more specific and focussed duty. He stated that in his view, the issues involved in the testing of pipeline emergency plans justified use of a different approach to that in COMAH.

It was agreed that a specific and focussed duty would be preferred by all parties; but that this option had been discounted by HSE at the PEPF on the basis it was not feasible to introduce a specific duty into the goal setting Regulations.

V Bowman requested that before any more time was spent on this, the HSE solicitor should be requested to confirm that a specific and focussed Regulation could be introduced.

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Following further discussion, it was agreed that P Sargent would ask the HSE Solicitor to consider preparation of a duty which included specific requirements, i.e.

- Co-ordination of tests
- Joint testing
- Inclusion of pipelines in testing of the generic plan
- Testing of pipeline specific issues (this point was requested by UKOPA, but not fully supported by LA EPs or ACPO)
- Table top and control post testing

P Sargent stated that currently, there was no requirement to produce a generic plan, so consideration of this requirement would be needed.

P Metcalfe stated that the amendments should also enable the emergency services to recover costs for preparation and review of the emergency plan as well as testing of it.

In conclusion, P Sargent agreed to report back on HSE's proposed way forward, following discussions with the HSE Solicitor.
