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## LEGAL REGULATION OF EMERGENCY NOTIFICATION SYSTEM CREATION AT GAS TRANSMISSION FACILITIES

**Toropov N.N.**

2<sup>nd</sup> Category Legal Counsel,  
Gazprom Transgaz Saratov, LLC  
E-mail: toropov-nn@utg.gazprom.ru

**Abstract.** In 2014, significant changes were made to the civil defense legislation which require Gazprom Group companies operating gas trunk lines, gas distributing plants, and gas compressor stations to create and maintain local emergency notification systems (LNS) in a state of immediate readiness. The objective of this study is to analyze the current legislation and the peculiarities of practical application of the LNS-related rules. The subject of the study is the social relations that arise in the course of inspections by the Ministry of Emergency Situations of Russia and the issuance of improvement notices to gas transmission organizations. The author reviews some controversial issues related to the persistent negative judicial practice in commercial courts and general jurisdiction courts for subsidiaries of Gazprom PJSC. The civil defense legislation of the CIS countries (the Republic of Belarus and Kazakhstan) is systematically reviewed. This article proposes amendments to the current legislation that would specify certain features establishing LNSs at class I and II HPFs.

**Keywords:** energy law, local notification systems, gas trunk lines, gas distributing plants, gas compressor stations.

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## ПРАВОВОЕ РЕГУЛИРОВАНИЕ СОЗДАНИЯ СИСТЕМ ОПОВЕЩЕНИЯ О ЧРЕЗВЫЧАЙНЫХ СИТУАЦИЯХ НА ОБЪЕКТАХ ТРАНСПОРТИРОВКИ ГАЗА

**Торопов Н.Н.**

Юрисконсульт 2-й категории,  
ООО “Газпром трансгаз Саратов”  
E-mail: toropov-nn@utg.gazprom.ru

**Аннотация.** В 2014 г. были внесены существенные изменения в законодательство о гражданской обороне, согласно которым компании Группы Газпром, эксплуатирующие магистральные газопроводы, газораспределительные станции, компрессорные станции, обязаны создавать и поддерживать в постоянной готовности локальные системы оповещения (далее — ЛСО) о чрезвычайных ситуациях. Целью исследования является анализ действующего

законодательства, а также особенностей практического применения норм, касающихся создания ЛСО. Предмет исследования — общественные отношения, возникающие при проведении проверок МЧС России и вынесении предписаний в отношении газотранспортных организаций. Автором рассматриваются некоторые спорные вопросы, связанные с устойчивой отрицательной судебной практикой в арбитражных судах и судах общей юрисдикции для дочерних обществ ПАО “Газпром”. Системно рассматривается законодательство о гражданской обороне стран СНГ (республик Беларусь и Казахстан). В настоящей статье предлагается внесение изменений в действующее законодательство, конкретизирующих отдельные особенности создания ЛСО на опасных производственных объектах I и II классов опасности.

**Ключевые слова:** энергетическое право, локальные системы оповещения, магистральные газопроводы, газораспределительные станции, компрессорные станции.

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There are a significant number hazardous production facilities (hereinafter referred to as HPF) of different hazard classes located within the territory of the Russian Federation. At the same time, the current legislation, taking into account the amendments that were implemented in 2014, continues to be augmented with new requirements for owners of class I and II HPFs in the field of civil defense [1]. In light of these developments, organizations operating class I and II HPFs are required to implement local public notification systems (hereinafter referred to as LNS). This places Gazprom Group companies engaged in gas transmission in a challenging position, as they face various negative consequences, including the issuance of improvement notices by supervisory authorities, intensified oversight of HPF operations, and substantial expenditures for the creation of LNSs.

Federal Law No. 404-FZ On Amendments to Article 14 of the Federal Law On Protection of Population and Territories from Natural and Man-Made Emergencies dated December 28, 2013, and the Federal Law On Civil Defense introduced the following amendments:

— Part 1 of Article 14 of Federal Law No. 68-FZ On Protection of Population and Territories from Natural and Man-Made Emergencies dated December 21, 1994, was supplemented with clause (d) as follows: “organizations are required: d) to create and maintain local emergency notification systems in immediate readiness as established by the laws of the Russian Federation”;

— Article 9 of Federal Law No. 28-FZ On Civil Defense dated February 12, 1998, was supplemented

by clause 3: “Organizations operating class I and II hazardous production facilities, the consequences of accidents at which may cause harm to the life and health of the population living or conducting business activities in the areas of impact of destructive factors outside their territories, shall create, reconstruct, and maintain local public notification systems in immediate readiness”.

Clause 1 of Article 10 of Federal Law No. 116-FZ On Industrial Safety of Hazardous Production Facilities dated July 21, 1997, also stipulates that in order to ensure readiness for accident localization and elimination actions, the organization operating a HPF is required to: create systems of observation, notification, communication, and support for the actions in case of an accident and maintain these systems in a usable state.

Federal Law No. 417-FZ On Amendments to the Federal Law On Civil Defense dated November 4, 2022, supplemented the Federal Law On Civil Defense with the following provisions and concepts:

— **public notification** is the act of communicating warnings and emergency information about the dangers arising in or as a consequence of military conflicts and in natural and man-made emergencies;

— **public notification systems** are a set of technical means designed to receive, process, and transmit in automated and/or automatic modes warnings and emergency information about the dangers arising in or as a consequence of military conflicts and in natural and man-made emergencies.

The legislation has now established a system of rules regulating the requirements for the creation of LNSs at HPFs. Nevertheless, regulatory contradic-

tions may arise in practice. According to Article 6 of Federal Law No. 28-FZ On Civil Defense dated February 12, 1998, the Government of the Russian Federation is authorized to determine the procedure for the creation, reconstruction, and maintenance of public notification systems in immediate readiness.

In pursuance of the above rule, the Government of the Russian Federation, by Resolution No. 769 On the Procedure for the Creation, Reconstruction, and Maintenance of Population Notification Systems in Immediate Readiness dated May 17, 2023, approved the Rules for the Creation, Reconstruction, and Maintenance of Population Notification Systems in Immediate Readiness. These Rules set out the types of public notification systems, the boundaries of areas in which they operate, and the measures for their creation and reconstruction. This Resolution of the Government of the Russian Federation came into force on September 1, 2023.

In accordance with the abovementioned Rules, the implementation of measures for the creation and reconstruction of regional and municipal public notification systems is divided into three stages:

- the first stage involves the development of an action plan, terms of reference, and design documentation for the creation or reconstruction of the public notification system;

- the second stage entails the installation of technical means of notification, the implementation of the work stipulated by the design documentation for the creation or reconstruction of the public notification system, and the connection of the public notification system to the networks of telecommunications operators. Additionally, the addresses of notification sending and interaction are entered into the database of technical means of the public notification system. The complex adjustment of the software of the public notification system and technical means of notification, including means of protection of information, is implemented. Training in the rules of operation of technical means of notification allowed for operation is arranged for on-duty (duty and dispatch) and technical personnel of civil defense bodies and day-to-day management bodies of the unified state system of emergency prevention and elimination;

- the third stage involves testing and commissioning of the public notification system.

It should be noted that organizations operating class I and II HPFs should independently determine

the list of measures to meet the established requirements. In our opinion, it is impossible to fulfill the LNS requirements set forth by law in the near term. This is due to challenges associated with identifying suitable design organizations and the necessity to incur financial costs, which can reach tens of millions of rubles. Moreover, the entity's intention to take action in the future is insufficient to guarantee the effective enforcement of recently issued regulations.

In accordance with clause 4.2 of GOST R22.7.05-2022, the primary objective of LNSs is to disseminate notification alerts and emergency information to the following groups:

- management staff and personnel of the organization operating the facility;

- the facility's emergency rescue teams, including specialized ones (if any);

- the unified duty dispatch service of the Ministry of Defense within the boundaries of the LNS coverage area;

- managers and duty services of organizations and enterprises located in the territory of the facility within the LNS coverage area;

- people located within the boundaries of the LNS coverage area [2].

In accordance with clause 4.3 of GOST R22.7.05-2022, the boundaries of the LNS coverage area are the boundaries of the territory (areas) affected by destructive factors resulting from accidents at class I and II HPFs [2].

Section 2.2 of the Methodological Recommendations for Maintaining Public Notification Systems in a State of Immediate Readiness, approved by minutes No. 1 of the meeting of the working group of the Government Commission for the Prevention and Elimination of Emergency Situations and Fire Safety engaged in coordinating the creation and maintenance of public notification systems in immediate readiness dated December 20, 2023, sets forth conditions on the number of people living or conducting business activities within the boundaries of LNS coverage areas. This information derived from industrial safety declarations of HPFs and potentially hazardous facilities, as well as information from design documentation of HPFs and comprehensive LNS readiness inspection reports [3].

In determining the necessity of creating LNSs at class I and II HPFs, gas transmission organizations should be guided by the facility's industrial safety

declaration. However, upon review of the declarations, it is not uncommon to find information indicating that the linear portion of the gas trunk line is situated on agricultural land, at intersections with highways, and in the event of destructive factors (fire, explosion, etc.), fatalities among the population are possible [3].

It is important to consider that HPSs may have a considerable length, and that a part of the facility may be situated in hardly passable and deserted areas (forests, swamps, mountainous terrain). Consequently, the issue of criteria for the necessity of creating LNSs in specific locations along long-distance gas trunk lines is not addressed in the context of LNS creation [4].

Another important requirement for LNSs at hazard class I and II HPSs is capacity to interface with the existing notification systems at the regional and municipal levels.

The requirements for interfacing are also set forth in clause 5 of Annex 1 to Order No. 578/365 On Approval of the Public Notification System Regulation dated July 31, 20206 of the Ministry of Emergency Situations of Russia and the Ministry of Digital Development, Communications and Mass Media of the Russian Federation, which states that all public notification systems should be programmatically and technically interfaced. Clause 19 of the Regulation states that “the automatic mode of operation is the primary mode for local notification systems, while the operation of these notification systems in the automated mode is permitted” [5].

Clause 4.7 of GOST R22.7.05-2022 requires LNSs to ensure the activation (launch) of terminal means of notification within the boundaries of the LNS coverage area in the event of the receipt of information [6].

GOST R 42.3.01-2021 has the following terms:

— **terminal means of notification** — special technical devices that transmit notification alerts and/or emergency information directly to a person in audible and/or audiovisual format perceptible by ears and/or eyes, as well as through vibration (clause 3.13);

— **mobile means of notification** — auxiliary or backup technical means that are permanently installed on a mobile unit, designed to attract the attention of the population with the subsequent transmission of notification alerts and/or emergency information (clause 3.10);

— **portable means of notification** — auxiliary special technical means designed to attract the attention of the population with the subsequent transmission of notification alerts and/or emergency information, which are adapted for operation when carried (clause 3.12).

It is therefore evident that mobile and portable means of notification are not terminal means of notification, but rather are auxiliary additional technical means of public notification.

We believe that the level of hazard associated with HPFs is determined by a combination of hazardous production factors related to the pumping process and hazardous properties of the pumped medium. The following are indicative of accidents and damage to gas trunk lines: noise when gas escapes through damaged sections of the gas trunk line, yellowed grass in the vicinity of leaks, brown spots on snow, open fires in the protection zone of the gas trunk line, bubbles or bubbling in waterlogged/water-flooded areas. Emergency situations on highways include vehicle derailment, traffic accidents, vehicle fires, leakage of flammable and poisonous transported liquids, and damage to highway elements.

In such circumstances, when destructive factors occur at class I and II HPFs, the actual presence and operation of the notification system is rendered ineffective when people are in the zone of reach and visibility of adverse consequences. It is our opinion that it is impossible to ignore the signs of accidents, which can alert of an emergency situation at a hazardous facility. This means that the practical implementation of LNSs at class I and II HPFs involves fulfilling the primary tasks of notifying the population in the event of military conflicts, natural disasters, and so on. This represents the minimum expediency of application in case of accidents at gas truck lines, gas compressor stations, or gas distributing plants.

The analysis of the judicial practice of Gazprom PJSC’s subsidiaries in cases related to the installation of LNSs at class I and II HPFs reveals that the territorial bodies of the Ministry of Emergency Situations of Russia have repeatedly directed Gazprom PJSC’s subsidiaries (Gazprom Transgaz Tomsk LLC, Gazprom Transgaz Yekaterinburg LLC, Gazprom Transgaz Chaikovsky LLC, Gazprom UGS LLC) to install LNSs at HPFs that have been in operation for an extended period. In particular, Gazprom transgaz Tomsk LLC initiated legal proceedings to challenge the validity of the improvement notices issued to it.

All courts, including the Supreme Court of the Russian Federation, rejected the subsidiary's claims and upheld the validity and legality of the issued improvement notices [7].

In light of the aforementioned, it is clear that there is currently a stable judicial practice in place, according to which the instructions issued by the Ministry of Emergency Situations of Russia (its departments and territorial bodies) and the Federal Service for Environmental, Technological and Nuclear Oversight of Russia for organizations operating class I and II hazardous production facilities, the consequences of accidents at which may cause harm to the life and health of the population living or conducting business activities in the areas affected by destructive factors outside their territories, to create (reconstruct) and maintain local notification systems in immediate readiness, are to be regarded as valid. At the same time, when examining a case to establish the boundaries of the territory (areas) affected by destructive factors resulting from accidents at class I and II HPFs, courts rely on HPFs' industrial safety declarations and, referring to the civil defense laws, uphold the legality of the LNS creation requirement [8].

An analysis of the legislation of the CIS countries (the Republic of Belarus and the Republic of Kazakhstan) reveals a number of similarities and common challenges in the context of mandatory implementation of LNSs taking into account certain peculiarities.

Accordingly, the Republic of Belarus has Resolution of the Council of Ministers of the Republic of Belarus No. 1118 On Approval of the Regulation on the System of Notification of the Population, Management Bodies and Forces of the State System of Prevention and Elimination of Emergencies and Civil Defense dated November 28, 2014. In accordance with this normative act, a public notification system is also implemented at the republican (federal) level. Additionally, the concept of a unit-level notification system is introduced. In order to disseminate information to the population residing in areas not covered by notification systems (sparsely populated areas, horticultural associations, etc.), vehicles equipped with alert loudspeakers may be used. The procedure for the use of these vehicles is determined by the local executive and administrative bodies. The financing of measures to create, improve, and maintain notification systems in immediate readiness, as well as the provision of material and technical support for notification systems of all levels, is carried

out at the expense of the republican and/or local budgets, notification system entities, and other sources in accordance with the laws [9].

In his scientific paper, *Emergency Alert Systems*, A.V. Polulekh arrives at the following conclusion regarding the practice of using notification systems in the Republic of Belarus: the probability of using TV and radio receivers on the frequencies of state channels at a particular moment in time does not exceed 5–10% of the population to be notified, despite the fact that radio and TV channels can be used to bring the notification signal to 98% of the population. The most effective means of notifying and informing the population is the Internet. A review of social media feedback indicates that at least 70% of the population is aware of notifications. However, this does not apply to all demographic groups. Older individuals, for instance, may not use the Internet as frequently as younger people and may therefore be less likely to receive notifications about potential emergencies. The author's analysis indicates that none of the existing technical means of public notification in emergencies is universally effective. The effectiveness of these means is determined by targeting and speed, which depend on a number of factors: territoriality, time of day, category of population, weather conditions, and preparedness to perceive information [10].

In the Republic of Kazakhstan, the Rules of Organization of Civil Defense Notification Systems and Systems of Notification of the Population, State Bodies in Case of Emergencies in Peacetime and Wartime, approved by Order of the Minister of Emergency Situations of the Republic of Kazakhstan No. 945 dated December 26, 2014, stipulate that the public notification system also operates at the republican level. LNSs are responsible for the delivery of notification alerts and information to the population falling within the estimated area of emergency situations. The boundaries of the LNS coverage area are determined during the development of the specification for creation (reconstruction): HPFs are determined in accordance with the areas of main destructive factors (assessment of the area of main destructive factors under different scenarios of accidents and incidents), as defined by the Rules for the Development of Industrial Safety Declarations of Hazardous Production Facilities approved by Order of the Minister of Investment and Development of the Republic of Kazakhstan No. 341 dated December 30, 2014 [11].

The preceding analysis leads to the conclusion that the adoption of requirements governing the implementation of notification systems in the CIS countries occurred concurrently. At the same time, regulatory control in these countries directly affects the interests of organizations operating HPFs. Nevertheless, the Republic of Belarus is the only country in the region where it is possible to create LNSs using regional or federal budgets, as well as by participating in subsidized programs [12].

Consequently, by operation of law, gas transmission organizations operating class I and II HPFs are required to comply with the current legal requirements pertaining to the creation of LNSs. The necessity to create and reconstruct LNSs is regulated not only by the legislation on civil defense, protection of population and territories from natural and man-made emergencies, but also by the legislation on industrial safety. All available normative acts governing LNSs require organizations operating class I and II HPFs not only to create, reconstruct, and maintain LNSs in immediate readiness, but also to ensure the software and hardware interfacing of LNSs with municipal and regional notification systems.

In turn, the absence of LNSs is subject to administrative liability under Articles 19.5, 20.6, and 20.7 of the Code of Administrative Offenses of the Russian Federation, with a maximum fine of up to two hundred thousand rubles.

A stable judicial practice, particularly with regard to subsidiaries of Gazprom PJSC, indicates that courts have reached the conclusion that there is an obligation to create LNSs at hazard class I and II facilities.

The legislator does not provide guidance on the implementation of notification systems at linear facilities of considerable length. Additionally, the peculiarities of the terrain, climatic conditions, and the remoteness of settlements from each other are not taken into account. The linear part of HPFs may include technological sites and units that do not require constant or rotational maintenance and the presence of personnel [4].

The author believes that gas transmission organizations should independently consider the necessity of establishing LNSs when they operate hazard class I and II linear facilities.

Based on the above, we propose the following changes to the current legislation.

1. To supplement Article 14 of Federal Law No. 68-FZ On Protection of the Population and Territories from Natural and Man-Made Emergencies dated December 21, 1994, Article 9 of Federal Law No. 28-FZ On Civil Defense dated February 12, 1998, and Article 10 of Federal Law No. 116-FZ On Industrial Safety of Hazardous Production Facilities dated July 21, 1997, with the following clause:

“For organizations operating hazardous production facilities of class I and II, no local notification system is required in the absence of a hazardous substance in the quantities specified in Annex 2 to Federal Law No. 116-FZ dated July 21, 1997, or information in industrial safety declarations on the number of victims in the event of an accident among the population and personnel of outside organizations”.

2. To supplement the Public Notification System Regulations approved by Order No. 578/365 of the Ministry of Emergency Situations of Russia and the Ministry for Digital Development, Communications and Mass Communications of the Russian Federation dated July 31, 2020, and GOST R 42.3.01-2021 with the following clause: “Vehicles equipped with alerting loudspeakers may be used as a priority to alert the population living in territories not covered by public notification systems (sparsely populated areas, horticultural associations, etc.)”.

3. To amend clause 3 of Article 9 of Federal Law No. 28-FZ On Civil Defense dated February 12, 1998, to read as follows:

“3. Organizations engaged in the operation of hazardous production facilities and hydraulic structures of hazard class I and II, with the exception of the linear part of the major pipeline transport, especially radiation- and nuclear-hazardous productions and facilities, which have been assigned a category of potential radiation hazard, the consequences of accidents at which may cause harm to the life and health of the population living in the areas affected by destructive factors outside their territories, shall create and maintain local notification systems in immediate readiness, notify and inform the population in the area of organization’s responsibility as determined by the project documentation or the organization’s standard”.

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**Authors' information:****Nikolay N. Toropov**2<sup>nd</sup> Category Legal Counsel,

Gazprom Transgaz Saratov, LLC

**Сведения об авторе:****Торопов Николай Николаевич**

Юрисконсульт 2-й категории,

ООО «Газпром трансгаз Саратов»

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