



Gas (Facilities Outage Information Disclosure) Rules

Summary and analysis of submissions

August 2022



Gas Industry Co.



Executive Summary

On 13 June 2022, Gas Industry Co released a consultation paper inviting submissions on the Gas (Facilities Outage Information Disclosure) Rules 2022. The Rules give effect to Gas Industry Co's recommendation on new gas governance rules for the disclosure of gas production and storage facility outage information approved by the Minister of Energy and Resources on 18 May 2022.

Gas Industry Co sought feedback on the draft Gas (Facilities Outage Information Disclosure) Rules (the Rules). Submissions were received from the following parties:

- First Gas
- Greymouth Gas
- Mercury
- OMV
- Todd Energy
- Vector

Submitters were generally supportive of the drafting of the Rules. The comments related to matters of minor detail. Where appropriate, the draft Rules have been revised to address matters of drafting and better reflect the policy intent.

A summary and analysis of submissions, and a revised version of the Rules are attached to this paper.

The next step is for the Minister of Energy and Resources to consider the final Rules.



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1. Purpose and background

1.1 Purpose

The purpose of this document is to provide a summary and analysis of submissions on the Gas (Facilities Outage Information Disclosure) Rules 2022 (the Rules).

1.2 Background

On 13 June 2022, Gas Industry Co released a consultation paper inviting submissions on the Gas (Facilities Outage Information Disclosure) Rules 2022. The Rules give effect to Gas Industry Co's recommendation on new gas governance rules for the disclosure of gas production and storage facility outage information approved by the Minister of Energy and Resources on 18 May 2022.

1.2.1 Information disclosure workstream

On 25 July 2018, the Minister of Energy and Resources Hon Dr Megan Woods wrote to Gas Industry Co requesting that we investigate whether the existing arrangements for industry participants to disclose information that could have an impact on the downstream gas market were adequate.

Following the Minister's letter, Gas Industry Co established a workstream to consider whether current market arrangements related to information disclosure were sufficient or whether further arrangements were required.

Gas Industry Co's workstream identified several specific information areas or 'information elements' where we considered there could be information transparency or asymmetry issues. One of these elements was information regarding gas production and gas storage outages.

Gas Industry Co developed a Statement of Proposal that considered whether regulation was required to achieve the stated regulatory objective, or whether the regulatory objective could be satisfactorily achieved by non-regulatory means, including the Upstream Gas Outage Information Disclosure Code 2020 that had been developed by upstream parties at the same time as Gas Industry Co's information disclosure workstream. The Statement of Proposal concluded that, while the Code had resulted in an improvement in the quantity and quality of publicly available information regarding planned and unplanned gas production and storage facility outages, there were issues with the Code as an enduring framework and therefore it did not satisfactorily meet the regulatory objective. The Statement of Proposal was subject to two rounds of industry consultation, with submissions on the final Statement of Proposal closing on 26 August 2021.

Relevant documentation relating to our information disclosure workstream, including our Statement of Proposal and recommendation to the Minister of Energy and Resources can be found at <https://www.gasindustry.co.nz/our-work/work-programmes/information-disclosure/>.

1.2.2 Recommendation to Minister of Energy and Resource

On 18 February 2022, Gas Industry Co provided a recommendation to the Minister of Energy and Resources under sections 43F(2)(e), 43F(2)(f), 43G(2)(k) and 43Q of the Gas Act 1992 for the making of information disclosure rules and an amendment to the Gas Governance (Compliance) Regulations 2008.

The purpose of the Rules is to provide for information disclosure requirements in relation to gas production and storage outages.

A recommendation for an amendment to the Gas Governance (Compliance) Regulations 2008 providing for compliance with, and enforcement of, the information disclosure rules was made in conjunction with this recommendation.

1.2.3 Minister's acceptance of Gas Industry Co's recommendation for gas governance rules

The Minister of Energy and Resources accepted Gas Industry Co's recommendation on new gas governance rules for the disclosure of gas production and gas storage facility outage information on 18 May 2022.

The amendments to the Gas Governance (Compliance) Regulations will be considered by Cabinet and are subject to Cabinet approval.

1.3 Consultation

1.3.1 Development of draft Gas (Facilities Outage Information Disclosure) Rules 2022

Gas Industry Co developed the draft Gas (Facilities Outage Information Disclosure) Rules for industry consultation.

The Rules reflect the key elements of the regulated information disclosure arrangements as described in the Statement of Proposal and recommendation to the Minister of Energy and Resources.

1.3.2 Stakeholder feedback sought

Gas Industry Co sought feedback on the draft Gas (Facilities Outage Information Disclosure) Rules 2022. It should be noted that the intention of this consultation was not to revisit matters of substantive policy design. Instead, submitters were asked to focus on whether the drafting is clear and unambiguous and whether it aligns with the recommendation to the Minister of Energy and Resources.



2. Gas (Facilities Outage Information Disclosure) Rules

2.1 Submissions Summary

Submissions were received from the following parties:

- First Gas
- Greymouth Gas
- Mercury
- OMV
- Todd Energy
- Vector

Submissions are available on Gas Industry Co's website at <https://www.gasindustry.co.nz/our-work/work-programmes/information-disclosure/#recommendation-to-minister-2>

The table in Appendix 1 to this paper contains a summary and analysis of submissions on the draft Rules.

Submitters were generally supportive of the drafting of the Rules. The comments related to matters of minor detail. Where appropriate, the draft Rules have been revised to address matters of drafting and better reflect the policy intent.

Mercury, Todd Energy and Vector made no substantive drafting comments and their submissions are not recorded in Appendix 1.

Revised draft Rules are attached as Appendix 2.

2.2 Next Steps

The next step is for the Minister to consider the final version of the Rules.



3. Appendix 1 - Summary and analysis of submissions

Submitter	Rule	Comment	Response
First Gas	5.2 “gas storage facility”	<p>Add “and is not a gas production facility”</p> <p>Add the exclusion “for domestic export or sale”</p> <p>Gas production facilities could reinject gas for later extraction and therefore (and contrary to the policy design) meet the definitions of both production and storage facilities.</p> <p>If the exclusion for domestic export or sale is appropriate for gas production facilities, it is appropriate for gas storage facilities also.</p>	<p>The definition of “gas storage facility” is clear that at the commencement of the rules, the definition only applies to the Ahuroa Gas Storage Facility. However, the change has been made and the specific reference to Ahuroa has been removed.</p> <p>There is currently no gas storage facility where gas is withdrawn for anything other than domestic export or sale. There is no reasonable prospect of this changing at this point in time. This is quite different to, for example, offshore fields.</p> <p>These definitions are very similar to the definitions in the Upstream Code.</p> <p>No change is proposed, other than confirmation that a gas storage facility cannot be a gas production facility and removal of the specific reference to Ahuroa.</p>
	5.2 “gas production facility” and “gas storage facility”	<p>Add a space between “20” and “TJ”</p> <p>The International Organization for Standardization advocates the use of a space between the quantity and the unit of measure. Every other instance of TJ in the drafting is preceded by a space.</p>	<p>Agree.</p> <p>Definitions to be amended accordingly.</p>

5.2 “industry body”	<p>Stipulate how this definition should be interpreted if the industry body is revoked and not replaced by a Commission</p> <p>The Minister may revoke the industry body’s approval without establishing a Commission. The definition should account for this possibility.</p>	<p>This provision has been included to be consistent with existing gas governance rules and regulations and the provisions of the Gas Act.</p> <p>Given that the Gas Act does not provide any guidance on situations other than establishment of the Commission, we are unable to provide for the situation where the industry body is revoked but not replaced by the Commission. This scenario is likely to require wider legislative change.</p> <p>No change is proposed.</p>
5.2 “outage”, “planned outage” and “unplanned outage”	<p>Redefine “outage” to align with the policy intent and the commonly understood meaning of the word</p> <p>The overarching policy intent has the objective of ensuring the “effective and timely availability of material gas production and storage <u>outage</u> information for all gas and related market participants.” [our emphasis added] This reflects submitters’ understanding of what they were being consulted on and the GIC’s recommendation to the Minister.</p> <p>However, the effect of the three definitions is to require disclosure of any event or circumstance where production or withdrawal is reduced below the relevant threshold. The plain meaning of an outage is missing from the definitions. This could create an obligation to report information about ‘circumstances’ that were outside the scope of that sought by the GIC’s process.</p> <p>In particular, naturally declining gas production (where it exceeds the threshold) seems to be required for disclosure. Similarly, when enough gas has been withdrawn from storage facilities, this reduces field pressure and the rate at which further gas can be withdrawn. Both of these situations are not</p>	<p>We think that the drafting aligns with the policy intention.</p> <p>The definition of an “outage” needs to be broad enough to capture all scenarios where the ability of an asset export gas, or the ability of gas to be withdrawn, has been reduced. Whether the reduced capacity is due to a failed component, maintenance, a power outage or some other issue, is of secondary importance to stakeholder group.</p> <p>Naturally declining gas production will not be captured by the disclosure regime because the trigger for disclosure of planned outages and unplanned outages is a reduction of 20 TJ against the forecast production of the facility close to the outage (one week for unplanned outages and 14 days for planned outages). In the case of gas storage, the benchmark is the withdrawal capacity of the facility. There may be a level of judgement in terms of whether withdrawal capacity is reduced by 20 TJ (the same judgement exists for gas producers in assessing whether threshold will be met and the estimated duration of the outage) and there are provisions that provide for this (e.g. rule 10). The rules are not requiring gas storage owner to predict customer behaviour. However, where the storage owner knows that the withdrawal capacity of the facility is reduced by more than 20TJ due to the physical capability of the storage</p>

		<p>what people commonly think of as ‘outages’ as all equipment would be available and functioning.</p> <p>The proposed reporting regime has not been designed for the above circumstances but has instead been designed for discrete, definable outages. However, low field pressures tend to happen gradually with the cumulative effect of reducing production/withdrawal rates. The concept of a ‘start date’ or ‘end date’ is misaligned with these circumstances.</p> <p>The proposed reporting of ‘daily withdrawal capacity’ as a set number is a simplification of actual capacity. Most of the time our 65TJ/day daily withdrawal capacity is accurate. But when field pressure is low, that performance cannot be achieved. As a gas storage owner, we cannot forecast when our customers will choose to withdraw enough gas that it materially affects Ahuroa’s daily withdrawal capacity. Nor can we define with precision the notional point at which withdrawal capacity falls below the 20 TJ/day reporting threshold. It is not clear to us which of the two proposed definitions (planned or unplanned outages) a situation like this would fall under.</p>	<p>facility, then there does not seem to be a good reason why that should not be disclosed.</p> <p>No change is proposed.</p>
5.2 “outage”		<p>Consider deleting the two instances of “downstream”</p> <p>The word “customer” is used six times in the proposed rules. The two instances in this definition are preceded by the word “downstream”. If there is some intended subtlety with the use of this word, consider redrafting to make the distinction clear. Otherwise, we recommend that it is deleted.</p> <p>We note that “consumer” is defined in the Gas Act, so consider the use of the word “customer” instead to be intentionally different.</p>	<p>The references to “customer” are deliberate. The definition of “consumer” in the Gas Act was not adopted as the Gas Act definition excludes gas that is supplied for the purpose of resupply. In this case, the context requires gas purchased for the purpose of resupply to be included.</p> <p>Agree that references to “downstream” can be deleted.</p> <p>Definition to be amended accordingly.</p>

5.2 “planned outage”	<p>Reword to avoid the use of a ‘hanging paragraph’.</p> <p>The proposed definition has a ‘hanging paragraph’ that reads “in each case which is planned for in advance.” This unnecessarily complicates the definition for readers. There are various ways this could be reworded to avoid this. For example, deleting the ‘hanging paragraph’ and adding the word “planned” before the two instances of “outage”.</p>	Redrafting to be considered.
5.2 “unplanned outage”	<p>Reword to avoid the use of a ‘hanging paragraph’.</p> <p>The proposed definition has a ‘hanging paragraph’ that reads “in each case not being a planned outage.” This unnecessarily complicates the definition for readers. There are various ways this could be rewording to avoid this. For example, deleting the ‘hanging paragraph’ and adding “an outage that is not a planned outage, and” after the word “means”.</p>	Redrafting to be considered.
6.2	<p>Reword in accordance with Parliamentary Council Office (PCO) drafting principles.</p> <p>The PCO recommends against starting a clause with “Notwithstanding”. Refer to A3.33 to A3.44 of PCO’s Principles of Clear Drafting.</p>	Redrafting to be considered.
8.1	<p>Reword in accordance with PCO drafting principles.</p> <p>The PCO recommends against starting a clause with “Subject to”. Refer to paragraph A3.40 of PCO’s Principles of Clear Drafting.</p>	Redrafting to be considered.
8.2	Add the word “material” before the first instance of “information”	This provision should only relate to information that is material to the information that is required to be disclosed under the Code and should only apply to outages that meet the definition of a planned outage or unplanned outage.

	<p>Replace the word “outage” with “planned outage or unplanned outage”</p> <p>Reword to clarify the disclosure intended to be referred to in the final instance of “the disclosure”</p> <p>Consider redesigning the clause to instead prohibit disclosure of material information to any other person in advance of public disclosure</p> <p>As drafted, this clause includes no materiality threshold. Any level of conversation with a customer about an outage appears to require disclosure. This is both impractical and contrary to the policy objective of the rules which are concerned with “material information”. We recommend to add the word “material” before the first instance of “information”.</p> <p>Not all outages are planned outages or unplanned outages. As this clause is intended to relate to only outages that require disclosure (planned outages and unplanned outages), it should use those definitions instead. Replace the word “outage” with “planned outage or unplanned outage”.</p> <p>We are unclear which disclosure is being referred to in the final instance of “the disclosure” in this clause. We presume it refers to the disclosure to the customer. This ambiguity should be avoided.</p> <p>The policy intent of this clause could be more simply expressed and complied with if it read “A gas producer or a gas storage owner must not disclose to any other person material information about any planned outage or unplanned outage, unless the material information has already been disclosed publicly.” This would avoid the impractical ‘simultaneous disclosure’ present in the current drafting. The current drafting limits the circumstances to disclosures only to “a</p>	<p>Drafting to be amended to “person”.</p> <p>Drafting to be amended accordingly.</p>
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		customer.” However, disclosures to other parties (such as friends, family, sharebrokers or related companies) would not be covered by this clause despite being contrary to the policy intent.	
	9	Avoid use of “notwithstanding” Use simpler words where possible.	Redrafting to be considered.
	11.1.3	Add “gas” before “storage facility” and bold the defined term The clause would be clearer if it used the defined term.	Agreed. Drafting to be amended accordingly.
	11.1.5	Specify which date is being referred to The requirement to disclose “the date of the unplanned outage” is unclear. We presume the policy intent is to require disclosure of “the date on which the unplanned outage began.”	Agreed. Drafting to be amended accordingly.
	11.2.6 and 11.3.6	Delete these clauses. These clauses require the disclosure of the estimated duration of an unplanned outage. Clauses 11.2.7 and 11.3.7 require disclosure of the estimated end date of the unplanned outage. One can be inferred from the other. Requiring both adds little value and increases potential confusion when a disclosure specifies inconsistent durations and end-dates. Durations could be expressed in imprecise words such as “two and a half months”. As such, we recommend that the requirements for disclosing outage duration should be deleted.	Agree. Drafting to be amended accordingly.
	11.3.9 and 12.1.8	Reword to avoid the use of a ‘hanging paragraph’ The proposed clauses have ‘hanging paragraphs’ that read “due to the unplanned outage” and “due to the planned	Redrafting to be considered.

		outage.” This unnecessarily complicates the clauses for readers. There are various ways this could be reworded to avoid this.	
11.3.9		Bold use of “gas storage facility” The clause would be clearer if it bolded the defined term.	Agree. Drafting to be amended accordingly.
12.1.8		Delete shading from comma.	Agree. Drafting to be amended accordingly.
12.1.8(b)		Add “daily” before “withdrawal capacity” and bold the defined term. The clause would be clearer if it used the defined term.	Agree. Drafting to be amended accordingly.
16.2.1 and 16.2.2		Apply consistent use of “a gas storage facility” and “the gas storage facility” This inconsistency is unnecessary in this case.	Agree. Drafting to be amended accordingly.
17		Resolve ambiguous use of “only” There are two possible interpretations of this clause. One reading is that the industry body is not permitted to use any other kinds of information when monitoring compliance with these rules. The other reading is that the industry body has a duty not to use the disclosed information for any other purpose than monitoring compliance with these rules.	Agree. Drafting to be amended accordingly.

		<p>We believe the second interpretation is what was intended. We support that intent. The drafting should be amended to be made unambiguous.</p>	
Greymouth	5	<p>The term 'customer' is not defined in the draft rules or the Gas Act. The term used (and defined) in the Gas Act is 'consumer'. If 'customer' (in the draft rules) is intended to mean something different to 'consumer' in the Gas Act, it should be defined in the draft rules. However, if it is intended to have the same meaning as 'consumer', then references to 'customer' should be changed to 'consumer'.</p>	<p>The references to "customer" are intentional. The definition of "consumer" in the Gas Act was not adopted as the Gas Act definition excludes gas that is supplied for the purpose of resupply (therefore, a shipper/retailer is not a consumer). In this case, the context requires gas purchased for the purpose of resupply to be included.</p> <p>We think that customer should be interpreted in accordance with its natural and ordinary meaning. A definition is unnecessary.</p> <p>No change is proposed.</p>
	5.2 "gas production facility" (a)	<p>There are three queries with this clause because as defined:</p> <p>i. It relates to production stations that produce and process gas, but not metering interconnection points between the domestic export stream/s and transmission pipelines, including upstream feeder pipelines. That will exclude 'outages' at those points. If that is not the intention, GIC must clarify the party with the reporting obligation if there are non-related parties across those asset owners.</p> <p>ii. It covers any demand-side facility that processes gas (as feedstock) for domestic export or sale (which, while its characteristics may be transformed, still process that gas). Is the intention to cover the likes of Methanex and Ballance?</p> <p>iii. It also covers compressor stations like Mokau that process gas for further downstream export meaning that First Gas Limited, as a gas producer (being a party that supplies gas (via</p>	<p>The only parties who are subject to the disclosure obligations in the Rules are "gas producers" and "gas storage owners" in relation to a "gas production facility" or "gas storage facility". Methanex, Ballance and First Gas (as the transmission system owner) do not meet those definitions as we do not consider that those parties are producing or processing gas for domestic export or sale. Consuming gas as part of a production process or compressing gas for transportation is not consistent with the definitions.</p> <p>Note that the "triggers" for disclosure are the definition of a "planned outage" and "unplanned outage". Both of those definitions reference the definition of an "outage". This definition is broad being "an event or circumstance resulting in a reduction in the gas able to be exported from a gas production facility or able to be withdrawn from a gas storage facility". This definition is indifferent in terms of the cause of the reduction, other than exclusion of a circumstance at a</p>

		cash-outs) that is transmitted through its pipelines)), is covered by the rules. Is that the intention?	<p>downstream customer’s facility or a change initiated by a downstream customer (e.g. a change in customer demand). In other words, if a gas producer or gas storage owner is required to reduce production due to a pipeline or compression issue, the relevant gas producer or gas storage owner will be required to disclose the reduction in their production.</p> <p>We have seen examples of producers disclosing inability to produce due to a power outage (Todd Energy in relation to its McKee Mangahewa production facility) which is clearly an issue with an asset that is outside of their control. In this case, the disclosure noted when the power had been restored to the McKee Mangahewa site and the length of time to get the asset up and running.</p> <p>No change is proposed.</p>
	5.2 “gas production facility” (b)	The second limb of the definition may be too vague. It is not clear whether a (currently) small production facility that has at some point in the past produced or processed 20TJ/d is intended to be captured by the definition. Likewise, production facilities that, in the future, permanently reduce capacity below 20 TJ/d would be captured. Greymouth recommends including a timeframe – such as facilities that have processed a minimum of 20TJ per day in the preceding reporting year.	<p>This definition needs to be historical looking otherwise a production facility that is subject to a temporary dip in its production may not be required to disclose.</p> <p>Note that the definitions of “planned” and “unplanned outage” both include a 20 TJ change, which is an additional hurdle for disclosure. If capacity is permanently reduced below 20 TJ, then it is unlikely that the disclosure obligations will apply.</p> <p>No change is proposed.</p>
	5.2 “nomination”	This should exclude ‘gas producer’ from the definition as the word ‘nomination’ is only used in the rules in respect of gas storage owners.	<p>Agree.</p> <p>Definition to be amended accordingly.</p>
	5.2 “outage”	It is not clear whether this is a volume or a capacity test. E.g. ‘a reduction in the gas able to be exported’. The distinction is relevant as this is a key operative provision. Further,	The tests for whether disclosure is required are the definitions of a “planned outage” and “unplanned outage”. These

		<p>'downstream customer' is undefined – presumably this relates to end-users rather than mid-stream shippers?</p>	<p>definitions establish a volume test (20 TJ per gas day) as there is no nameplate capacity for gas production.</p> <p>The definition of an “outage” describes what an outage is. This has been defined broadly to essentially mean that a producer is required to disclose if a specific event or circumstance results in the ability to export gas from the facility being reduced by 20 TJ or more.</p> <p>No change is proposed.</p>
<p>5.2 “planned outage” (a)</p>		<p>Refer to the comments on clause 15.1 as forecast total production could be indeterminate, which would result in a logic error and no planned outages. One of the benefits of the existing voluntary disclosure code is that it doesn't define the equivalent of 'total daily production', meaning that references to 'forecast' in the code are approximate estimates that defer to producers' purposive judgement. To be operative, Greymouth considers that the legislative clause needs to come up a level to reflect the pragmatic operation of the code.</p>	<p>It is our understanding that gas producers do forecast daily production. For example, under the definition of a “planned outage” in the Upstream Code, the 20 TJ threshold is assessed against the forecast gas production over the 14 days immediately preceding the forecast start of the outage. Note that the forecast may not be perfect, as there may be changes to customer demand after the forecast. However, given the 20TJ threshold, we think that minor variations are unlikely to have a material impact.</p> <p>We have been deliberately non-prescriptive in terms of the forecast that gas producers assess against, but would expect producers to rely on the most recent information.</p> <p>The rules require gas producers to provide Gas Industry Co with their forecast daily total production for the purpose of monitoring. That enables gas producers to provide information at the same time that they provide a production profile under the Crown Minerals (Petroleum) Regulations.</p> <p>It may be that producers make revised forecasts during the year. It would be desirable for a gas producer to assess disclosure against its most recent forecast</p>

			<p>As part of its monitoring role, Gas Industry Co may ask for an explanation of why disclosure was, or was not, made. Producers should comply with this request through the provision of revised information around their production forecasts.</p> <p>Drafting amended to refer to the most recent forecast.</p>
5.2 “unplanned outage” (a)	Production (and downstream consumer consumption) is not necessarily forecast for the following week up to a week in advance, and so Greymouth repeats the gist of the points made in respect of the paragraph above.		<p>As discussed above, it is our understanding that gas producers do forecast daily production.</p> <p>Note that the Upstream Code assesses the 20 TJ per day threshold against week ahead nominations made under the applicable transmission code. We elected not to adopt this approach as not all gas is subject to nominations under the transmission codes (e.g. gas transported by private pipelines).</p> <p>No change is proposed.</p>
8.2	<p>This could be read as requiring gas producers or storage owners to disclose information relating to outages that are below the materiality threshold of 20TJ, if they disclose those outages to a customer, for example under a contractual obligation. Greymouth assumes this is not the intention, and therefore suggests the addition of the following as clause</p> <p>8.3:8.3 Nothing in rule 8.2 shall require a gas producer or gas storage owner to disclose information about an outage that is not a planned outage or an unplanned outage.</p>		<p>The purpose is to require disclosure in relation to outages over the materiality threshold, so that stakeholders are on a level playing field in relation to these outages.</p> <p>The definition will be amended to refer to the defined term “planned outage” and unplanned outage” which will pick up the 20 TJ threshold.</p>
10	This addition is pragmatic as it is from the perspective of the gas producer or gas storage owner.		No changes are proposed.
11.1	There are two comments with this clause:		We have adjusted the drafting to make it clear that there needs to be an “outage” (an event or circumstance resulting in

		<p>i. It is not clear when the obligation to report crystallises for an unplanned event that is 'likely to have occurred'. To avoid confusion or inadvertent non-compliance, this should be made clearer.</p> <p>ii. To allow for the potential unavailability of staff with the relevant level of sign-off to process information disclosure outside of business hours, particularly in smaller operators (and recognising employers' obligations to employees in respect of health and safety, including sleep and time away from work), Greymouth requests that the 12-hour timeframe for reporting be changed to 'as soon as reasonably practicable thereafter'.</p>	<p>a reduction in the gas able to be exported from a gas production facility) and an unplanned outage is likely to occur (i.e. the 20 TJ threshold is likely to be met). It would seem to be counter to the policy intent for a producer who is aware that its facility is subject to an outage, and the definition of an unplanned outage is likely to be met, to be entitled to an extended period of time to make the disclosure because technically the 20 TJ threshold has not yet been met.</p> <p>In relation to ii, we note that the timeframe is "as soon as reasonably practicable" with a limit of no later than 12 hours. We consider that this current drafting is adequate. No change is proposed. Unique circumstances, such as health and safety considerations, are matters that may be considered as part of the compliance process.</p>
	12.2	<p>Either a definition or some guidance is required on what a 'material change' is.</p>	<p>We note that whether a change is material is likely to be fact specific. For example, a change to the timing of an outage may or may not be material depending on the extent of the change in timing. We note that the concept of disclosure of a material change is included in the Upstream Code and upstream parties already disclose on this basis.</p> <p>No change is proposed</p>
	13.2	<p>Please advise what alternative form and manner GIC is considering specifying? Parties should have to agree with, or be able to perform, GIC's alternative.</p>	<p>This will be considered as part of the development of the electronic platform to support disclosure. We expect the solution will be one that parties can reasonably be expected to work to and we will consult on our proposal.</p>
	14.3	<p>If GIC has an obligation to provide the electronic platform through which information is supplied (pursuant to clause 13.1), then GIC should have service levels, obligations, and liabilities in relation to loss or damage arising from that system not working properly – or it should contract out that service</p>	<p>We considered whether a dedicated service provider was appropriate, but considered that this was not necessary for the following reasons:</p>

		<p>provision as it has done successfully for various other functions requiring services under legislation.</p>	<ol style="list-style-type: none"> 1. Once the disclosure page has been built there will be few ongoing services other than changes to functionality going forward (i.e. it is quite different to the registry operator, allocation agent or CCO roles). 2. Gas Industry Co currently hosts an industry notifications page that has proven reliable. 3. Keeping costs low for the industry. <p>We are comfortable with making an electronic platform available as we have done to date. However, we cannot accept liability in relation to the page. We also consider that an appropriate work-around can be developed in the event that the electronic platform is unavailable.</p> <p>We note that many participants (including Gas Industry Co) have obligations to publish information under gas governance arrangements. What we are proposing is simply another means for making information publicly available.</p> <p>No change is proposed.</p>
15.1 and 15.2	<p>A gas producer or gas storage owner may not necessarily do forecast daily total production for facilities on up to a year-ahead or even a week-ahead basis (some consumers' production is subject to on-the-day or day-ahead variables), and so what would GIC like those parties to do in respect of this clause?</p>	<p>As discussed above.</p> <p>No change is proposed.</p>	
18.1	<p>There should be a transitional timing process relating to the first certificate. Presumably correctness is from the director's perspective and epistemology.</p>	<p>The director certification only relates to information disclosed under the rules. As a result, the certification would not apply to the period prior to the rules. A transition arrangement is unnecessary.</p> <p>No change is proposed.</p>	

OMV	8.2	<p>Rule 8.2 is similar to the requirements in the Code. However, the Code modifies the requirement by stipulating that “specific operational, technical or other information required by the contract counterparty” is not necessary to disclose.</p> <p>The absence of such a modification to the above Rule may unintentionally require disclosure of very high levels of technical information to the market. For example, we are aware that gas contracts exist where a customer has a right to investigate the cause of a Force Majeure event that has interrupted their contracted supply of gas. This contractual right protects the customer against erroneous Force Majeure claims from the seller. Such investigations can be quite detailed and reveal high levels of technical and confidential producer information.</p> <p>OMV does not believe that it is the intent of the Rules to capture and make public such detailed information. If disclosing detailed technical information in relation to an outage was intended (e.g. as per the Force Majeure example above) then it would have been a more substantial topic of engagement in previous consultations.</p> <p>Rather, the Rules specify the types of information that the market expects to see, namely estimates of the timing, impact, and duration of outages and Rule 8.2 should be modified to ensure that the market receives only this information concurrently when it is supplied to a gas customer. Failure to modify Rule 8.2 risks unintended consequences related to the flow of (non-market sensitive) information between gas suppliers and customers and risks imposing significant cost on producers.</p>	<p>This provision should only relate to material information that relates to the information that is required to be disclosed under the Code. It should only apply to outages that meet the definition of a planned outage or unplanned outage.</p> <p>We agree that the policy objective can be met without requiring disclosure of detailed operational or technical information required by a contract counterparty.</p> <p>Drafting to be amended accordingly.</p>
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<p>5.2 “planned outage” and “unplanned outage”</p>	<p>Production forecasts are an important part of the Rules as they form the basis against which planned and unplanned outages are assessed:</p> <p>planned outage means...a quantity of 20 TJ or more per gas day measured against the average of the <u>gas producer’s forecast</u> daily total production over the 14 gas days immediately preceding the expected start of the outage</p> <p>unplanned outage means...any reduction in daily total production from that gas production facility caused by an outage of that facility compared against the average of <u>the gas producer’s forecast</u> daily total production for the following week in respect of that facility, for the period including that gas day, in a quantity of 20 TJ or more;</p> <p>However, in the above definitions it is not clear which forecast should be used. The planned outages are required to be updated quarterly which implies the forecasts are required to be updated at least that frequently. Forecasts for monitoring and compliance are required annually so perhaps that annual forecast is the intended baseline. However, OMV is of the view that the right basis for disclosure is the producer’s most recent forecast (for unplanned outages this should be the week-ahead nominations, as per the Code).</p> <p>In OMV’s submission on the Statement of Proposal in September 2021 OMV suggested:</p> <p>It is important to note that while the annually updated forecast will be useful for high-level operator and industry analytics, the assessment of both planned and unplanned outages by operators for reporting purposes should be done against more recent</p>	<p>We have been deliberately non-prescriptive in terms of the forecast that gas producers assess against.</p> <p>The rules require gas producers to provide Gas Industry Co with an annual forecast of changes to its daily withdrawal capacity. That enables producers to provide information at the same time that they provide a production profile under the Crown Minerals (Petroleum) Regulations.</p> <p>It may be that producers make revised forecasts during the year. It would be desirable for producers to assess disclosure against its most recent forecast</p> <p>As part of its monitoring role, Gas Industry Co may ask for an explanation of why disclosure was, or was not, made. Producers should comply with this request through the provision of revised information around their production forecasts.</p> <p>Drafting to refer to the most recent forecast.</p>
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		<p>forecasts within the year (e.g. week ahead for unplanned outages and the most recent planned forecast), consistent with the aim of providing the most relevant market information.</p> <p>We reiterate the above comment from the OMV Statement of Proposal submission and would support amendments to the rules to clarify the forecasting basis for disclosures, particularly for planned outages.</p>	
	12.1	<p>The proposed Rule 12.1 requires quarterly disclosure:</p> <p style="padding-left: 40px;">Within 10 business days of 10 January, 1 April, 1 July and 1 October each year</p> <p>OMV typically provides planned outage disclosure information to the market before these dates to align reporting requirements with when customers typically receive outages information. To minimise additional reporting requirements (with no added information benefit), OMV proposes that Rule 12.1 be updated to:</p> <p style="padding-left: 40px;">no later than 10 business days after 10 January, 1 April, 1 July and 1 October each year</p>	<p>Agree.</p> <p>Drafting to be amended accordingly.</p>



4. Appendix 2 - Revised draft Rules

About Gas Industry Co

Gas Industry Co is the gas industry body and co-regulator under the Gas Act. Its role is to:

- Develop arrangements, including regulations where appropriate, which improve:
 - the operation of gas markets;
 - access to infrastructure; and
 - consumer outcomes;
- Develop these arrangements with the principal objective to ensure that gas is delivered to existing and new customers in a safe, efficient, reliable, fair and environmentally sustainable manner; and
- Oversee compliance with, and review such arrangements.

Gas Industry Co is required to have regard to the Government's policy objectives for the gas sector, and to report on the achievement of those objectives and on the state of the New Zealand gas industry.

ENQUIRIES:
info@gasindustry.co.nz

GAS (FACILITIES OUTAGE INFORMATION DISCLOSURE) RULES 2022

Pursuant to sections 43F, 43Q and 43S of the Gas Act 1992, the Minister of Energy and Resources, acting on the recommendation of Gas Industry Company Limited as the industry body appointed pursuant to s43ZL of that Act, makes the following rules.

Contents

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1. Title

These rules are the Gas (Facilities Outage Information Disclosure) Rules 2022.

2. Commencement

These **rules** come into force on [insert date].

3. Purpose

The purpose of these **rules** is to provide for effective and timely disclosure of information regarding an **unplanned outage** or **planned outage** at a **gas production facility** or a **gas storage facility** for all gas and related market participants.

4. Outline

These **rules** provide for –

- 4.1 The disclosure of information regarding an **unplanned outage** or **planned outage** at a **gas production facility** or a **gas storage facility**; and
 - 4.2 The disclosure of information to the **industry body** to enable it to monitor compliance with these **rules**.
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Part 1

General provisions

5. Interpretation

5.1 In these **rules**, any term that is defined in the **Act** and used in these **rules**, but not defined in these **rules**, has the same meaning as in the **Act**.

5.2 In these **rules**, unless the context otherwise requires –

Act means the Gas Act 1992;

business day means any day of the week except –

- (a) Saturday and Sunday; and
- (b) any day that Good Friday, Easter Monday, ANZAC Day, the Sovereign's Birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, Labour Day, Christmas Day, Boxing Day, New Year's Day, the day after New Year's Day, and Waitangi Day are observed for statutory holiday purposes; and
- (c) any other day which the **industry body** has determined not to be a business day as published by the **industry body**;

daily total withdrawal means the aggregate quantity of gas withdrawn from a **gas storage facility** on a **gas day**;

daily total withdrawal nominations means the aggregate nominations for withdrawals from a **gas storage facility** on a **gas day**;

daily total production means the aggregate quantity of gas exported from a **gas production facility** on a **gas day**;

gas day means the period from 00:00 hours until 24:00 hours on any day;

gas production facility means a facility –

- (a) at which gas is produced or processed for domestic export or sale, and includes any associated gas production or other wells; and
- (b) which has produced or processed gas at a minimum of 20 TJ per **gas day**;

gas storage facility means a facility –

- (a) at which gas is injected and later made available for withdrawal; and
 - (b) which has a **withdrawal capacity** of at least 20 TJ per **gas day**; and
 - (c) which is not a **gas production facility**;
-

gas storage owner means any owner of a **gas storage facility**;

industry body means the industry body approved by the Governor General by Order in Council under section 43ZL of the Act. In the event that the approval of the industry body is revoked under section 43ZM of the **Act**, all references to the industry body shall be treated as references to the Commission;

nomination means the gas quantities notified by a customer to a **gas storage owner** in respect of a **gas storage facility** that specify the customer's intended use of the service provided by the **gas storage owner**;

outage means an event or circumstance resulting in a reduction in the gas able to be exported from a **gas production facility** or able to be withdrawn from a **gas storage facility**, not being a reduction resulting from an event or circumstance occurring at a customer's facility or otherwise initiated by a customer;

planned outage means –

- (a) in relation to a **gas production facility** and a **gas day**, any reduction in the **daily total production**, caused by an **outage** of that facility that is planned for in advance, in a quantity of 20 TJ or more per **gas day** measured against the average of the gas producer's most recent forecast **daily total production** over the 14 gas days immediately preceding the expected start of the **outage**; or
- (b) in relation to a **gas storage facility** and a **gas day**, any reduction in the **withdrawal capacity** from that facility in a quantity of 20 TJ or more per **gas day**, caused by an **outage** of that facility that is planned for in advance;

reasonable and prudent operator means, in relation to the performance of obligations under these **rules**, the application by a gas producer or **gas storage owner** of that degree of diligence, prudence and foresight reasonably and ordinarily exercised by experienced gas producers or **gas storage owners** under the same or similar circumstances and conditions;

rules means these Gas (Facilities Outage Information Disclosure) Rules 2022 as may be amended from time to time and includes any schedule to the rules, and any codes made pursuant to the rules;

TJ means terajoules;

unplanned outage means –

- (a) in relation to a **gas production facility** and a **gas day**, any reduction in **daily total production** from that **gas production facility**, caused by an **outage** of that facility that is not planned for in advance, in a quantity of 20 TJ or more per **gas day** measured against the average of the gas producer's most recent forecast **daily total production** for the following week in respect of that facility, for the period including that **gas day**; or

- (b) in relation to a **gas storage facility** and a **gas day**, any reduction in the **withdrawal capacity** from that facility in a quantity of 20 TJ or more per **gas day**, caused by an **outage** of that facility that is not planned for in advance;

withdrawal capacity means the maximum quantity of gas that can be withdrawn from a **gas storage facility** on a **gas day**;

Part 2

General requirements as to disclosure

General obligations

6. **Obligation to disclose information**

Each gas producer and **gas storage owner** must disclose information in accordance with these **rules**, provided that if a **gas production facility** or **gas storage facility** is owned by more than one party, a compliant disclosure by one party will satisfy the obligation of the other party to disclose the relevant information in accordance with these **rules** and the other party is not required to separately disclose the same information.

7. **Duty to act in good faith and as a reasonable and prudent operator**

Each gas producer and **gas storage owner** must perform its obligations under these **rules** in good faith and as a **reasonable and prudent operator**.

Other disclosure arrangements

8. **Additional disclosure**

8.1 Nothing in these **rules** prevents a gas producer or **gas storage owner** from disclosing information about an **unplanned outage** or **planned outage** that is not required to be disclosed under these **rules** to any person, provided that if a gas producer or **gas storage owner** discloses information about an **unplanned outage** or **planned outage** to a person that has not been disclosed under these **rules**, the gas producer or **gas storage owner** must ensure that the information is made available to the public immediately after the information is disclosed to the person.

8.2 The obligation to make information publicly available in rule 8.1:

8.2.1 is limited to information that is material to an **unplanned outage** or **planned outage** having regard to:

- (a) the information that is required to be disclosed under these **rules**; and
- (b) the purpose of these **rules**;

8.2.2 does not apply to detailed operational or technical information that a gas producer or **gas storage owner** is required or expected to provide to a person in accordance with a contractual requirement or expectation.

9. Effect of any duty of confidence

Each gas producer or a **gas storage owner** must comply with these **rules** despite any actual or alleged duty of confidence that it owes to a third party.

Exclusions

10. No obligation to disclose matters of supposition or insufficiently definite outage information

A gas producer or **gas storage owner** is not required to disclose information in relation to an **outage** under these **rules** if the information relating to the **outage** comprises matters of supposition or is insufficiently definite to warrant being made readily available to the public.

Part 3

Information for public disclosure

11. Disclosure in relation to unplanned outages

Each gas producer or **gas storage owner** must disclose the following information in relation to any **unplanned outage** at **gas production facility** or **gas storage facility** wholly or partially owned by it or a related party:

11.1 *Initial disclosure:* as soon as reasonably practicable after the occurrence of an **unplanned outage**, or if an **outage** has occurred that is likely to develop into an **unplanned outage**, and in any event no later than 12 hours after its occurrence:

11.1.1 the date and time of the disclosure; and

11.1.2 the name of the disclosing gas producer or **gas storage owner** and the name of the owner or owners of the **gas production facility** or **gas storage facility**; and

11.1.3 the name of the **gas production facility** or **gas storage facility** affected by the **unplanned outage**; and

11.1.4 the name of the **unplanned outage**; and

11.1.5 the date on which the **unplanned outage** commenced; and

11.1.6 whether the definition of an **unplanned outage** has been met, or is likely to be met.

11.2 *Daily update disclosure:* if an **unplanned outage** continues beyond the **gas day** of its occurrence, no later than 24 hours after the disclosure under rule 11.1 and again daily after the last disclosure under this rule 11.2 until a date that is 14 **gas days** after the disclosure under rule 11.1 or until such time as disclosure occurs under rule 11.4:

11.2.1 the date and time of the disclosure; and

11.2.2 the name of the disclosing gas producer or **gas storage owner** and the name of the owner or owners of the **gas production facility** or **gas storage facility**; and

- 11.2.3 the name of the **gas production facility** or **gas storage facility** affected by the **unplanned outage**; and
 - 11.2.4 the name of the **unplanned outage**; and
 - 11.2.5 a description of the nature and cause of the **unplanned outage**, if known; and
 - 11.2.6 the estimated end date of the **unplanned outage**, if known; and
 - 11.2.7 a description of the progress made in confirming a plan for resolution of the **unplanned outage**; and
 - 11.2.8 the estimated reduction in **daily total production** or **withdrawal capacity** per **gas day** due to the **unplanned outage**.
- 11.3 *Weekly update disclosure*: once an **unplanned outage** has continued for 14 **gas days**, within 7 **gas days** of the last disclosure under rule 11.2 and again at 7 day intervals after the last disclosure under this rule 11.3 until such time as disclosure occurs under rule 11.4:
- 11.3.1 the date and time of the disclosure; and
 - 11.3.2 the name of the disclosing gas producer or **gas storage owner** and the name of the owner or owners of the **gas production facility** or **gas storage facility**; and
 - 11.3.3 the name of the **gas production facility** or **gas storage facility** affected by the **unplanned outage**; and
 - 11.3.4 the name of the **unplanned outage**; and
 - 11.3.5 a description of the nature and cause of the **unplanned outage**, if known; and
 - 11.3.6 the estimated end date of the **unplanned outage**, if known; and
 - 11.3.7 a description of the progress made in confirming a plan for resolution of the **unplanned outage**; and
 - 11.3.8 the estimated reduction in **daily total production** or **withdrawal capacity** per **gas day** due to the **unplanned outage**.
- 11.4 *Cessation disclosure*: as soon as reasonably practicable after cessation of an **unplanned outage**:
- 11.4.1 the date and time of the disclosure; and
 - 11.4.2 the name of the disclosing gas producer or **gas storage owner** and the name of the owner or owners of the **gas production facility** or **gas storage facility**; and
 - 11.4.3 the name of the **gas production facility** or **gas storage facility** affected by the **unplanned outage**; and
 - 11.4.4 the name of the **unplanned outage**; and
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11.4.5 confirmation of resumption of normal operations or other disclosure as to the final status of the relevant **gas production facility** or **gas storage facility** following completion of work in response to the **unplanned outage**.

12. Disclosure in relation to planned outages

Each gas producer or **gas storage owner** must disclose the following information in relation to any **planned outage** at any **gas production facility** or **gas storage facility** wholly or partially owned by it, or a related party:

12.1 *Quarterly disclosure:* no later than 10 **business days** after 10 January, 1 April, 1 July and 1 October each year and of the commencement of these **rules** (if this does not coincide with one of the aforementioned dates), a gas producer or **gas storage owner** must disclose in relation to any such **planned outage** expected to occur in the immediately following 12 month period:

12.1.1 the date and time of the disclosure; and

12.1.2 the name of the disclosing gas producer or **gas storage owner** and the name of the owner or owners of the **gas production facility** or **gas storage facility**; and

12.1.3 the name of the **gas production facility** or **gas storage facility** affected by the **planned outage**; and

12.1.4 the name of the **planned outage**; and

12.1.5 a description of the nature and purpose of the **planned outage**; and

12.1.6 the estimated duration of the **planned outage** being:

(a) in relation to a **planned outage** expected to occur no later than six months after the date of the disclosure under this rule 12.1, the estimated start date and estimated end date of the **planned outage**; or

(b) in relation to a **planned outage** expected to occur more than six months after the date of the disclosure under this rule 12.1, the month or months in which the **planned outage** is expected to occur; and

12.1.7 if the **planned outage** has commenced at the time of the disclosure, confirmation of the plan for return to normal operations; and

12.1.8 in relation to a **planned outage** expected to occur no later than six months after the date of the disclosure under this rule 12.1, the estimated reduction in **daily total production** or **withdrawal capacity** per **gas day**

12.2 *Material change disclosure:* where a gas producer or **gas storage owner** becomes aware of any material change to information disclosed in respect

of a **planned outage** under rule 12.1, disclosure of the relevant change must be made:

- 12.2.1** as soon as reasonably practicable if the **planned outage** occurs or is to occur no later than six months after the disclosure under rule 12.1 (including if the **planned outage** has already commenced); and
 - 12.2.2** on the next quarterly disclosure date if the **planned outage** is to occur more than six months after the disclosure under rule 12.1.
- 12.3** *Cessation disclosure*: as soon as reasonably practicable after cessation of a **planned outage**:
- 12.3.1** the date and time of the disclosure; and
 - 12.3.2** the name of the disclosing party and the name of the owner or owners of the **gas production facility** or **gas storage facility**; and
 - 12.3.3** the name of the **gas production facility** or **gas storage facility** affected by the **planned outage**; and
 - 12.3.4** the name of the **planned outage**; and
 - 12.3.5** confirmation of resumption of normal operations or other disclosure as to the final status of the relevant facility following completion of work in response to the **planned outage**.

Part 4

Information platform

13. Form and manner of disclosure

Each gas producer and **gas storage owner** must make the information required to be disclosed in accordance with Part 3 of these **rules** available to the public:

- 13.1** on an electronic platform maintained by the **industry body**; or
- 13.2** where disclosure of information in accordance with these **rules** cannot be achieved using the electronic platform in paragraph (a), in an alternative form and manner specified by the **industry body**.

14. Liability of industry body

In respect of the electronic platform or alternative form and manner of disclosure in rule 13, the **industry body**:

- 14.1** makes no representation or warranty as to the accuracy, completeness, reliability or continued availability of any information disclosed by gas producers or **gas storage owners**;
 - 14.2** to the maximum extent permitted by law, disclaims all implied representations and warranties as to the accuracy, completeness, reliability or continued availability of any information disclosed by gas producers or **gas storage owners**; and
-

- 14.3 is expected to use reasonable endeavours to ensure the availability of the electronic platform or alternative form of disclosure, but shall have no liability for any loss or damage arising directly or indirectly out of or in connection with the use of, or any inability to use or access, the electronic platform or for its continued availability or freedom from defects.

Part 5

Monitoring

15. Gas producers to provide industry body with information

- 15.1 No later than 10 **business days** after the commencement of these **rules**, each gas producer must provide the **industry body** with forecast **daily total production** for each **gas production facility** from the commencement of these **rules** until the following 31 March.
- 15.2 No later than 10 **business days** after 1 April each year, each gas producer must provide the **industry body** with:
- 15.2.1 forecast **daily total production** for each **gas production facility** from 1 April until the following 31 March; and
 - 15.2.2 actual **daily total production** for each **gas production facility** for the year immediately preceding 1 April in the relevant year.

16. Gas storage owners to provide industry body with information

- 16.1 No later than 10 **business days** after the commencement of these **rules**, each **gas storage owner** must provide the **industry body** with forecast changes in **withdrawal capacity** of the **gas storage facility** from the commencement of these **rules** until the following 31 March.
- 16.2 No later than 10 **business days** after 1 April each year, each **gas storage owner** must provide the **industry body** with:
- 16.2.1 forecast changes in **withdrawal capacity** of each **gas storage facility** from 1 April until the following 31 March; and
 - 16.2.2 **daily total withdrawal** for each **gas storage facility** for the year immediately preceding 1 April in the relevant year; and
 - 16.2.3 **daily total withdrawal nominations** for each **gas storage facility** for the year immediately preceding 1 April in the relevant year.

17. Industry body use of information

The **industry body** must use the information disclosed to it in accordance with this Part 5 of the **rules** only for the purpose of monitoring or enforcing compliance of gas producers and **gas storage owners** with these **rules**.

Part 6

Certification

18. Obligation to certify that information disclosed is correct

18.1 No later than 10 **business days** after 1 April each year, each gas producer and **gas storage owner** must provide the **industry body** with a certificate confirming that, in the gas producer's or **gas storage owner's** reasonable opinion, the information disclosed under these **rules** for the preceding 12 months is correct.

18.2 The certificate provided in accordance with rule 18.1 must be in a form specified by the **industry body** and must be signed by a director of the relevant gas producer or **gas storage owner** or senior manager whose functions include ensuring that the gas producer or **gas storage owner** discloses the information required under these **rules**.