



**Draft**

Proposed Revised  
Guidelines for Essential  
Service Providers and  
Minimal Load Users 2012

**Date issued: 2 August 2012**  
**Submissions close: 31 August 2012**







## **About Gas Industry Co.**

Gas Industry Co is the 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.

Gas Industry Co's corporate strategy is to 'optimise the contribution of gas to New Zealand'.

**Submissions close:** 31 August 2012

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# Note on the proposed revision of Guidelines for Essential Service Providers and Minimal Load Users

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## Purpose of the Regulations

The Gas Governance (Critical Contingency Management) Regulations 2008 (the CCM Regulations) came into effect in 2010, replacing the previous voluntary industry arrangements. The purpose of the CCM Regulations is to achieve the effective management of critical gas outages and other security of supply contingencies without compromising long-term security of supply.

Under the CCM Regulations, the Critical Contingency Operator (CCO) is required to declare a critical contingency if gas pressures in the transmission system fall below designated thresholds. The reason gas pressure is so critical is that, at low gas pressures, there will not be enough gas flowing into distribution systems to allow commercial and domestic gas appliances to work properly. If that happens, the only remedy is to turn off all customer connections on a gas network, re-pressurise the network, and then restart each customer connection; a process that would require a visit to each customer connection by a gasfitter. Such a process of reconnecting customers would be very time-consuming and costly; for a large urban centre, distributors and other industry participants have advised us that it would entail several months before all customers could be reconnected.

Examples of situations that can cause a critical contingency include an outage of a gas production station or an incident on a transmission pipeline that requires part, or all, of the pipeline to be taken out of service. In such circumstances, the supply of gas will be lessened or completely stopped and the continued demand for gas will then lead to lower pressures in the affected pipelines. The CCM Regulations empower the CCO to direct consumers to reduce or cease taking gas, with the aim of slowing or halting the decline in gas pressures, and keeping the networks in operation as long as possible until the underlying cause of the contingency can be addressed.

Gas consumers are classified into curtailment bands defined by annual consumption volumes. These curtailment bands provide a convenient and efficient way for the CCO to direct groups of customers to curtail their demand, and they provide a means for the CCO to predict the quantum and rate of load reduction in response to a curtailment order. The curtailment bands ensure that customers with similar annual gas demands are treated consistently. Consumers also benefit from being able to use their classification to make business decisions around their own contingency arrangements.

There are two mechanisms within the CCM Regulations that can change the curtailment response required from a gas customer in specific situations:

**Essential Service Providers** (ESPs): The CCM Regulations recognise that some consumers provide essential services and should not be curtailed unless all other options for stabilising network pressure have been exhausted. The process for designation of Essential Service Providers is provided in reg 44.

The concept of some gas users being ESPs, and therefore having a higher priority access to gas during a critical contingency, was an element of the National Gas Outage Contingency Plan and has been incorporated into the CCM Regulations. It recognises (at least implicitly) that curtailing ESPs represents a potentially higher cost to society than the curtailment of other gas consumers.

**Minimal Load Consumers** (MLCs): The Regulations also recognise that, for some consumers, maintaining a relatively small gas flow to enable an orderly plant shut-down would prevent significant damage to capital plant and/or the environment. Where the potential damage is disproportionate to curtailment objectives, consumers may be designated as Minimal Load Consumers. The process for designation of Minimal Load Consumers is addressed in reg 45.

Approval of a consumer's designation for either of these categories is the responsibility of its retailer, except for large consumers (those using more than 15TJ per day), for which Gas Industry Co is responsible for approving designations.

## **Purpose of the Guidelines and this Revision**

The *Essential Service Providers and Minimal Load Users Guidelines* (Guidelines) were originally issued by Gas Industry Co in February 2009, with the aim of providing clarity and consistency in the designation process for ESPs and MLCs.

The purpose of this revision of the Guidelines is to reflect experience to date on the designation process, and particularly arising from the Maui Pipeline outage in October 2011. Gas Industry Co is undertaking a comprehensive review<sup>1</sup> of the CCM Regulations, and it may be that this review will lead to changes in how ESPs and MLCs are defined and designated. It can, however, be a lengthy process to make changes to regulations, and industry participants have indicated a desire for an interim measure. As such, Gas Industry Co considers it appropriate to provide greater clarity to industry participants through a revision of the current Guidelines, so that lessons from recent experiences are implemented in a timely fashion and as far as possible within the scope of the current CCM Regulations.

Proposed revisions to the Guidelines relate only to ESPs, not MLCs. The expected changes to the regulations may require a further revision of the Guidelines or may even negate the need for them.

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<sup>1</sup> Details about the review can be found at <http://gasindustry.co.nz/work-programme/discussion-papers-presentations-and-reports/review-gas-critical-contingency-managemen>

## Experience with the ESP designation process

The critical contingency due to the Maui outage lasted approximately six days. All curtailment bands were curtailed on the first day of the contingency, including ESPs. The following day, the CCO allowed the restoration of supply to ESPs, with the qualification that gas should be used sparingly. The other curtailment bands were then gradually restored throughout the week under the same condition. Gas supply was not fully restored to gas users until the sixth contingency day.

During the critical contingency, there were numerous applications from businesses seeking urgent ESP classification. According to the CCO's Incident Report<sup>2</sup>, 33 businesses were reclassified as ESPs during the critical contingency.

A number of concerns have been raised about the ESP designation process in light of experience during the Maui outage:

- It is important that the protection afforded by the CCM Regulations for ESPs is fully implemented, but it is also important that the criteria for ESP designation are not applied too loosely. The latter would lead to a broad group of ESP designations with a large combined gas demand. If this happens, then it would be difficult for the CCO to allow ESPs to take gas at times of shortages. For the Regulations to be effective, the ESPs need to have a relatively small combined demand, so that they can be allowed to take gas in a range of circumstances.
- Although Gas Industry Co was not privy to the details of the applications for ESP designations at the time of the Maui Pipeline outage, it is difficult to reconcile the types of businesses that received designations with the criteria for ESP designation under the CCM Regulations. In some instances, it appears that the decision underpinning reclassification may have relied either on the essential status of another organisation (e.g. suppliers to bakeries) or on an unduly broad interpretation of the 'economic activity' provisions in the CDEM Plan Order.
- Feedback from industry also suggests that other stakeholders consider that the ESP criteria are open to an inappropriately wide interpretation, and that there are inconsistencies among retailers in how the criteria are interpreted and applied.
- There also seemed to be confusion among gas users about the purpose and meaning of an ESP designation. It is not a guarantee of continuing supply of gas in all contingency events, nor is it a remedy for lack of planning or investment to manage risks associated with a gas or other

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<sup>2</sup> Available on the CCO website: <https://www.oatis.co.nz/>, click on the 'CCO Critical Contingency Operator' button, then on the 'Publications' option in the horizontal menu bar. The report is titled '111104 Critical Contingency Incident Report' and is found under the heading 'CCO Incident Reports'.



contingency. Rather, it is a means of prioritising gas supply to users who provide essential services and whose curtailment poses a greater cost to society than other gas users' curtailment.

The Guidelines have been revised with a view to making clearer, to retailers and their customers, the limited nature of ESP designations. Specifically, the changes proposed to the Guidelines include clarification:

- that it is the '*essential*' nature of the services provided by gas users that is the relevant consideration in determining an ESP designation. Additionally, it is the *service itself* that is the subject of any designation, rather than the possible consequences of curtailing a particular gas user. For example, the objective of 'protection of natural and physical resources' may be applicable to gas users who consume gas for the purpose of protecting natural and physical resources, such as for conservation or biosecurity work. On the other hand, gas users whose output does not otherwise qualify for ESP designation, but whose curtailment could impose serious environmental damage, may be eligible for a MLC designation, which would allow the orderly shutdown of vulnerable plant and processes.
- that the CDEM Plan Order objective of 'preservation of economic activity' needs to be interpreted in light of services that are necessary to further the emergency response objectives. It should not be construed as seeking to preserve the range of normal economic activity. For example, it could apply to preserving activities such as those of the New Zealand Stock Exchange, trading banks, or the Reserve Bank.
- of the types of food producers that would qualify for an ESP designation. In short, producers of such short shelf-life staples as fresh bread and fresh milk for domestic consumption possibly qualify. However, such producers should in any case be resilient to gas or other outages. Producers of products that are shelf-stable would not qualify for an ESP designation.
- that an ESP designation relates to the gas necessary to provide the essential services themselves. That is, where a consumer provides both essential and non-essential services, it is only the gas supply required to provide those services that is protected under the designation. Equally, gas users who supply inputs to ESPs are not necessarily eligible for ESP designation.

Proposed changes to the attached Guideline document are marked with tracked changes from the February 2009 version. Guidelines relating to MLC designations have not been revised.

# Proposed Revised Guidelines for Essential Service Providers and Minimal Load Users 2012

Submission prepared by: (company name and contact)

QUESTION	COMMENT
1 Do you agree with the proposed revisions to the Essential Services and Minimal Load Guidelines? If there are aspects that you disagree with, please explain what they are and why.	
2 Are there other revisions that you would suggest for the Guidelines? Please outline what they are and why you think they are important.	

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# Proposed Guidelines

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# 1

## Introduction

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### 1.1 Context

The Gas Governance (Critical Contingency Management) Regulations 2008 (the CCM Regulations) came into effect in 2010, replacing the previous industry arrangement. The purpose of the CCM Regulations is to achieve the effective management of critical gas outages and other security of supply contingencies without compromising long-term security of supply.

The CCM Regulations require that all gas consumers are classified for the purpose of curtailing groups of similar consumers. This classification is based on annual consumption volumes. The curtailment bands provide a convenient and efficient way for the CCO to direct groups of customers to curtail their demand, and they provide a means for the CCO to predict the quantum and rate of load reduction in response to a curtailment order. The curtailment bands ensure that customers with similar annual gas demands are treated consistently. Consumers also benefit from being able to use their classification to make business decisions around their own contingency arrangements.

The CCM Regulations recognise that some consumers provide essential services and should not be curtailed unless all other options have been exhausted. The designation of essential service providers is addressed in reg 44.

The CCM Regulations also recognise that, for some consumers, maintaining a relatively small gas flow to enable an orderly plant shut-down would prevent significant damage to capital plant and/or the environment. Where the potential damage is disproportionate to curtailment objectives, these consumers may be designated as minimal load consumers. The designation of minimal load consumers is addressed in reg 45.

Approval of a consumer's designation is the responsibility of its retailer except for large consumers (those using more than 15TJ per day). In this case, Gas Industry Co is responsible for approving the designation.

### 1.2 Purpose of the Guidelines

These Guidelines provide principles and procedures for the relevant retailers and Gas Industry Co to ensure:

- designations support the objectives of the CCM Regulations;
- there is consistency in making designations; and
- consumers have clarity regarding processing of applications.

### **1.3 Scope of guidelines**

The Guidelines apply to the designation of consumers as Essential Service Providers (ESPs) and Minimal Load Consumers (MLCs).

The Guidelines do not cover the allocation of consumers to specific curtailment bands except band five (essential service providers).

### **1.4 Status of guidelines**

These Guidelines are not required under the Regulations. Gas Industry Co intends to use the Guidelines as a means of ensuring a consistent approach to designations in respect of large consumers and in considering designation disputes from consumers generally.

Although the Guidelines do not have any particular status under the CCM Regulations, it is hoped that retailers will perceive value in the Guidelines when processing applications from their customers. In this way, classifications could be expected to be reasonably consistent across retailers and Gas Industry Co.

Please note these Guidelines are not legally binding and need to be read in conjunction with the Regulations. The general approach set out in these Guidelines in no way reduces the requirement upon participants to know and comply with their obligations under the Regulations.

# 2 Glossary

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<b>CCO</b>	Critical Contingency Operator as defined in r5 of the Regulations
<b>CDEM</b>	Civil Defence Emergency Management
<b>CCM Regulations</b>	Gas Governance (Critical Contingency Management) Regulations 2008
<b>ESP</b>	Essential Service Provider
<b>MLC</b>	Minimum Load Consumer
<b>RPO</b>	Reasonable and Prudent Operator - a standard for performance of obligations equal to or better than good industry operating practice relative to recognised international practice

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# 3

## Guidelines

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### 3.1 Essential service provider

Regulation 44(3) states that 'A retailer must approve a consumer's application to be an essential service provider if both of the following criteria are met:

- (a) *the consumer provides services that are necessary to further the emergency response objectives set out in clause 59(4) of the Schedule of the National Civil Defence Emergency Management Plan Order 2005; and*
- (b) *the consumer can demonstrate that its annual gas consumption-*
  - (i) *was greater than 2 terajoules in any 12-month period within the 2 years before the consumer's application; or*
  - (ii) *will be greater than 2 terajoules in the 12-month period after the consumer's application.'*

The emergency response objectives in the Schedule of the CDEM Plan Order include:

- (a) *preservation of life; and*
- (b) *prevention of escalation of the emergency; and*
- (c) *maintenance of law and order; and*
- (d) *care of sick, injured, and dependent people (first aid, medical, and evacuation facilities, and welfare); and*
- (e) *provision of essential services (lifeline utilities, food, shelter, public information, and media); and*
- (f) *preservation of governance (continuity of the machinery of government); and*
- (g) *asset protection, including buildings and historic heritage assets (including structures, areas, landscapes, archaeological sites, and wahi tapu); and*
- (h) *protection of natural and physical resources (to the extent reasonably possible in the circumstances); and*
- (i) *preservation of economic activity.*

The Regulations and the Schedule of the CDEM Plan Order provide that the activities and products that are eligible for designation as ESPs are only those '*necessary to further the emergency response objectives*'. The decision to grant an ESP designation should accordingly be based on what are truly 'essential services' for managing during a gas critical contingency, rather than what might be convenient or which may fall within a broader category (e.g. 'food') that may contain non-essential elements.

## Considerations

The following considerations have gone into the development of these Guidelines:

1. *Essential Service Provider designations should be assessed in the context of a gas critical contingency lasting only a matter of days.*

Critical contingencies are most likely to develop as a result of a physical issue with either a production station or a gas pipeline. The majority of contingency events have lasted less than 24 hours, and the longest six days (the 2004 Pohangina River Bridge failure, which affected supply to Hawkes Bay, lasted five days; the 2011 failure of the Maui Pipeline lasted six days). By way of contrast, contingencies in other countries often arise due to longer-term reductions in gas supply due to commercial or political issues.

If the essential service provider designations were assessed in the context of a wide-ranging emergency of an extended duration, it would lead to excessive designations in this band, which would reduce the effectiveness of curtailments to manage a gas-only contingency.

However, instructions issued pursuant to the Civil Defence Emergency Management Act 2002 (CDEM Act) take precedence over curtailment instructions issued by the CCO (refer to r14 of the Regulations). Therefore, in the event of a protracted gas outage, it is open to Ministry of Civil Defence Emergency Management to declare a civil defence emergency and to use the powers under the CDEM Act to adjust gas allocations in light of the prevailing circumstances. This means that longer or broader contingency events can be addressed through this mechanism, rather than through more extensive interpretation or application of ESP and MLC determinations.

2. *Essential Service Provider designations should normally apply only for gas needed in the production of the essential services for which there are no alternative fuel sources.*

Consumers with alternative fuel sources should still be able to function if their gas supply were curtailed, so providers of essential services without such alternative fuel sources should get priority access to gas during a critical contingency.

3. *Only the gas supply required to provide the essential services is protected under the designation; any non-essential production should adhere to the curtailment instructions followed by other non-essential gas consumers.*

For example, a baker with an ESP designation<sup>3</sup> who normally produces a range of baked goods should, during a contingency when it would otherwise be curtailed, only be able to use gas to bake fresh bread as part of the emergency response. Similarly, an ESP-designated consumer falling under the 'vulnerable communities' category<sup>4</sup> would be able to use gas for space heating of living quarters, hot water and food preparation for such communities, but not for non-essential consumption such as heating swimming pools or recreational facilities.

4. *ESP designations should only be granted to parties who are themselves providing essential services.*

In other words, supplying goods or services to an essential service provider is not normally a sufficient reason for granting an ESP designation. A party with an ESP designation should make appropriate arrangements for its other dependencies that may be affected by a critical contingency. For example, that may mean that such a gas customer needs either to maintain sufficient stocks of inputs to ride out a critical contingency, require its suppliers to maintain inventories, choose suppliers that are already resilient to a gas outage, or be willing to use import substitution where necessary.

5. *ESP designations should not normally be sought or granted to manage potential environmental damage resulting from gas curtailments.*

Gas users who potentially face creating environmental damage from a lack of access to gas (such as risks of having to discharge milk to the environment as a result of interruption to dairy processing facilities) should ensure that they have appropriate contingency plans in place. For example, a number of regional councils<sup>5</sup> have published guidance on the appropriate methods for disposing of surplus milk. Gas users for whom an orderly plant shutdown would minimise the chances of environmental damage should consider applying for a MLC designation.

Above all, it should be remembered that obtaining an ESP designation is no guarantee of uninterrupted gas supply. It is incumbent on all gas consumers to have contingency plans in case gas is not available to them on a temporary basis.

### **Assessment criteria for essential service provider designations – r44(3)**

In assessing whether a consumer can demonstrate its annual gas consumption is or will be greater than 2TJ per annum, the decision maker should consider the following criteria:

**Table 1: Volume assessment for ESP designations**

Standard	Criteria
<i>Consumption &gt; 2TJ p/a</i>	<ul style="list-style-type: none"> <li>Actual records showing consumption at that ICP for the previous 12 month period exceeded 2TJ.</li> <li>Actual records showing consumption at that ICP for a period of 12 months exceeded 2TJ, provided that 12-month period</li> </ul>

<sup>3</sup> Under (e) of clause 59(4) of the NCDEM Plan Order 2005: provision of essential services

<sup>4</sup> Under (d) of clause 59(4) of the NCDEM Plan Order 2005: care of sick, injured, and dependent people

<sup>5</sup> For an example, please see <http://www.trc.govt.nz/assets/taranaki/environment/land/pdfs/milk+disposal.pdf>



	occurred in the previous 2 years.
<i>Consumption likely to be &gt; 2TJ p/a</i>	<ul style="list-style-type: none"> <li>• Actual records showing consumption at that ICP for a minimum of three previous months which, when extrapolated to 12 months, would exceed 2TJ p/a.</li> <li>• Where a minimum of three previous months consumption records cannot be provided, the decision maker must be satisfied on the balance of probabilities that the applicant consumer will consume more than 2TJ in the 12 months immediately following the decision.</li> </ul>

In assessing whether a gas consumer provides essential services, the decision maker should consider the emergency response objectives in the CDEM Plan Order in the context of a gas critical contingency. As noted above, these Guidelines have been developed on the basis that a critical contingency is likely to last a matter of days. The table below assesses each of the emergency response objectives in the Schedule of the CDEM Plan Order in the context of a gas critical contingency, and, where applicable, provides examples of types of consumers that would or would not qualify as essential service providers:

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**Table 2: Service assessment for ESP designations**

CDEM Plan Order 2005 – Objectives in clause 59(4) of Schedule		Assessment	Types of consumer that qualify	Types of consumer that do not qualify
(a)	<i>Preservation of life</i>	Unlike electricity, supply of gas is not typically associated with medical dependency. However, there may be examples where other gas users can demonstrate that supply is material in preservation of life during contingency events.	Hospitals, doctors' surgeries, hospices, nursing homes, rest homes, sheltered accommodation, maternity hospitals and medical laboratories Any emergency services dependent on gas supply	Manufacturers of medical products, unless not shelf stable
(b)	<i>Prevention of escalation of the emergency</i>	This objective would be relevant in situations where gas needed to be directed to uses that support the gas system itself. One possible example of this could be gas used for compressor fuel (though this is unlikely to require a significant volume of gas)		
(c)	<i>Maintenance of law and order</i>	This objective could relate to facilities such as those operated by police, armed forces, civil defence, and other key government agencies.	Police, armed forces, civil defence, and other key government agencies	
(d)	<i>Care of sick, injured, and dependent people (first aid, medical, and evacuation facilities, and welfare)</i>	This principle can be applied to vulnerable communities such as hospitals, respite care, aged care facilities, and prisons.	Hospitals, doctors' surgeries, hospices, nursing homes, rest homes, sheltered accommodation, maternity hospitals and medical laboratories Any emergency services dependent on gas supply Prisons	Manufacturers of medical products, unless not shelf stable.  Facilities listed that are engaged in elective and/or cosmetic procedures that can be deferred.
(e)	<i>Provision of essential services (lifeline utilities, food, shelter, public information, and media)</i>	Of the five categories listed parenthetically, only two appear to be particularly relevant in the case of a gas shortage. <u>Lifeline utilities</u> would include water and wastewater treatment facilities	CDEM facilities, water supply and treatment, waste water treatment  Milk processors for supplying fresh milk for domestic consumption;	Restaurants, cafes, fast food outlets, supermarkets, food processors other than those listed left, suppliers to food processors with ESP designations

		<p>that use gas, as well as any CDEM facilities dependent on gas.</p> <p><b>Food:</b> Some types of food production are dependent on gas, but, given the relatively short-term nature of most gas outages, it is unlikely that a gas outage would lead to widespread food shortages.</p> <p>Where relevant, this objective should normally be applied to the production of short shelf-life goods such as bread and fresh milk for domestic consumption.</p>	Bakeries for supplying fresh bread for domestic consumption	
(f)	<i>Preservation of governance (continuity of the machinery of government)</i>	Unlikely to be a relevant objective.		
(g)	<i>Asset protection, including buildings and historic heritage assets (including structures, areas, landscapes, archaeological sites, and wahi tapu)</i>	May only be relevant in situations where gas is part of the climate-control arrangements for preservation of historic assets – unlikely to be a significant volume of gas required.		
(h)	<i>Protection of natural and physical resources (to the extent reasonably possible in the circumstances)</i>	May be relevant in cases where gas is used for activities such as conservation or biosecurity efforts.	Facilities operated by Department of Conservation or the Ministry for Primary Industries	
(i)	<i>Preservation of economic activity</i>	In the context of 'essential services', this objective should not be construed as seeking to preserve the range of 'normal' economic activity. It could apply to preserving activities such as those of the New Zealand Stock Exchange, trading banks or the Reserve Bank.	New Zealand Stock Exchange Reserve Bank Trading banks	

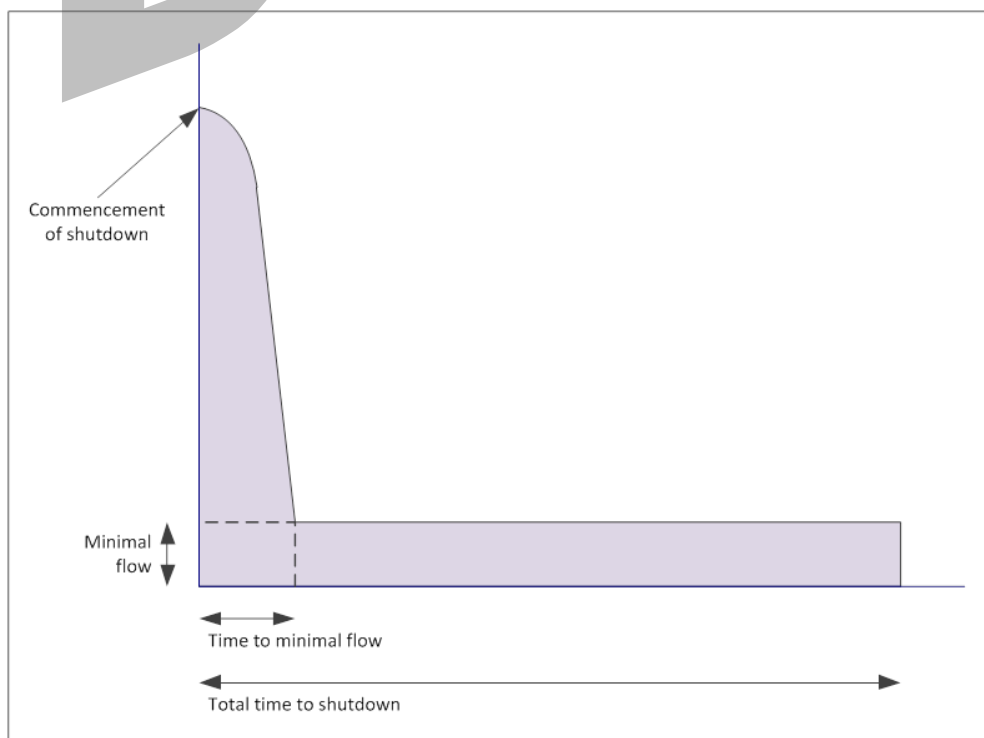
## 3.2 Minimal load use consumer

Regulation 45(5) states that 'A retailer must approve a consumer's application to be a minimal load consumer if all of the following criteria are met:

- (a) the consumer would have no alternative arrangements that are economically feasible if gas supply was curtailed; and
- (b) the consumer is operating a major item of capital plant and that plant would sustain serious damage or significant environmental damage would likely be caused if gas supply was curtailed; and
- (c) the consumer can demonstrate that its annual gas consumption—
  - (i) was greater than 10 terajoules in any 12-month period within the 2 years before the consumer's application; or
  - (ii) will be greater than 10 terajoules in the 12-month period after the consumer's application.'

### Principles

The minimal load use designation is not a curtailment band *per se* but is a conditional status that can apply to consumers in bands 1a to 3 inclusive. If any of these bands are curtailed, all consumers in the relevant band are required to reduce consumption as quickly as possible. However, a Minimal Load Consumer may maintain a pre-agreed minimum flow for a pre-agreed time period to achieve an orderly shut-down. An illustration of how a Minimal Load Consumer would be expected to respond to a curtailment instruction is shown below:



If band 4 is curtailed, Minimal Load Consumers are required to shut down fully (their entitlement to the 'Minimal Flow' in the above diagram ceases).

The term 'Minimal Load Consumer' reiterates that, to be eligible to receive that designation, the consumer must be able to specify a low level minimal load, ie a consumer claiming a minimal load that is only a small reduction in its typical gas load will not be considered eligible. Accordingly, in agreeing on the load reduction profile, the Guidelines indicate an expected minimal load of approximately 5-15% of a consumer's typical gas load.

The Minimal Load Consumer should, regardless of its designation agreement, respond to a curtailment instruction as quickly as reasonably possible acting as an RPO. Response speed is an important criterion in the load reduction profile to be agreed and the onus is on the applicant consumer to provide sufficient information on how the time taken to reach minimal load is the quickest time possible.

The consumer's load reduction profile shall be sufficiently accurate to enable the CCO to predict the overall effectiveness of curtailment.

### **Assessment criteria for minimal load consumer designations – r45(5)**

In assessing whether an applicant consumer can demonstrate its annual gas consumption is or will be greater than 10TJ per annum, the decision maker should consider the following criteria:

**Table 3: Volume assessment for MLC designations**

<b>Standard</b>	<b>Criteria</b>
<i>Consumption &gt; 10TJ p/a</i>	Actual records showing consumption at that ICP for the previous 12 months exceeded 10TJ. Actual records showing consumption at that ICP for a period of 12 months exceeded 10TJ, provided that 12 months occurred in the previous two years.
<i>Consumption likely to be &gt; 10TJ p/a</i>	Actual records showing consumption at that ICP for a minimum of three previous months, which when extrapolated to 12 months would exceed 10TJ p/a. Where a minimum of three previous months consumption cannot be provided, the decision maker must be satisfied on the balance of probabilities that the applicant consumer will consume more than 10TJ in the immediately following 12 months.

In assessing the alternative arrangements for the applicant consumer, and the likelihood and degree of plant or environmental damage, the decision maker should consider the following criteria:

**Table 4: Other criteria for MLC designations**

Standard	Criteria
<i>No alternative arrangements that are economically feasible</i>	Consumer to demonstrate that it is not economically feasible for it to implement or maintain alternative energy or fuel arrangements to deal with curtailment of gas supply. Relevant factors include cost of alternative arrangements, financial resources of the consumer, business implications in respect of alternative arrangements and any other relevant circumstances.
<i>Avoid serious damage to capital plant</i>	Consumer to demonstrate that damage would be greater than \$100k and cannot be economically mitigated by the owner acting as an RPO.
<i>Avoid environmental damage</i>	Consumer to demonstrate that significant environmental damage would occur and cannot be economically mitigated by the owner acting as an RPO.

### Minimum standards for load reduction profile – r45(6)

Where an applicant consumer has been approved as a Minimal Load Consumer, in agreeing on the characteristics of the load reduction profile, the following standards should be followed:

**Table 5: Standards for load reduction profile**

Standard	Criteria
<i>Initial curtailment of the majority of load</i>	Minimal load level of approximately 5-15% of typical gas demand (or less) when operating at full load/capacity, unless exceptional circumstances apply.
<i>Minimise total time to shut down</i>	Consumer to demonstrate total time to reach the minimal flow, and to reach zero flow, meets an RPO standard.  Consistent with the overall objective in the Regulations, there needs to be consideration of the quantity of gas required to achieve an orderly shut-down compared with the volume of gas which the CCO needs to have available in order to manage the critical contingency. It is clearly contrary to the intent of the Regulations to designate, as Minimal Load Consumers, parties who would deplete line pack to such an extent that prudent management of a critical contingency was rendered unlikely.

# 4 Procedure

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## 4.1 Application process

Each retailer shall notify their consumers that, if they wish to be classified as either Essential Service Providers or Minimal Load Consumers, they must apply to the retailer in writing. In the case of large consumers with no retailer, Gas Industry Co shall provide this notification.

Notification shall be made as soon as practicable after the commencement date (4 December 2008).

Consumers may apply for these designations at any time. If an application is declined and the consumer wishes to dispute the decision then the consumer may refer the matter to Gas Industry Co for review (discussed later in section 4.3).

The Regulations are silent on the issue of whether a retailer must entertain subsequent applications after an application has been declined. However, re-applications should be considered where the consumer can demonstrate a material change in its circumstances that is relevant to the designation criteria.

An application shall be made in writing and include all the information laid out in the Designation Request form, as shown in Appendix A and summarised below:

### Essential service providers

- evidence to demonstrate that their annual consumption has exceeded 2 TJ for any 12 month period in the past 24 months or evidence to show that their consumption is expected to exceed 2 TJ for the 12 month period following the application. Predicted energy consumption may be based on historic growth or company business planning information;
- evidence to show that their business activity is consistent with the principles set out in these Guidelines for an Essential Service Provider; and
- a signed declaration by an authorised signatory that the information provided in the application is true and correct, and that changes to the business operations that would materially affect their designation will be promptly notified to the retailer or industry body, as applicable.

## Minimal load consumers

- evidence to demonstrate that their annual consumption has exceeded 10 TJ for any 12 month period in the past 24 months or evidence to show that their consumption is expected to exceed 10 TJ for the 12 month period following the application. Predicted energy consumption may be based on historic growth or company business planning information;
- the minimum gas flow required during the shutdown phase;
- the full-load gas flow;
- the time taken to reduce from full-load to minimum-load gas flow and associated supporting information;
- the time taken to reduce from full-load to zero gas flow and associated supporting information;
- evidence to show that they would have no alternative arrangements that are economically feasible if gas supply was curtailed;
- evidence to show that maintenance of a minimum gas flow is required to avoid serious damage, either to capital equipment or the environment;
- evidence that this damage cannot be economically mitigated through use of alternative fuel sources or otherwise mitigated by the owner acting as an RPO; and
- a signed declaration by an authorised signatory that the information provided in the application is true and correct, and that changes to the business operations that would materially affect their designation will be promptly notified to the retailer or industry body, as applicable.

## 4.2 Determinations

The retailer shall provide its determination to the consumer, either approving or declining the application, within 10 business days. The retailer shall also give notice of the determination to the associated gas distributor (where applicable).

If the retailer declines the application, the notice should include adequate supporting reasons.

If the retailer approves a minimal load application, the retailer and consumer shall, within 10 business days of notifying the determination, agree in writing the minimum gas flow, the time allowed to reduce from full load to minimum gas flow, and the time to shut down completely from the minimum gas flow level. This agreement may be made by the retailer countersigning the application.

If the retailer reasonably considers that a consumer no longer meets the designation criteria, the retailer shall notify that consumer in writing, and advise it of the retailer's reasons for considering the designation to no longer be valid. The retailer shall advise the consumer to reapply for the designation



if the consumer believes that the designation is valid, otherwise the designation will lapse 20 business days after the notice is received by the consumer.

In accordance with reg 39(1)(b) the retailer will provide a notice to the CCO setting out the number of consumers who are designated as minimal load consumers who are supplied through each gas gate and who are in each curtailment band.

### **4.3 Referral of the designation determination to the industry body**

If a consumer disputes a retailer's determination the consumer may, by notice, refer the application to Gas Industry Co for review. A form for this purpose is provided in Appendix B. The referral process cannot be repeated.

The consumer's notice shall include the original application, the retailer's determination and relevant supporting information.

Gas Industry Co must, within 10 business days of receipt of the notice, review the decision by the retailer and either:

- confirm the retailer's ruling;
- refer the application back to the retailer for reconsideration; or
- may approve or decline the application itself (in accordance with reg 44 or reg 45).

In the case of a large consumer with no retailer, Gas Industry Co shall fulfil the role of the retailer.

# Appendix A Designation Requests

## Designation Request for Essential Service Provider – regulation 44

[Date of Application]

[Consumer Name and Contact Details]

[ICP Number]

[ICP Address]

[Distributor]

*Summary of designation request and justification. Please include the amount of daily gas consumption associated with the provision of the services that are the subject of this application.*

### Information attached

Evidence to demonstrate >2 TJ/annum consumption.

Supporting evidence to show the business activity at this location provides services that are necessary to further the emergency response objectives during a critical contingency.

Tick

### Declaration

I, \_\_\_\_\_, as authorised signatory of \_\_\_\_\_, confirm that the information provided in this designation request is an accurate and a true representation of the business activities at this address for the purpose of applying for Essential Service Provider designation under Regulation 44 of the Gas Governance (Critical Contingency Management) Regulations 2008. Furthermore, changes to the business operation at this address that would materially affect this designation will be promptly notified to the retailer.

Signed \_\_\_\_\_ Date \_\_\_\_\_

## Designation Request for Minimal Load Consumer – regulation 45

[Date of Application]

## Designation Request for Minimal Load Consumer – regulation 45

[Date of Application]

[Consumer Name and Contact Details]

[ICP Number]

[ICP Address]

[Distributor]

*Summary of designation request and justification*

### Information attached

- Tick
- Evidence to demonstrate >10 TJ/annum consumption.
- The full load gas flow.
- The minimum gas flow required during the shutdown phase and time taken to reach this minimum gas flow.
- The time taken to reduce from full load to zero gas flow.
- Evidence to show that the consumer would have no alternative arrangements that are economically feasible if gas supply was curtailed.
- Evidence to show that maintenance of a minimum gas flow is required to avoid serious damage, either to capital equipment or the environment.
- Evidence that this damage cannot be economically mitigated through use of alternative fuel sources or otherwise mitigated by the owner acting as an RPO.

### Declaration

I, \_\_\_\_\_, as authorised signatory of \_\_\_\_\_, certify that the information provided in this designation request is an accurate and true representation of the business activities at this address for the purpose of applying for Minimal Load Consumer designation under Regulation 45 of the Gas Governance (Critical Contingency Management) Regulations 2008. I confirm that any changes to the

business operation at this address that would materially affect this designation will be promptly notified to the retailer.

Signed \_\_\_\_\_ Date \_\_\_\_\_

**Retailer agreement of minimum flow and time to shut-down**

Signed \_\_\_\_\_ Date \_\_\_\_\_

For \_\_\_\_\_

Draft

# Appendix B Referral Notice

## Referral Notice of Designation Decision

[Date of Referral]

[Consumer Name and Contact Details]

[ICP Number]

[ICP Address]

[Retailer]

[Distributor]

I, \_\_\_\_\_, give notice that [Consumer company name] disputes the designation determination [reference] pursuant to reg 46 of the Gas Governance (Critical Contingency Management) Regulations 2008.

*Summary of reasons for disputing designation determination*

### Information attached

Copy of designation request.

Tick

Retailer's determination.

Further supporting evidence.

Signed \_\_\_\_\_ Date \_\_\_\_\_

For \_\_\_\_\_