

INTERNAL USE ONLY- DOCUMENT HAS CHANGES AND COMMENTS

[This document is a mark-up of all proposed amendments to the Gas Governance \(Critical Contingency Management\) Regulations 2008.](#)

[This document has not been subject to a full legal review. Participants should also note that the Parliamentary Counsel Office determines the final wording of any draft regulations recommended to Cabinet.](#)



## **Gas Governance (Critical Contingency Management) Regulations 2008**

Anand Satyanand, Governor-General

### **Order in Council**

At Wellington this 4th day of November 2008

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~~2008/426~~

Present:

His Excellency the Governor-General in Council

Pursuant to sections 43F, 43G, and 43S of the Gas Act 1992, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and on the recommendation of the Minister of Energy made in accordance with sections 43J to 43O of that Act, makes the following regulations.

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**1—Title**

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## Regulations

### 1 **Title**

These regulations are the Gas Governance (Critical Contingency Management) Regulations 2008.

### **2 Commencement**

- (1) Parts 3 and 4 come into force on the 5th business day after the day on which the industry body publishes a statement in the Gazette in accordance with regulation 32(1).
- (2) The rest of these regulations come into force on the 28th day after the date of their notification in the Gazette.

### **3 Purpose**

The purpose of these regulations is to achieve the effective management of critical gas outages and other security of supply contingencies without compromising long-term security of supply.

### **4 Outline**

These regulations provide for—

- (a) the appointment of a critical contingency operator and funding arrangements in relation to the regulations; and
- (b) the development of critical contingency management plans; and
- (c) processes for managing a critical contingency; and
- (d) processes for determining gas imbalances resulting from a critical contingency and setting a price to apply to those gas imbalances.

## Part 1

### General provisions

### **5 Interpretation**

In these regulations, unless the context otherwise requires,—

**Act** means the Gas Act 1992

**affected party**, in relation to any part of the transmission system affected by a critical contingency, means,—

**Comment [JH1]:** Please note that the phrase 'as soon as reasonably practicable' appears many times throughout the regulations. The Industry Body has concerns that this term is ill-defined. PCO will be asked to tighten these words to create a sense of immediacy and certainty. This may be by defining the phrase or coming up with a more appropriate term

- (a) if the part of the transmission system is governed by MPOC, an interconnected party that has a contingency imbalance; and
- (b) for all other parts of the transmission system, an interconnected party or shipper that has a contingency imbalance

allocation agent means the allocation agent appointed under the Gas (Downstream Reconciliation) Rules 2008

**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, 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 that the industry body has determined not to be a business day as published by the industry body

**civil defence emergency** means an emergency that results in a declaration of a state of national emergency or a declaration of a state of local emergency under the Civil Defence Emergency Management Act 2002 or any equivalent declaration under any subsequent replacement legislation

**commencement date** means the date referred to in regulation 2(2)

**Commission** means the Energy Commission to be established under section 43ZZH of the Act

**communications plan** means the plan published by the critical contingency operator under regulation 35

critical processing means either:

(a) an industrial or commercial process that fits all of the criteria in subclauses (i),(ii) and (iii):

(i) is underway; and

(ii) can be completed in less than 18 hours; and

(iii) for which immediate cessation of the process would require—

(A) disposal of dangerous or toxic chemicals from the plant;

(B) disposal of substances from the plant that would cause irreparable environmental damage; or

(C) extensive operations before the plant could

±

resume operation following termination of a critical contingency;

or

- (b) where gas is needed for a defined period in order to
- (i) avoid serious damage to plant, or
  - (ii) mitigate serious environmental damage, or
  - (iii) prevent inhumane or cruel treatment to animals already at an abattoir.

**consumer—**

- (a) means any person who is supplied, ~~or applies to be supplied,~~ with gas (other than a domestic consumer); but
- (b) does not include a transmission system owner ~~or any~~ gas distributor or retailer, except to the extent that ~~the transmission~~ the transmission system owner, gas distributor, or retailer is supplied, ~~or applies to be supplied,~~ with gas for its own consumption and not for the purposes of resupply to any other person

**consumer installation** means 1 or more gas installations that have a single point of connection to a distribution system or the transmission system and for which there is, or previously has been, a single consumer

**contingency imbalance** means either a negative contingency imbalance or a positive contingency imbalance as defined in regulation 74(2)

**critical care provider** means that part of a consumer installation that has been approved as a critical care provider under regulation 44A or 46 and that is recorded in curtailment band 7 in the gas registry

**critical contingency** means a critical contingency as determined by the critical contingency operator in accordance with regulation 48

**critical contingency management plan** means a plan approved by the industry body under regulation 30 or 31

**critical contingency operator** means the person appointed in accordance with regulation 6(1)

**critical contingency operator service provider agreement** means the agreement between the industry body and a person in respect of that person's appointment as the critical

contingency operator

**critical contingency price** means a price determined by the industry expert under regulations 71 and 72

**curtailment arrangements** means the curtailment arrangements set out in Schedule 2

**curtailment band** means a curtailment band as specified in the curtailment arrangements

**default curtailment band** means [the curtailment band that a consumer installation is in according to its daily or annual consumption volume.](#)

**deferred curtailment** means [only the parts of a consumer installation that are granted designations under regulations 44 through 45A](#)

**director of civil defence emergency management** means the director appointed under the Civil Defence Emergency Management Act 2002 or any person appointed to an equivalent or replacement role under any subsequent replacement legislation

**domestic consumer** means [a residential gas installation that is supplied with gas](#)

**electricity system operator** means the service provider for the time being who is appointed as system operator pursuant to the Electricity Governance Regulations 2003, or any person appointed to an equivalent or replacement role under any subsequent replacement ~~legislation~~**essential**[legislation](#)

**electricity system security provider** means [that part of a consumer installation that is approved as an electricity system security provider under regulation 45A or 46](#)

**essential service provider** means [that part of a consumer installation that ~~has been~~is approved as an essential service provider under regulation 44 or 46 and that is recorded in curtailment band 5 in the gas registry](#)

**expert adviser** means a person appointed by the industry body under regulation 27 to be the expert adviser in relation to a proposed critical contingency management plan or a proposed amendment to a critical contingency management plan

**financial year** means the financial year of the industry body, as published by the industry body from time to time

**gas gate** means the point of connection between—

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- (a) the transmission system and a distribution system; or
- (b) the transmission system and a consumer installation; or
- (c) 2 distribution systems

**gas producer** has the same meaning as in section 43D(1) of the Act, ~~but in respect of Maui gas means the Crown~~

**go-live date** means ~~the day referred to in regulation 2(1)~~ 21 January 2010

**industry body** means—

- (a) the industry body approved by Order in Council under section 43ZL of the Act; or
- (b) in the event that the approval of the industry body is revoked under section 43ZM of the Act and no other industry body is approved, the Commission

**industry expert** means a person appointed by the industry body in accordance with regulation 69

**information guide** means the guide published by the critical contingency operator under regulation 36

**interconnected party** means any person who has an interconnection agreement with a transmission system owner to take gas from, or inject gas into, an interconnection point on the transmission system

**interconnection point** means the point of connection between—

- (a) the transmission system and a distribution system; or
- (b) the transmission system and a consumer installation; or
- (c) the transmission system and a gas producing, ~~process-~~ processing, or storage facility; or
- (d) 2 parts of the transmission system, as those points are identified in the map published by the industry body in accordance with regulation 10

**large consumer** means a consumer that is supplied gas at a consumer installation that is connected directly to the transmission system and has the potential to consume gas at rates that in aggregate exceed 15 terajoules a day

**Maui Pipeline Operating Code** or **MPOC** means the code, issued by the owners of that part of the transmission system identified as the Maui pipeline on the map published in accordance with regulation 10, covering operation of the Maui pipeline, as amended or replaced from time to time

**minimal load consumer** means a ~~person~~ consumer

installation approved by ~~a re-tailer~~ the industry body to be a minimal load consumer in accordance with ~~regulation~~ regulation 45 or 46 and recorded on the gas registry as such

~~National Gas Outage Contingency Plan or NGOCP means the document entitled Gas Contingency Plan: A Plan for the New Zealand Natural Gas Industry to Manage the Interruption to Gas Supplies, version 2.3, issued by the National Gas Outage Planning Group and dated 1 December 2005~~

**OATIS** means the online interactive open access transmission information system, or any other replacement information ~~sys-tem~~ system (or systems if more than one), that is used to facilitate information exchange in respect of the open access regime under MPOC and VTC

**obligations**, in relation to a person, includes the duties, rights, powers, functions, and responsibilities of the person

**participant**—

(a) means an industry participant, as defined in section 43D of the Act; and

(b) includes any of the following, as those terms are defined in the rules:

(i) a registry participant and the registry operator; or

(ii) a facility owner; or

(iii) an allocation participant and the allocation agent;  
and

(c) a transmission system owner, retailer, shipper, interconnected party, consumer, industry expert, expert adviser, and the critical contingency operator, as defined in these regulations.

**publish** means,—

(a) ~~after the commencement date and before the go live date, in respect of information to be published by the industry body, to make such information available on the industry body's Internet site; and (b) — on — and after the go live date, in respect of information to be published by the industry body or the critical con-~~ tingency contingency operator, to make such information available on the critical contingency Internet site established in accordance with regulation 9; and

(e**b**) for all other information, to make available to the ~~in-~~  
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~~tended~~intended recipient in such manner as may be determined by the industry body from time to time

regional critical contingency means any critical contingency that has been determined to be a regional critical contingency by the critical contingency operator in accordance with regulation 49A or 53(1)(h).

responsible distributor for any consumer installation means the responsible distributor as defined in the Gas (Switching Arrangements) Rules 2008

**retailer**—

- (a) means any person who supplies gas to another person or other persons through the transmission system, or through a distribution system where that gas has been transported through the transmission system, for any purpose other than for resupply by the other person or persons; but
- (b) does not include a gas producer in respect of the supply of gas to a large consumer

rules means any of the following, as they may be amended from time to time:

- (a) the Gas (Switching Arrangements) Rules 2008; and
- (b) the Gas (Processing Facilities Information Disclosure) Rules 2008; and
- (c) the Gas (Downstream Reconciliation) Rules 2008; and
- (d) the Gas Governance (Critical Contingency Management) Regulations 2008

**shipper** means a person who is a party to an agreement with a transmission system owner to have gas transported through all or part of the transmission system

**switch** means a switch as defined in the Gas (~~Switching Arrangements~~Arrangements) Rules 2008

**system operator** means a person who controls the physical operation of all or any part of the transmission system

**transmission system** means the system—

- (a) comprising those high pressure transmission pipelines from the point where the gas leaves a gas processing facility to an interconnection point for distribution or, where the gas does not enter a distribution system, to a consumer; and
- (b) as depicted in the map published by the industry body



in accordance with regulation 10

**transmission system code** means any code that sets out ~~de-~~  
~~tailed~~detailed rules covering access, use, and operation of part  
or all of a transmission system, as amended from time to time

**transmission system owner** means any person or persons  
who own all or any part of the transmission system; and  
includes any agent of the transmission system owner

**Vector Transmission Code** or **VTC** means the code, issued  
by the owners of that part of the transmission system  
identified as the Vector pipeline on the map published in  
accordance with regulation 10, covering operation of the  
Vector pipeline, as amended from time to time.

#### *Appointment*

#### **6 Appointment of critical contingency operator**

- (1) The industry body may, by agreement with a person, who ~~is~~  
~~the system operator for all or any part of the transmission~~  
~~system~~it is satisfied is able to fulfil the obligations under  
these regulations, appoint that person to act as the critical  
contingency operator.
- (2) The critical contingency operator has the obligations set out in  
these regulations.
- (3) The industry body may at any time terminate, or change the  
appointment of, or reappoint, any person as the critical  
contingency operator, subject to the terms of the critical  
contingency operator service provider agreement.
- (4) The remuneration of the critical contingency operator is as  
agreed between the industry body and the critical contingency  
operator in the critical contingency operator service provider  
agreement.
- (5) The industry body and the critical contingency operator may  
agree on any other terms and conditions not inconsistent with  
the obligations of the critical contingency operator under  
these regulations.
- (6) ~~If a person is the system operator of all of the transmission~~  
~~sys- tem, the industry body must appoint that person as the~~  
~~critical contingency operator for an initial term of 5 years~~  
~~beginning on the commencement date, on the terms of the~~  
~~critical con- tingency operator service provider agreement.~~
- (7) ~~Any appointment of the critical contingency operator beyond~~

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~~the initial term is at the industry body's sole discretion. (8).~~

- ~~(8) If at any time the person appointed to act as critical contingency operator ceases to be the system operator for any part or all of the transmission system, the industry body may terminate the critical contingency operator service provider agreement in accordance with the terms of that agreement.~~

**7 ~~Other terms~~ Terms of critical contingency operator service provider agreement**

~~In addition to any other terms and conditions required by these regulations, the~~ (1) There must be a service provider agreement agreed between the industry body and the critical contingency operator.

(2) The critical contingency operator service provider agreement must provide for—

- (a) appropriate provision for liability; and
- (b) testing of plans and procedures; and
- (c) the publication of a communications plan and ~~informa-~~tion information guide; and
- (d) any other terms and conditions required by these regulations.

**8 Publication of critical contingency operator service provider agreement**

The industry body must publish the critical contingency ~~oper-~~ator operator service provider agreement.

**9 Critical contingency Internet site**

- (1) ~~Before the go live date, the~~ The critical contingency operator ~~in consultation with the industry body must develop~~ must provide a critical contingency Internet site for the purpose of providing a ~~cen- tral~~ central repository for publicly available information relevant to a critical contingency.
- (2) The critical contingency Internet site must be able to perform the functions required of the Internet site by these regulations, and be accessible by the public ~~on and after the go live date.~~
- (3) The critical contingency operator must take reasonable steps to ensure the information on the critical contingency Internet site is accurate and up to date.

- (4) The critical contingency operator must publish on the critical contingency Internet site all information provided to it by the industry body for the purposes of publication by the industry body.
- (5) For the purposes of these regulations, the information referred to in subclause (4) is deemed to be published by the industry body.

#### **10 Publication of transmission system**

- (1) No later than 5 business days after the commencement date, each transmission system owner must provide the industry body with the information specified in ~~clause 1(2) of Part 5 of Schedule 1~~ sections 6.1 and 6.2 of Attachment A of the Commerce Commission's Gas (Transmission Information Disclosure) Regulations Determination 2012 (Decision No. NZCC 24) or any replacement provisions ~~1997.~~
- (2) As soon as practicable after receiving the information ~~de-~~scribed in subclause (1), the industry body must consult ~~with~~with all transmission system owners on a draft map depicting the transmission system.
- (3) As soon as practicable after that consultation and no later than the go-live date, the industry body must publish a map ~~depict-~~ing the transmission system.
- (4) A transmission system owner must give notice to the industry body of any error or change in the boundaries of, and pipelines comprising, the transmission system as soon as practicable after becoming aware of the error or change.
- (5) The industry body may amend or update the boundaries of, and pipelines comprising, the transmission system in response to any notice given by a transmission system owner under subclause (4) and, where applicable, must publish an updated map depicting the transmission system.

#### **11 Performance standards**

- (1) On the appointment of ~~the~~a critical contingency operator, the industry body must set performance standards against which the critical contingency operator's performance is to be reported and measured.
- (2) Before setting any performance standards under subclause

- (1), the industry body must consult with the critical contingency operator.
- (3) Following the completion of any review carried out by the ~~in-~~industry body under regulation 12, the industry body may revoke, amend, or add to any performance standards set under this regulation.

**12 Review of critical contingency operator performance by industry body**

- (1) The industry body must, on an annual basis, review the manner in which the critical contingency operator has performed its obligations under these regulations in the preceding 12 months.
- (2) The review must concentrate on the critical contingency operator's—
  - (a) compliance with its obligations under these regulations; and
  - (b) compliance with any performance standards agreed between the critical contingency operator and the industry body; and
  - (c) compliance with the provisions of the critical contingency operator service provider agreement.

*Scope*

**13 Relationship with ~~NGOCP and~~ transmission system codes**

- ~~(1) With effect from the go live date,—~~
  - ~~(a) these regulations, and the critical contingency management plans approved under these regulations, replace the National Gas Outage Contingency Plan; and~~
  - ~~(b) the National Gas Outage Contingency Plan ceases to have effect except in so far as it relates to events and obligations and liabilities occurring or arising before the go live date.~~
- (3) MPOC, VTC, and any other transmission system code must be read subject to these regulations.
- (3) If both a transmission system code and these regulations impose an obligation or liability in respect of the same matter, the obligation or liability in these regulations prevails to the extent that the obligation or liability in the code is

inconsistent with these regulations.

**14 Civil Defence Emergency Management Act 2002**

A person is not required to comply with these regulations where that compliance prevents that person from complying with the requirements of the Civil Defence Emergency Management Act 2002.

*Funding*

**15 ~~Development fee~~[revoked]**

- ~~(1) The development fee is a fee to meet the critical contingency development costs.~~
- ~~(2) The critical contingency development costs are—~~
- ~~(a) the costs of the industry body associated with—~~
    - ~~(i) the appointment of the critical contingency operator; and~~
    - ~~(ii) the review and recommendation for approval of proposed critical contingency management plans under regulations 26 to 30 (including the costs payable to the expert adviser); and~~
  - ~~(b) the costs (if any) payable by the industry body to the critical contingency operator before the go live date in respect of the development and establishment of any critical contingency management arrangements required under these regulations; and~~
  - ~~(c) the costs of the industry body in connection with the development and establishment of the critical contingency management arrangements.~~
- ~~(3) Every person who purchases gas directly from a gas producer during the 28 days after the commencement date is liable to pay a development fee in accordance with these regulations.~~
- ~~(4) To avoid doubt, the critical contingency development costs do not include costs incurred before the commencement date.~~

**16 ~~How and when development fee must be paid~~[revoked]**

- ~~(1) The development fee is payable to the industry body.~~
- ~~(2) Every person to whom regulation 15(3) applies must supply to the industry body a return as at a date that is as soon as practicable after the commencement date and no later than 38~~

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- ~~days after the commencement date (the deadline for supplying returns). The return must state—~~
- ~~(a) the total number of gigajoules of gas that the person purchased directly from all gas producers during the 12 months prior to the month in which the deadline for supplying returns occurred; and~~
  - ~~(b) how many gigajoules of gas were purchased from each gas producer during that 12-month period.~~
- ~~(3) As soon as practicable after the deadline for supplying returns, the industry body must determine and publish a breakdown of the estimated critical contingency development costs:~~
- ~~(4) As soon as practicable after the deadline for supplying returns, the industry body must invoice every person to whom regulation 15(3) applies for that person's share of the estimated critical contingency development costs calculated in accordance with the following formula:~~
- ~~where—~~
- ~~a equals the estimated critical contingency development costs~~
  - ~~b equals the total quantity of gas purchased by that person directly from all gas producers during the 12 months prior to the month in which the deadline for supplying returns occurred~~
  - ~~c equals the total quantity of gas purchased by all persons directly from all gas producers during the 12 months prior to the month in which the deadline for supplying returns occurred.~~
- ~~(5) As soon as practicable after the go-live date, the industry body must determine and publish on its Internet site the actual critical contingency development costs.~~
- ~~(6) No less than 10 business days after publication of the actual critical contingency development costs, the industry body must invoice or issue a credit note to every person to whom regulation 15(3) applies with the difference between—~~
- ~~(a) that person's share of the actual critical contingency development costs calculated in accordance with the formula in subclause (4), with the necessary modifications; and~~

~~(b) the amount of the estimated critical contingency developments costs invoiced to that person.~~

**17 Ongoing fees**

- (1) The ongoing fees are monthly fees to meet the critical contingency ongoing costs.
- (2) The critical contingency ongoing costs are—
  - (a) the costs payable by the industry body to the critical contingency operator in respect of that year; and
  - (b) the costs payable to any person appointed by the industry body to carry out any obligations under these regulations in respect of that year; and
  - (c) the costs of the industry body associated with critical contingency management and its obligations under these regulations during that year.
- (3) Every person who purchases gas directly from a gas producer during a month is liable to pay ongoing fees for that month in accordance with these regulations.
- (4) In this regulation and regulations 18 and 19, year means a financial year unless the context otherwise requires.

**18 How and when estimated ongoing fees payable**

- (1) The estimated ongoing fees are payable to the industry body.
- (2) Subclause (3) applies to each month after the month in which the deadline for supplying returns specified in regulation 16 occurs.
- (3) Every person to whom regulation 17(3) applies must supply to the industry body a return no later than the tenth day of each month, unless otherwise agreed by the industry body. The return must state—
  - (a) the total number of gigajoules of gas that the person purchased directly from all gas producers during the previous month; and
  - (b) how many gigajoules of gas were purchased from each gas producer during that month.
- (4) As soon as practicable after the go-live date, the industry body must determine and publish a breakdown of the estimated critical contingency ongoing costs for the first year or part year of operation of the critical contingency management plans.

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$a \times \frac{b}{c}$

- (5) As soon as practicable after the publication of those estimated critical contingency ongoing costs, the industry body must notify every person to whom regulation 17(3) applies of the estimated critical contingency ongoing costs, and that ongoing fees will be payable by that person in that year or part year in accordance with the following formula:

where—

- a equals the critical contingency ongoing costs estimated in accordance with subclause (4) and divided by the number of months in the applicable year or part year
- b equals the total quantity of gas purchased by that person directly from all gas producers during the month that is 2 months prior to the month in which the relevant invoice is issued under subclause (7)
- c equals the total quantity of gas purchased by all persons directly from all gas producers during the month that is 2 months prior to the month in which the relevant invoice is issued under subclause (7).
- (6) For each year following the first year or part year of operation, the industry body must—
- (a) estimate and publish on its Internet site, at least 2 months before the beginning of the year, a breakdown of the estimated critical contingency ongoing costs for that year; and
- (b) as soon as practicable after publication of those estimated critical contingency ongoing costs, notify every person to whom regulation 17(3) applies of the estimated critical contingency ongoing costs, and that ongoing fees will be payable by that person in that year calculated in accordance with the formula in subclause (5).
- (7) On the first business day of each month following the notification in subclause (5), the industry body or the critical contingency operator must invoice every person to whom regulation 17(3) applies for that person's share of the estimated critical contingency ongoing costs payable during that month, calculated in accordance with the formula in subclause (5).



**19 How and when actual ongoing fees payable**

- (1) The actual ongoing fees are payable to the industry body.
- (2) As soon as practicable after the end of each year of operation, the industry body must determine and publish on its Internet site, and on the critical contingency Internet site, a breakdown of the actual critical contingency ongoing costs for that year.
- (3) No less than 10 business days after publication of those actual critical contingency ongoing costs, the industry body must invoice, or issue a credit note, to each person to whom regulation 17(3) applies for the difference between—
  - (a) that person's share of the actual critical contingency ongoing costs calculated in accordance with the formula in regulation 18(5), with the necessary modifications; and
  - (b) the amount of the estimated critical contingency ongoing costs invoiced to that person in respect of the year.

**20 General provisions regarding fees**

- (1) The due date for the payment of any invoice or refund of any credit is—
  - (a) the 20th day of the month in which the invoice or credit note was received; or
  - (b) if the day referred to in paragraph (a) is not a business day, the following business day.
- (2) The fees payable under regulations 15 to 19 are exclusive of any goods and services tax payable under the Goods and Services Tax Act 1985, and goods and service tax on those fees (if any) will be added to the invoices or credit notes issued under regulations 16(4) and (6), 18(7), and 19(3).
- (3) The industry body must ensure that all information and returns that are supplied under regulations 15 to 19 are used only for the purposes of collecting the development fee and the ongoing fees.
- (4) The returns supplied to the industry body under regulation 7 of the Gas (Levy of Industry Participants) Regulations 2008 (or, where applicable, any replacement levy regulations) are sufficient to fulfil the requirements of regulations 16(2) and 18(3) if the person who supplied the returns consents to the

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returns being used for this purpose.

*Notices and receipt of information*

**21 Giving of ordinary notices**

- (1) If these regulations require any notice to be given, the notice must be in writing and be—
  - (a) delivered by hand to the nominated office of the addressee; or
  - (b) sent by post to the nominated postal address of the addressee; or
  - (c) sent by fax to the nominated fax number of the addressee; or
  - (d) sent by electronic transmission or any other similar method of electronic communication to the appropriate nominated electronic address of the addressee.
- (2) This regulation does not apply to the giving of urgent notices, but does apply to the confirmation of urgent notices under regulation 23(3).

**22 When ordinary notices taken to be given**

- (1) In the absence of proof to the contrary, notices are taken to be given,—
  - (a) in the case of notices delivered by hand to a person, when actually received at that person's address;
  - (b) in the case of notices sent by post, at the time when the letter would in the ordinary course of post be delivered; and in proving the delivery, it is sufficient to prove that the letter was properly addressed and posted;
  - (c) in the case of notices sent by fax, at the time indicated on a record of its transmission;
  - (d) in the case of notices sent by electronic transmission or any other similar method of electronic communication, ~~(i)~~ at the time ==
    - (i) the computer system used to transmit the notice has received an acknowledgment or receipt to the electronic address of the person transmitting the notice; or
    - (ii) ~~at the time the person who gave the notice proves~~ the notice was transmitted by computer system to the electronic address provided by the

addressee, as proven by the person who gave the notice.

- (2) This regulation does not apply to the giving of urgent notices, but does apply to the confirmation of urgent notices under regulation 23(3).

### **23 Urgent notices**

- (1) In relation to a critical contingency, these regulations provide for urgent notices to be given in certain circumstances.
- (2) Despite regulations 21 and 22, an urgent notice may be given orally where the person issuing a notice considers that the urgency of the situation means the notice should not be given in writing.
- (2A) In the case of notices to consumers in band 6 directing curtailment, despite regulations 21 and 22, an urgent notice may also be given by SMS to the nominated electronic address of the recipient where the person issuing a notice considers that the urgency of the situation means the notice should not be given in writing. Any such notice must include a URL where the consumer may view a full curtailment notice and obtain further information about curtailment directions. In addition, the provider of the notice must also use all reasonably practical means to give the notice to consumers in band 6 orally.
- (3) If an urgent notice is given orally under subclause (2) or orally or by SMS under subclause (2A), the person who gave that notice must, as soon as practicable, confirm that urgent notice in writing in accordance with regulations 21 and 22.

## **Part 2**

### **Obligations before critical contingency**

#### *Critical contingency management plans*

### **24 Critical contingency management plan**

No later than 50 business days after the commencement date, each transmission system owner must prepare a proposed critical contingency management plan for its part of the transmission system and submit it to the industry body for approval.

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**25 Content of critical contingency management plan**

- (1) A proposed critical contingency management plan must be consistent with these regulations and must provide for the following:
- (a) a threshold for each part of the transmission system referred to in Schedule 1 that meets the following requirements:
    - (i) the threshold must be not be less than, and must not exceed, the relevant permissible limits for those thresholds set out in Schedule 1; and
    - (ii) the threshold must be specified in terms of the projected number of hours remaining before the minimum operating pressure is reached; and
    - (iii) the threshold must specify, as part of the threshold, the minimum operating pressure; and
    - (iv) the minimum operating pressure means the minimum pressure that is required to maintain the supply of gas across the relevant part or parts of the transmission system and to avoid disruption of distribution systems connected to the transmission system; and
    - (v) the minimum operating pressure must be measured at the points on the transmission system specified in Schedule 1; and
  - (b) a description of the events that the transmission system owner considers may feasibly result in a breach of the thresholds referred to in paragraph (a); and
  - (c) actions that the transmission system owner considers it may feasibly take to remedy any breach in those thresholds resulting from the events described in accordance with paragraph (b); and
  - (d) a process, consistent with the curtailment arrangements, outlining the manner in which curtailment will be implemented, curtailment bands, how restoration will be implemented, and an explanation as to how these processes meet the objectives set out in Schedule 2; and
  - (e) a communications plan, describing the communications that the transmission system owner must initiate by notice to the critical contingency operator, other

- transmission system owners, gas distributors, shippers, retailers, large consumers, and any other person it considers necessary before and during a critical contingency, the reciprocal communications, and time frames within which those communications are to take place; and
- (f) the contact details of any suitably qualified persons employed by the transmission system owner who the transmission system owner proposes will be responsible for—
    - (i) giving communications to the critical contingency operator and receiving communications from the critical contingency operator under the communications plan; and
    - (ii) giving directions in accordance with the critical contingency management plan; and
  - (g) the circumstances, if any, in which the transmission system owner considers it may be desirable for the critical contingency operator to direct the restoration of gas supply in an order different to that (last curtailed and first restored) set out in the curtailment arrangements, including how, in those circumstances, that different order would better achieve—
    - (i) the purpose of these regulations; and
    - (ii) the objectives of the curtailment arrangements; and
  - (h) a process, consistent with regulations 73 to 82, outlining the manner in which the contingency imbalances will be determined for each affected party over the period of the critical contingency, including—
    - (i) what information is to be used by the transmission system owner to determine contingency imbalances; and
    - (ii) how the transmission system owner is to allocate contingency imbalances to affected parties; and
    - (iii) processes outlining how the information concerning those allocated contingency imbalances is to be provided to the industry body for the invoicing of those allocated contingency imbalances; and
  - (i) a list of the contact details for the—

- (i) operators of gas storage facilities that are connected to the relevant part of the transmission system; and
  - (ii) operators of upstream gas production facilities that are connected to the relevant part of the transmission system; and
  - (iii) large consumers with a consumer installation connected directly to the relevant part of the transmission system; and
  - (iv) interconnected parties, retailers, and shippers who are trading across or utilising the relevant part of the transmission system; and
  - (v) gas distributors with a distribution system connected to the relevant part of the transmission system; and
  - (j) a description of how the transmission information referred to in regulation 38 will be made available to the critical contingency operator; and
  - (k) any other things that the transmission system owner considers appropriate to give effect to the purpose of these regulations.
- (2) A proposed critical contingency management plan must be consistent with MPOC, VTC, or any other transmission system code except to the extent necessary to comply with these regulations.

**26 Process for preparing critical contingency management plan**

Before submitting the proposed critical contingency management plan to the industry body for approval, a transmission system owner must—

- (a) consult on a draft of the proposed critical contingency management plan with persons that the transmission system owner considers are representative of the interests of persons likely to be substantially affected by the proposed critical contingency management plan; and
- (b) immediately before consulting under paragraph (a), provide a draft of the proposed critical contingency management plan to—
  - (i) the critical contingency operator; and

- (ii) the industry body, who must also publish the draft of the proposed plan; and
- (c) give persons consulted with under paragraph (a) at least 20 business days to make submissions to the transmission system owner on the draft of the proposed critical contingency management plan; and
- (d) provide copies of the submissions to the industry body as soon as practicable after those submissions have been received; and
- (e) consider the submissions made and make any amendments to the proposed critical contingency management plan that the transmission system owner considers necessary.

**27 Appointment of expert adviser**

For each proposed critical contingency management plan, and for each proposed amendment to a critical contingency management plan submitted under regulation 33(4)(c), 34(6)(c), or 65(3)(c), the industry body must appoint an expert adviser to review the proposed plan or amendment,—

- (a) in the case of a proposed plan, within 30 business days of the commencement date; and
- (b) in the case of a proposed amendment, within 5 business days of receiving the proposed amendment from the transmission system owner.

**28 Expert adviser to consult critical contingency operator**

- (1) As soon as practicable following receipt of a proposed critical contingency management plan under regulation 24 or a proposed amendment under regulation 33(4)(c), 34(6)(c), or 65(3)(c), the industry body must provide the proposed plan or proposed amendment to the expert adviser and the critical contingency operator.
- (2) In reviewing the proposed critical contingency management plan or proposed amendment under regulation 29, the expert adviser must consult with the critical contingency operator.
- (3) The critical contingency operator may provide the expert adviser with a report on the proposed critical contingency management plan or proposed amendment in relation to any issues it perceives as material to the review by the expert

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adviser under regulation 29.

- (4) Any report prepared by the critical contingency operator under subclause (3) must be submitted to the expert adviser no later than 10 business days after the proposed critical contingency management plan or proposed amendment was received from the industry body.

**29 Review of critical contingency management plan**

- (1) The expert adviser must review—
  - (a) a proposed critical contingency management plan provided by a transmission system owner under regulation 24; or
  - (b) a proposed amendment to a critical contingency management plan under regulation 33(4)(c), 34(6)(c), or 65(3)(c),—

to determine whether or not to recommend approval of the proposed critical contingency management plan or proposed amendment to the industry body.
- (2) In reviewing the proposed critical contingency management plan or proposed amendment, the expert adviser—
  - (a) must have regard to any report submitted in accordance with regulation 28(3) and (4); and
  - (b) may have regard to any submissions received by the transmission system owner under regulation 26.
- (3) Following the review, and no later than 20 business days after receiving the proposed critical contingency management plan or proposed amendment, the expert adviser must—
  - (a) make a recommendation, with reasons, to the industry body on whether the industry body should approve the proposed critical contingency management plan or proposed amendment; and
  - (b) give notice to the relevant transmission system owner and the critical contingency operator of its recommendation and the reasons for its recommendation.
- (4) If the expert adviser considers that the proposed critical contingency management plan or proposed amendment complies with regulation 25 and gives effect to the purpose of these regulations, the expert adviser must make a recommendation that the industry body should approve the proposed critical contingency management plan or proposed



amendment.

- (5) If the expert adviser gives notice under subclause (3)(b) that it has recommended that the proposed critical contingency management plan or proposed amendment should not be approved by the industry body, then, no later than 10 business days after receiving that notice, the relevant transmission system owner—
  - (a) must revise the proposed critical contingency management plan in response to the reasons given in that notice, and resubmit the proposed plan to the industry body for approval; or
  - (b) may revise the proposed amendment in response to the reasons given in that notice, and resubmit the proposed amendment to the industry body for approval.
- (6) Regulations 27 to 30 apply to a proposed plan or proposed amendment resubmitted for approval under subclause (5).
- (7) The industry body must publish a proposed plan or proposed amendment resubmitted for approval under subclause (5).

**30 Approval of critical contingency management plan**

- (1) No later than 5 business days after receiving a recommendation to approve under regulation 29(3), the industry body must—
  - (a) approve or decline to approve the proposed critical contingency management plan or proposed amendment; and
  - (b) give notice to the relevant transmission system owner and the critical contingency operator of its determination and the reasons for its determination.
- (2) The industry body must approve the proposed critical contingency management plan or proposed amendment if—
  - (a) it receives a recommendation for approval from the expert adviser under regulation 29(3); and
  - (b) the industry body considers that the proposed critical contingency management plan or proposed amendment complies with regulation 25 and gives effect to the purpose of these regulations.
- (3) If the industry body gives notice under subclause (1)(b) that it has declined to approve the proposed critical contingency management plan or proposed amendment, the relevant transmission system owner, no later than 10 business days

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after receiving that notice,—

- (a) must revise the proposed critical contingency management plan in response to the reasons given in that notice, and resubmit the proposed plan to the industry body for approval; or
  - (b) may revise the proposed amendment in response to the reasons given in that notice, and resubmit the proposed amendment to the industry body for approval.
- (4) Regulations 27 to 30 apply to a proposed plan or proposed amendment resubmitted for approval under subclause (3).
  - (5) The industry body must publish a proposed plan or proposed amendment resubmitted for approval under subclause (3).

**31 Amendment of plan by industry body if deadlock exists**

- (1) This regulation only applies if a proposed critical contingency management plan submitted under regulation 24, 29(5)(a), or 30(3)(a) has not been approved by the industry body under regulation 30 within 6 months of the commencement date.
- (2) To avoid doubt, this regulation does not apply to any proposed amendment to a critical contingency management plan.
- (3) The industry body may itself amend the proposed critical contingency plan, if the industry body considers that the amendments are—
  - (a) related to the reasons set out in any notice referred to in regulation 29(3)(b) or 30(1)(b); and
  - (b) necessary to ensure the proposed critical contingency management plan complies with regulation 25 and gives effect to the purpose of these regulations.
- (4) If the industry body amends the proposed critical contingency management plan under subclause (3), the industry body must give notice to the relevant transmission system owner and the critical contingency operator of the amendments and the reasons for the amendments.
- (5) On the fifth business day after giving notice under subclause (4), the industry body must determine whether or not to approve the proposed critical contingency management plan as amended under subclause (3).

**32 Publication of critical contingency management plans**

- (1) As soon as practicable after the industry body has approved critical contingency management plans to cover all of the transmission system, the industry body must publish, both in the Gazette and on the industry body's Internet site, a statement specifying—
  - (a) that it has approved critical contingency plans to cover all of the transmission system; and
  - (b) the go-live date on which, pursuant to regulation 2, Parts 3 and 4 come into force.
- (2) No later than 5 business days after the industry body publishes a statement under subclause (1), the critical contingency operator must publish the critical contingency management plans on the critical contingency Internet site.
- (3) If a transmission system operator has given notice that certain information in a proposed critical contingency management plan or a proposed amendment is confidential or commercially sensitive, the industry body must determine whether that information is to be published by the critical contingency operator.
- (4) The industry body must advise the critical contingency operator of its determination under subclause (3) when giving notice of its approval of the plan or amendment under regulation 30(1), and the critical contingency operator must comply with that determination.

**33 Maintaining critical contingency management plan**

- (1) Each transmission system owner must ensure that the contact details included in its critical contingency management plan in accordance with regulation 25 are current.  
[For the purpose of subclauses \(2\) through \(4\) any change to the contact details in a critical contingency management plan does not constitute a change to that plan and therefore does not need to comply with the requirements of regulations 26 through 30.](#)
- (2) Each transmission system owner must review its critical contingency management plan to determine whether it complies with regulation 25, and whether it is able to give effect to the purpose of these regulations,—
  - (a) at any time it is directed to do so by the critical contingency operator; and

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- (b) at any time that the relevant transmission system owner is of the opinion that its critical contingency management plan may not—
  - (i) adequately comply with regulation 25; or
  - (ii) give effect to the purpose of these regulations;and
- (c) in any event, at least once every 2 years.

(2A) Each transmission system owner must notify the critical contingency operator and the industry body whenever it has undertaken a review required by subclause (2) and whether that review has identified a need to change its critical contingency management plan.

- (3) Each transmission system owner must notify the critical contingency operator, within 10 business days of making a determination, that its critical contingency management plan may not adequately comply with regulation 25 or give effect to the purpose of these regulations.
- (4) If notice is given under subclause (3), the relevant transmission system owner must—
  - (a) prepare a proposed amendment to the critical contingency management plan that it considers would comply with regulation 25 and better achieve the purpose of these regulations; and
  - (b) consult on the proposed amendment in accordance with regulation 26, except if the transmission system owner and the critical contingency operator agree that the proposed amendment is immaterial; and
  - (c) submit, after consultation in accordance with paragraph (b) (if any), the proposed amendment to the industry body for approval in accordance with regulations 27 to 30.

### **34 Testing critical contingency management plan**

- (1) The critical contingency operator must, after consultation with transmission system owners, instigate exercises to test that—
  - (a) the critical contingency management plans comply with regulation 25 and give effect to the purpose of these regulations; and
  - (b) the contact details included in critical contingency

- management plans in accordance with regulation 25 are current; and
- (c) the list of emergency contact details maintained by retailers in accordance with regulation 43 is current.
- (2) Transmission system owners, and any interconnected parties, shippers, retailers, [gas distributors](#) and large consumers reasonably requested by the critical contingency operator, must participate in tests instigated under subclause (1).
  - (3) To avoid doubt, participation in a civil defence emergency management training exercise that tests the matters set out in subclause (1) is considered to be an exercise for the purposes of this regulation.
  - (4) An exercise must be instigated by the critical contingency operator at least once every 12 months, except if there has been a critical contingency within that 12-month period and the report produced in accordance with regulation 65 confirms that the critical contingency management plans meet the test criteria in subclause (1).
  - (5) Within 10 business days of completing an exercise under subclause (1), each transmission system owner must provide a report to the critical contingency operator that—
    - (a) explains why its critical contingency management plan meets or does not meet the test criteria in subclause (1); and
    - (b) identifies areas in which its critical contingency management plan can be improved; and
    - (c) recommends to the critical contingency operator any amendments that the transmission system owner considers should be made to its critical contingency management plan; and
    - (d) contains any other information that the transmission system owner considers is appropriate.
  - (6) Following the provision of the report provided under subclause (5), a transmission system owner may—
    - (a) prepare a proposed amendment to the critical contingency management plan that it considers would better achieve the purpose of these regulations; and
    - (b) consult on the proposed amendment in accordance with regulation 26, except if the transmission system owner and the critical contingency operator agree that the proposed amendment is immaterial; and

- (c) submit, after consultation in accordance paragraph (b) (if any), the proposed amendment to the industry body for approval in accordance with regulations 27 to 30.
- (7) Within 10 business days of receiving the reports described in subclause (5), the critical contingency operator must provide a report to the industry body that
  - (a) assesses the effectiveness of the critical contingency management plans;
  - (b) evaluates any amendments to the critical contingency management plans proposed by the transmission system owners as to whether such amendments would better achieve the purpose of these regulations;
  - (c) identifies any amendments to these regulations, the critical contingency management plans, the information guide, or the communications plan that it considers would better achieve the purpose of these regulations.

*Communications plan and information guide*

**35 Publication of communications plan**

- (1) The critical contingency operator must, in consultation with transmission system owners, prepare a communications plan and publish it ~~on the go live date~~.
- (2) The communications plan will govern the communications between the critical contingency operator and the transmission system owners during a critical contingency.
- (3) The communications plan must apply to communications from the critical contingency operator to the transmission system owners, and from the transmission system owners to the critical contingency operator, relating to—
  - (a) implementing curtailment of demand; and
  - (b) revising curtailment of demand; and
  - (c) restoring gas supply; and
  - (d) terminating a critical contingency; and
  - (e) identifying persons who did not comply with curtailment or restoration directions.
- (4) The critical contingency operator may, after consultation with transmission system owners, amend and publish a revised communications plan.

**36 Information guide for certain parties**

~~On the go live date, the~~ The critical contingency operator must publish an information guide that explains the communication flows between the critical contingency operator and the following parties during a critical contingency:

- (a) the electricity system operator; and
- (b) the director of civil defence emergency management; and
- (c) operators of gas storage facilities; and
- (d) operators of upstream gas production facilities; and
- (e) the industry body; and
- (f) the Minister of Energy and the Secretary; and
- (g) any other person that the critical contingency operator or the industry body considers necessary.

**37 Process for preparing information guide**

- (1) Before publishing the information guide, the critical contingency operator must—
  - (a) consult with persons that the critical contingency operator considers are representative of the interests of persons likely to be substantially affected by the information guide; and
  - (b) give persons consulted with under paragraph (a) at least 20 business days to make submissions to the critical contingency operator on the information guide; and
  - (c) consider the submissions made on the information guide.
- (2) The consultation process, including consideration of submissions, must be completed within 60 business days of the commencement date.
- (3) If submissions made on the information guide are also relevant to the critical contingency management plans or communications plan, the critical contingency operator may consider those submissions in the preparation of any report on a critical contingency management plan under regulation 28(3) or in the preparation of the communications plan as applicable.
- (4) The critical contingency operator may, after consulting on any proposed amendments in accordance with subclause (1)(a), amend and publish a revised information guide.

*Transmission system information*

**38 Transmission system owners to provide transmission system information**

- (1) Each transmission system owner must ensure that the following information in relation to its parts of the transmission system is made available to the critical contingency operator, whether via OATIS or otherwise:
- (a) metering (or other equipment) data on the amount of gas received into or taken from, and the pressure at or near, ~~an~~each interconnection point; and
  - (b) in respect of each day, the net quantity of gas agreed between the transmission system owner and an interconnected party, or otherwise expected or requested, to pass through each interconnection point; and
  - (c) data concerning the composition and quality of gas in its parts of the transmission system; and
  - (d) technical pipeline information referred to in ~~clause 1 of Part 5 of Schedule 1 of the Gas (sections 6.1 and 6.2 of Attachment A to the Commerce Commission's Gas Transmission Information Disclosure Determination 2012 (Decision No. NZCC 24) Regulations 1997~~; and
  - (e) any notices issued pursuant to a transmission system code by a transmission system owner in respect of its part of the transmission system; and
  - (f) any of the following data that the transmission system owner has access to and is reasonably requested (for the purpose of performing its obligations under these regulations) by the critical contingency operator:
    - (i) mismatch or operational imbalance data; and
    - (ii) historical flow information, linepack, ~~or~~and pressure data.
  - (g) real-time access to the SCADA information available to gas control.
- (2) The information described in this regulation—
- (a) must be the best information available (including real time information if applicable) that, in the particular circumstances, is in the transmission system owner's possession or can be obtained or derived without unreasonable difficulty or expense; and

**Comment [JH2]:** Work has been commissioned to identify what information and analysis the CCO needs and how it may best be obtained. This is a technical matter to be sorted out with the TSOs



- (b) must be used by the critical contingency operator only for the purpose of performing its obligations under these regulations.

*Consumer information*

**39 Retailers to provide consumer information**

- (1) Each retailer must provide a notice to the critical contingency operator, no later than 40 business days after the commencement date, setting out ~~—, for each gas gate at which the retailer trades --~~
  - (a) the number of the retailer's consumers ~~who are supplied gas through each gas gate and who are in each of the~~in each curtailment ~~bands set out in the curtailment arrangements, and their~~band and aggregate ~~total~~ annual consumption for each curtailment band; and
  - (b) the number of the retailer's consumers who are designated as minimal load consumers ~~who are supplied gas through each gas gate and who are in each of the~~ curtailment ~~bands set out in the curtailment arrangements~~band, and ~~their~~ aggregate ~~total~~ annual consumption for each curtailment band; and
  - (c) the number of the retailer's domestic consumers ~~who are supplied gas through each gas gate~~, and their aggregate ~~total~~ annual consumption.
- (2) ~~Whenever there is a change of 20% or greater in the aggregate total annual consumption figures provided by a retailer at a gas gate (including in each curtailment band) in accordance with subclause (1) or a change in the number of minimal load consumers provided in accordance with subclause (1),~~Each year, following notification by the critical contingency operator, each retailer at that gas gate must as soon as practicable, and no later than six weeks after the notice has been issued, provide a notice to the critical contingency operator ~~updating~~containing the information ~~set out in~~required by subclause (1).
- (3) If the retailer does not possess, or cannot reasonably obtain, a consumer's or domestic consumer's actual total annual consumption, the retailer may provide its best estimate of that consumer's or domestic consumer's total annual consumption

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as part of the aggregate total annual consumption required by subclause (1).

- (4) To avoid doubt, for the purposes of this regulation, a gas gate does not include a point of connection between a distribution system and a gas measurement system downstream of that distribution system.

**40 Large consumers to provide information**

- (1) Each year, the critical contingency operator must notify large consumers of the requirement to provide information under subclause (2) and (3).
- (2) Each large consumer must provide a notice to the critical contingency operator, no later than 40 business days after the commencement date, setting out its total annual consumption, maximum daily consumption, curtailment band, and minimal load designation (if any) to the critical contingency operator.
- (3) Where a large consumer's annual load profile is subject to significant variation throughout a year, the large consumer must notify the critical contingency operator and the critical contingency operator may also request the large consumer supply:
- (a) an estimate of its likely range of consumption by intervals specified by the critical contingency operator;
- (b) historical load data; and
- (c) any other data reasonably requested by the critical contingency operator.
- (4) No later than six weeks after the notification under subclause (1), the large consumer must provide the information to the critical contingency operator.
- (5) Whenever a large consumer identifies that the information previously provided under subclause (2) or (3) or both is materially incorrect, the large consumer must provide corrected information to the critical contingency operator within six weeks.

**40A Allocation agent to provide information**

- (1) For the purposes of fulfilling its obligations under these regulations the critical contingency operator may request from the allocation agent consumption data that it holds for gas gates at which gas is allocated under the Gas

(Downstream Reconciliation) Rules 2008 to assist with more detailed short term load modelling.

- (2) A request must specify the gas gates and the consumption months for which data are requested.
- (3) The allocation agent must provide the data no later than 20 business days after receiving a request from the critical contingency operator.
- ~~(2) Whenever there is a change of 20% or greater in a large consumer's total annual consumption figures or a change in its curtailment band or its minimal load consumer designation, the large consumer must as soon as practicable provide a notice to the critical contingency operator updating the information set out in subclause (1).~~ 4) The allocation agent is to supply the data in the same format that the data are supplied to the allocation agent by retailers unless otherwise agreed with the critical contingency operator.

#### **41 Critical contingency operator to hold record of information**

- (1) The critical contingency operator must keep a record of information provided to it by retailers ~~and~~ large consumers, and the allocation agent under regulations 39, 40, and 40A ~~in accordance with~~
- (1A) Information, provided to the critical contingency operator under regulations 39, 40 and 40A, and such information ~~40A,~~ must only be used by the critical contingency operator for the purposes of performing its obligations under these regulations.
- (2) If the critical contingency operator considers that information provided by any retailer ~~or~~ large consumer, or the allocation agent is materially incorrect, the critical contingency operator must, as soon as is reasonably practicable, give notice to the industry body that a specific retailer's ~~or~~ large consumer's, or the allocation agent's information may be materially incorrect and provide all of the information provided by the retailer ~~or~~ large consumer, or allocation agent in accordance with regulation ~~39, 39, 40,~~ or 40A to the industry body.

#### **42 Audit of information**

- (1) If the industry body is notified by the critical contingency operator under regulation 41 that a retailer's, large

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consumer's, or allocation agent's information may be materially incorrect, the industry body must give the relevant retailer, large consumer, or allocation agent 10 business days to correct its information and provide the updated information to the critical contingency operator.

- (2) If the critical contingency operator considers that the updated information provided under subclause (1) is materially incorrect, or the retailer, large consumer, or allocation agent does not provide the updated information, the critical contingency operator must, as soon as is reasonably practicable, give notice to the industry body.
- (3) Within 5 business days of receiving notification under subclause (2), the industry body must give notice to the retailer, large consumer, or allocation agent that the industry body intends to conduct an audit of that retailer, large consumer, or allocation agent.
- (4) The purpose of an audit under this regulation is to determine whether information provided to the critical contingency operator ~~by the retailer~~ is materially incorrect.
- (5) The audit must be conducted in accordance with regulation 83.

**43 ~~Emergency contact details~~ Retailer curtailment plans**

- ~~(1) Retailers must maintain a list of the emergency contact details of all of their consumers who have annual gas consumption greater than 2 terajoules in any 12-month period.~~
- ~~(2) Retailers must include or remove (as appropriate) the emergency contact details of a consumer on the list maintained in accordance with subclause (1) within 40 business days of that consumer concluding a switch of retailers.~~
- (1) Each retailer must prepare a retailer curtailment plan that --
  - (a) Contains for all retailers with consumers:
    - (i) a list of their consumers and their respective curtailment bands and contact details so as to ensure that the person responsible for gas usage at the consumer installation can be contacted at any time;
    - (ii) the process for consumer notifications in accordance with regulation 46C;
    - (iii) how the retailer will go about contacting

- consumers with curtailment directions within each curtailment band (including training and/or script development for call centre staff needing to contact band 4 and band 6 consumers);
- (iv) how the retailer will monitor compliance with curtailment directions (including the manner of collecting feedback from consumers, monitoring metering data, and any need to conduct site visits); and
- (v) how the retailer will report compliance to the relevant transmission system owners.
- (b) Contains for all retailers with domestic consumers:
- (i) how the retailer will implement any appeals as directed by the critical contingency operator under regulation 53(1)(db), and
- (ii) any arrangements for coordinating media appeals with other retailers.
- (c) Contains for all retailers:
- (i) its process for keeping the plan up to date; and
- (ii) staff training details.
- (2) The retailer must provide the curtailment plans to the industry body, together with a certificate from an authorised person which contains the elements described in Schedule 4
- (3) Retailers must keep their plans up to date and whenever a material change is made, the process in subclause (2) must be followed and the updated plan provided to the industry body.

*Deferred Curtailment*

**43A Deferred curtailment application process**

- (1) The purpose of regulations 43A to 45A is to set out the process for approving consumers who qualify for a deferred curtailment designation.
- (2) Each retailer must, in accordance with the frequency and content determined by the industry body under regulation 46C, notify its consumers that, if they wish to be considered for a deferred curtailment designation, they must apply to the industry body in accordance with subclause (4).
- (3) The industry body must determine and publish guidelines and an application form to assist consumers in providing the information that the industry body requires in order to consider an application or reapplication.
- (4) Any consumer wishing to be considered for a deferred

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curtailment designation must apply to the industry body in accordance with the guidelines and application form determined under subclause (3). Consumers may seek assistance from their retailers in completing their applications.

- (5) If requested by the consumer, the responsible retailer must provide all reasonable assistance to the consumer to prepare its application, including checking the application for completeness.
- (6) If the application is incomplete or the industry body identifies that further information is required to process the application then the application must be declined and the applicant invited to reapply including the necessary information.
- (7) In its application, a consumer must identify that part of its consumer installation where the use of gas is necessary for the category of deferred curtailment sought.
- (8) A deferred curtailment designation applies only to the part of a consumer installation approved by the industry body. Gas consumption for other parts of the consumer installation must be curtailed according to that consumer installation's default curtailment band in accordance with regulation 56.
- (9) If it is not possible to operate the gas-consuming part of the consumer installation that may qualify for deferred curtailment in isolation from other gas-consuming parts of the consumer installation, then the consumer will only be approved to have a deferred curtailment designation in exceptional circumstances at the discretion of the industry body.
- (10) Subject to regulation 46A the industry body must, within 10 business days of receiving a consumer's application for a deferred curtailment designation or 10 business days of receiving the technical expert's report under regulation 43C, whichever is the later, determine whether to approve or decline that consumer's application and give notice of its determination to the consumer and that the consumer must comply with subclause (11).
- (11) The approval becomes effective only after the industry body has provided the consumer with a declaration form and that form has been signed and returned by the consumer.
- (12) The declaration form will contain one or more of the following statements:

- (a) that the consumer understands and accepts that it may still be required to stop using gas completely and that any curtailment order issued by its retailer must be followed as soon as possible; and
- (b) that the designation is only in respect of that part of the consumer's operations that meet the criteria and all other gas usage must cease when directed by its retailer.
- (c) for minimal load consumers, that the consumer understands and accepts that the minimal load consumer designation requires the consumer installation to stop using gas completely when curtailment band 4 (for consumer installations in bands 1 through 3) or curtailment band 6 (for consumer installations in curtailment band 4) is directed to curtail.
- (d) for electricity system security providers, that the consumer is only permitted to use gas under that designation when notified it can do so by the critical contingency operator under regulation 53(1)(da).
- (13) Upon receipt of the declaration referred to in subclause (12) the industry body must give notice of the approval to—
  - (a) the critical contingency operator; and
  - (b) the consumer's retailer as recorded in the gas registry; and
  - (c) the responsible distributor for that consumer installation as recorded in the gas registry.
- (14) A responsible distributor notified under subclause (13) must update the load shedding category field for that consumer installation in the gas registry within 5 business days.
- (15) The deferred curtailment designation approval expires after two years unless it is renewed in accordance with regulation 46D.

**43B Requirements for an application for deferred curtailment designation**

- (1) For all applications, applicants will be required to provide:
  - (a) ICP identifier;
  - (b) consumer's name, address, and a complete description of the services provided at consumer's site;
  - (c) the purposes for which gas is used on the site, and the quantity of gas used at the site on an annual basis, in

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- GJ;
- (d) which of those purposes is needed either to prevent the harm or to provide the category of service for which the designation is being sought;
  - (e) ANZSIC code for the purpose listed in subclause (d);
  - (f) quantity of gas in GJ required for each of the purposes in subclause (c), on an annual and daily basis
- (2) For minimal load consumer applications, applicants will be required to provide
- (a) the absolute minimum rate (in GJ/hour) of gas supply required to complete critical processing;
  - (b) the period of time required for an orderly and complete shutdown of plant;
  - (c) the rates (in gigajoules per hour) at which gas will be used during the period to reduce to the absolute minimum level specified in subclause (a), the time period required to reduce consumption to that minimum level, and the total volume of gas required to reduce to that rate; and
  - (d) the daily volumes of gas consumed over the past two years.

**43C Appointment of technical expert to assist industry body**

- (1) The industry body must appoint a technical expert for assistance in determining an application for a minimal load consumer
- (2) The industry body may appoint a technical expert for assistance in determining any other application for deferred curtailment.
- (3) The role of the technical expert is to provide the industry body and the applicant with a confidential, independent report on the merits of the application.
- (4) The technical expert may
  - (a) request any information, papers, recordings, and documents from the applicant, its current and previous responsible retailers, the allocation agent, the critical contingency operator
  - (b) request to examine any processes, systems and data of the applicant, including any alternatives to deferred curtailment
  - (c) request to interview any officers or employees of the applicant for the purposes of clarifying any material



provided under subclauses (a) or (b)

- (5) Any request under subclause (4) must be reasonable and strictly for the purposes of preparing the report under subclause (3).
- (6) The applicant, its current and previous responsible retailers, the allocation agent, the critical contingency operator must comply with any request under subclause (4) but nothing in this regulation limits any claim for legal professional privilege.
- (7) The technical expert must provide the a draft of its report to the person who is the subject of the audit and the industry body.
- (8) Any person provided a draft report under subclause (7) has five business days from the date the report is received to provide any comments on the report.
- (9) Before the technical expert prepares a final report on the merits of the application, the technical expert must take into account any comments received on the draft report.
- (7) The applicant must pay the costs of the technical expert.

#### **44 Designation of consumers as essential service providers**

- (1) The purpose of this regulation is to identify consumers who are essential service providers.
- ~~(2) Each retailer must, as soon as is reasonably practicable after the commencement date, notify its consumers that, if they wish to be classified as essential service providers, they must apply to the retailer in writing and that the application can be made at any time. Any consumer that provides any of the services in subclause (3)(a) may apply to be an essential service provider using the processes specified in regulation 43B.~~
- (3) ~~A retailer~~ Subject to regulation 43A(9), the industry body 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~~ any of the following services ~~59(4) of the Schedule of the National Civil Defence~~
    - (i) mortuary services;
    - (ii) cremation of human remains;
    - (iii) heat treatment of biohazards to make them safe

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Comment [JH3]: to be defined by PCO  
-- equivalent to UN or CDC definition

- for disposal and where there is no other safe means of disposal;
- (iv) processing and supply of municipal drinking water;
- (v) treatment and processing of municipal sewage  
~~Emergency Management Plan Order 2005; and~~ (vi) police, fire and other emergency services;  
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.

**44A Designation of consumers as critical care providers**

- ~~(4) Each retailer must, within 10 business days of receiving a consumer's application to be an essential service provider, determine whether to approve or decline that consumer's application and give notice of its determination to 1)~~  
The purpose of this regulation is to identify consumers that are critical care providers.
- ~~(a) the consumer; and~~  
~~(b) if applicable, the gas distributor whose distribution system is used to distribute gas to that consumer.~~
- ~~(5) If a retailer reasonably considers a consumer who has been approved as an essential service provider no longer meets the criteria set out in subclause (3), the retailer must give notice requiring the consumer to reapply under this regulation for approval as an essential service provider.~~
- ~~(6) To avoid doubt, a consumer notified under subclause (5) remains an essential service provider unless it 2) Any~~  
consumer that provides any of the services in subclause (3) may apply to be a critical care provider using the processes specified in regulation 43B.
- (3) The industry body must approve a consumer's application to be a critical care provider if the consumer provides any of the following services and where non-provision would be

inhumane or unsafe—

- (a) ~~fails to reapply within 20 working days of receiving such notice; or~~ hospital services;
- (b) ~~receives notice under subclause (4) that the retailer has declined its reapplication.~~ primary health care providers;
- (c) hospice care;
- (d) residential care services, rest home or retirement village services;
- (e) specialised medical services to critical care facilities including, but not limited to, medical laboratory services, blood supplies, manufacture of non-shelf stable medical supplies;
- (f) prison services;
- (g) laundry services to critical care providers.

Comment [JH4]: To mean GPs, after hours clinics

#### 45 **Designation of consumers as minimal load consumers**

- (1) The purpose of this regulation is to identify consumers who require a minimal amount of gas during a critical contingency ~~in order to avoid serious damage to plant, or mitigate serious environmental damage, to complete critical processing~~ while undertaking an orderly ~~shut down~~ shutdown of plant in the shortest time possible.
- (2) ~~Each retailer must, as soon as is reasonably practicable after the commencement date, notify its consumers that, if they wish to be classified as minimal load consumers, they must apply to the retailer in writing and that the application can be made at any time.~~ The industry body must determine, or revise, and publish guidelines providing examples of the types of shutdown profiles that it may be expected to approve. Before publishing or revising those guidelines the industry body must—
- (3) ~~A consumer must include the following information in an application to be a minimal load consumer:~~
  - (a) ~~the absolute minimum level of gas supply level required to avoid serious damage to plant or mitigate serious environmental damage; and~~
  - (b) ~~the period of time required for an orderly and complete shut down of plant.~~
- (4) ~~A retailer must, within 10 business days of receiving an application to be a minimal load consumer, determine~~

Comment [JH5]: Make it an offence to use more than the shutdown profile or, once min-load has been reached, to exceed min-load.

- ~~whether to approve or decline that consumer's application and give notice of its determination to (a) the consumer; and~~ a) prepare and publish a draft determination for consultation; and
- (b) ~~if applicable, the gas distributor whose distribution system is used to distribute gas to that consumer~~ consider any submissions and make any revisions to the guidelines it considers necessary.
- (3) Any consumer that considers it performs critical processing may apply to be a minimal load consumer using the processes specified in regulation 43B.
- ~~(5) A retailer~~ (4) The industry body 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 fully; 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~~ undertakes critical processing; and
- (c) the consumer can demonstrate that its annual gas consumption—
- (i) was greater than ~~102~~ 102 terajoules in any 12-month period within the 2 years before the consumer's application; or
- (ii) ~~will~~ is expected to be greater than ~~102~~ 102 terajoules in the 12-month period after the consumer's application; and
- (d) the information provided under subclause (3) indicates a shutdown profile that is aligned with the guidelines published by the industry body under subclause (1A).
- (e) the consumer either has a time of use meter that enables gas consumption to be recorded daily or will have one installed if its application is approved.
- ~~(6)~~ (5) Within 10 business days of notifying a consumer that its application to be a minimal load consumer has been approved, the ~~retailer~~ industry body and the consumer must agree in writing on—
- (a) the absolute minimum gas supply level required to

- mitigate serious damage to plant or significant environmental damage; and
- (b) the period of time for which it requires a gas supply to effect an orderly and complete ~~shut-down~~shutdown of plant.

**45A Designations for electricity system security provider**

- ~~(7) If a retailer reasonably considers a consumer who has been approved as a minimal load consumer no longer meets the criteria set out in subclause (5), the retailer must give notice requiring the consumer to reapply under this regulation for approval as a minimal load consumer.1) The purpose of this regulation is to identify electricity generating units that require a small amount of gas during a critical contingency in order to:~~
- ~~(8) To avoid doubt, a consumer notified under subclause (7) remains a minimal load consumer unless it—~~
- ~~a) provide fuel to a unit to synchronise it with the system so as to provide voltage support; or~~
- ~~(a) fails to reapply within 20 working days of receiving such notice; or~~
- ~~(b) start up a unit that is able to run on a fuel other than gas but where the use of gas as a start-up fuel will shorten the time needed to start that unit; or~~
- ~~(c) for a unit that is already running on gas, to allow time for that unit to switch to an alternative fuel.~~
- (2) The owner of the electricity generating unit must provide the following information when applying for designation as an electricity system security provider—
- (a) the rate (in GJ/hour) of gas supply required to start up the plant; and
- (b) the period of time required for the plant to:
- (i) synchronise with the electricity system and cease using gas, in the case of a plant starting up to run as a synchronous condenser; or
- (ii) start up and switch to the alternative fuel and cease using gas, in the case of a plant able to use alternative fuel.
- (3) A plant that is approved as an electricity system security provider is only able to use gas under that designation when

notified to do so by the critical contingency operator under regulation 53(1)(da).

- ~~(b) receives notice under subclause (4) that the retailer has declined its reapplication.~~(4) The electricity system security provider approval expires after two years unless it is renewed in accordance with regulation 46D.

~~46 Referral of designation decision to industry body~~46 [revoked]

46A Transition arrangements for consumers with deferred curtailment status

- ~~(1) If a consumer disputes the decision to approve or decline its application to be either an essential service provider under regulation 44 or a minimal load consumer under regulation 45, the consumer may by notice refer the matter to the industry body for review.~~All consumers with a deferred curtailment designation approved prior to [date] will cease to have that deferred curtailment designation nine months after [date].

~~45, the consumer may by notice refer the matter to the industry body for review.~~

- ~~(2) As soon as practicable and no later than 10 business days after receiving notice under subclause (1), the industry body must review the decision by the retailer to approve or decline the application by the consumer and either—~~

- ~~(a) confirm the retailer's decision; or~~Within 10 business days of [date] every retailer must provide the industry body with the following information in respect of each of its consumer installations that has designation deferred curtailment designation at that date—

- (a) ICP identifier;  
(b) consumer name, address and a complete description of the services provided at consumer's site;  
(c) date the consumer's deferred curtailment designation was approved (where that information is held by or available to the retailer);  
(d) annual consumption in gigajoules by that ICP.

- ~~(3) The industry body must use the information provided under subclause (2) to identify any inaccuracies in the load-shedding fields of the gas registry and direct the responsible distributor to correct any inaccurate entries. If the industry body identifies any ICP entry in the gas registry that is~~

**Comment [JH6]:** This is the date that the revised regulations come into effect.

classified as having a deferred curtailment designation but which is not on the list provided by the consumer's retailer the industry body must—

- (a) request the consumer's retailer to confirm whether the consumer installation had its deferred curtailment designation approved; and
- (b) ~~refer the application back to the retailer for reconsideration; or~~ within five business days the consumer's retailer must supply the information required by subclause (2) together with a statement of whether the consumer installation has or has not been approved.
- (c) ~~approve or decline the application itself in accordance with regulation 44 or 45, as applicable.~~
- ~~(3) To avoid doubt, this regulation does not apply if the industry body has previously referred the application back to the retailer for reconsideration.~~ For each ICP that has been incorrectly classified in the registry the industry body must direct the responsible distributor to correct the load shedding category field using the information supplied by the consumer's retailer; and the responsible distributor must correct the registry entry within five business days.
- (4) Any consumer with a deferred curtailment designation that was approved prior to [date] who considers that it meets the criteria for a deferred curtailment designation must apply under regulation 43A within three months of [date].
- (5) During the nine-month transition period the industry body must use reasonable endeavours to process applications for deferred curtailment designation within the 10 business day timeframe prescribed but where it is unable to meet that timeframe the industry body must notify applicants of the expected processing time and use reasonable endeavours to meet that.
- (6) At the end of the transition period, the industry body will publish a list of consumers with deferred curtailment designations that includes:
  - (a) consumer name and ICP identifier;
  - (b) ANZSIC code;
  - (c) category of deferred curtailment designation;
  - (d) approval date;
  - (e) date reapplication is required

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The industry body is required to maintain this list.

**46B Revocation of deferred curtailment designation**

- (1) If the industry body reasonably considers a consumer who has been approved to have a deferred curtailment designation no longer meets the criteria, the industry body must give notice stating that unless the consumer reapplies under this regulation for approval it will lose its deferred curtailment designation in 20 working days.
- (2) To avoid doubt, a consumer notified under subclause (1) continues to have a deferred curtailment designation unless it—
  - (a) fails to reapply within 20 working days of receiving such notice; or
  - (b) receives notice under subclause 43A(10) that the industry body has declined its reapplication.
- (3) The industry body may revoke a deferred curtailment designation if the terms of that designation have not been followed during a critical contingency and may decline to consider any reapplication.

**46C Frequency and form of consumer notifications about these regulations**

- ~~(4) The industry body must, in respect of large consumers, carry out the functions of the retailer under regulations 44 and 45 (and those regulations apply with all necessary modifications).<sup>1</sup>~~ Commencing with [month] 2013, retailers must, subject to subclauses 2 and 3, notify their consumers of—
  - (a) the existence of these regulations and the necessity for each consumer to comply with any direction given by their retailer under these regulations;
  - (b) the provisions for deferred curtailment under regulations 44, 44A, and 45;
  - (c) the need for a consumer to apply to the industry body and be approved in order to qualify for deferred curtailment;
  - (d) the options available for receiving information regarding critical contingencies and how to subscribe; and



- (e) any other information that the industry body determines under subclause (3).
- (2) The industry body must determine the interval at which retailers are required to notify their consumers under this regulation and which interval must—
  - (a) be no shorter than annual; and
  - (b) be no longer than three years.
- (3) The industry body must determine the information that is required to be sent to consumers and publish that information. When determining the information the industry body must—
  - (a) publish a draft determination for consultation with interested parties; and
  - (b) after considering any submissions, prepare and publish its determination.
- (4) The industry body may revise the determination prepared under subclause (3) but must follow the process prescribed in that subclause.
- (5) In respect of the first notification to be sent out in [month] 2013, the industry body determination must include a requirement to describe the transition process defined in regulation 46A.
- (6) Whenever a new ICP is created, a previously active vacant ICP becomes active contracted, or a previously inactive or decommissioned ICP is activated, the consumer's retailer must provide that consumer with the information determined by the industry body in subclause (3).

#### **46D Reapplication process**

- (1) Every two years each essential services provider, critical care provider, minimal load consumer, and electricity security provider designation expires unless reapplied for and approved in accordance with the processes specified in this regulation.
- (2) If any of the information supplied in the most recent application under regulation 43A(4), has changed, then the consumer must reapply following the processes outlined in regulations 43A and 43B.
- (3) If the information described in 46D(2) has not changed, then the consumer may reapply using the short form reapplication process set out in the guidelines published by the industry body under regulation 43A(3).

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**46F Offence to provide false, incorrect or misleading information**

(1) A consumer that provides false or incorrect or misleading information to the industry body or the critical contingency operator under this Part commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.

**46G Regional critical contingencies**

- (1) In this regulation, a regional critical contingency is a critical contingency characterised by—
- (a) a substantial reduction to, or total loss of, the supply of gas to a part of the transmission system; and
  - (b) complete or partial isolation of that part of the transmission system from any significant source of gas supply.
- (2) The industry body must prepare and publish guidelines to be used by the critical contingency operator to determine whether a critical contingency is a regional critical contingency.
- (3) Prior to publishing those guidelines, the industry body must—
- (a) prepare a draft set of guidelines that provides scenarios covering the range of types of events that could arise and for each scenario identifies whether it would be a regional critical contingency or not; and
  - (b) publish the draft guidelines for consultation; and
  - (c) consider submissions on the draft and make any necessary changes to the guidelines.
- (4) The industry body may publish revised guidelines after following the process set out in subclause (3).

**Part 3  
Critical contingency**

*General*

~~47—Safety~~ **47 Interim injunctions in respect of actions in breach of these regulations**

~~No person is required to comply with a provision of this Part to the extent that compliance would unreasonably endanger the life or safety of that person or any~~

~~other person.~~

- (1) The industry body may apply to the High Court for the grant of an interim injunction—
  - (a) restraining a participant from doing, or omitting to do, anything that is in breach of these regulations; or
  - (b) requiring a participant to do, or omit to do, something in accordance with these regulations.
- (2) The court may grant the injunction if, in the opinion of the court, it is desirable to do so.
- (3) Subclause (2) applies, in the case of an injunction under subclause (1)(a),—
  - (a) whether or not the participant has done, or omitted to do, that thing; and
  - (b) whether or not there is an imminent danger of substantial damage to any person if the participant does, or omits to do, that thing.
- (4) The court may rescind or vary the injunction on application by the industry body or any participant affected by the injunction.

*Declaring critical contingency*

**48 Critical contingency operator must determine critical contingency**

- (1) The critical contingency operator must make a determination that there is a critical contingency if—
  - (a) the critical contingency operator considers that a breach has occurred of ~~1 or more of the thresholds~~ a threshold that ~~are~~ is specified in a critical contingency management plan under regulation 25(1)(a); or
  - (b) the critical contingency operator—
    - (i) has a reasonable expectation that a breach of ~~1 or more of these thresholds~~ a threshold is otherwise unavoidable; and
    - (ii) considers that the determination is necessary to achieve the purpose of these regulations.
- (2) When determining whether a breach of a threshold has occurred or is otherwise unavoidable, the critical contingency operator must assume that any occurring reduction in pressure in the relevant part of the transmission system will continue at a constant rate, unless the critical contingency operator has reasonable grounds for considering, based on the best

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available information, that a non-constant rate of reduction will provide a significantly more accurate basis for its determination.

**49 Process for declaration**

- (1) If the critical contingency operator determines that there is a critical contingency under regulation 48, the critical contingency operator must declare a critical contingency.
- (2) Without limiting the powers of the critical contingency operator under these regulations to declare a critical contingency, the critical contingency operator must, as soon as is reasonably practicable after determining a critical contingency, give urgent notice to all affected transmission system owners—
  - (a) advising them that a critical contingency has been declared; and
  - (b) detailing the parts of the transmission system that are affected; and
  - (c) advising them that they are required to comply with any directions of the critical contingency operator; and
  - (d) advising them that communications under the communications plan are to commence immediately.

**50 Authority of critical contingency operator**

- (1) If the critical contingency operator declares a critical contingency, the critical contingency operator must issue directions to transmission system owners that, having regard to the nature of the critical contingency, are—
  - (a) necessary to achieve the purpose of these regulations; and
  - (b) consistent with the relevant critical contingency management plans and the communications plan.
- (2) To avoid doubt, subclause (1) does not prevent the critical contingency operator issuing directions in relation to matters outside the scope of a critical contingency management plan if the critical contingency operator considers those directions are necessary to—
  - (a) achieve the purpose of these regulations; and
  - (b) mitigate the severity of the critical contingency.

**51 Notification of critical contingency to certain parties**

- (1) As soon as is reasonably practicable after declaring a critical contingency, the critical contingency operator must give urgent notice to the following persons that a critical contingency has been declared:
- (a) the electricity system operator; and
  - (b) the director of civil defence emergency management; and
  - (c) operators of gas storage facilities; and
  - (d) operators of upstream gas production facilities; and
  - (e) the industry body; and
  - (f) the Minister of Energy and the Secretary;
  - (g) gas distributors in the affected region; and
  - (h) the director, emergency management, Ministry of Health.
- (2) The critical contingency operator must also advise any other interested persons of the critical contingency declaration by SMS and/or electronic mail, where:
- (a) the person has notified the critical contingency operator of its interest in receiving such advice; and
  - (b) has provided a current email address and/or New Zealand based mobile number.

**52 Publication of declaration of critical contingency**

The critical contingency operator must, as soon as is reasonably practicable after declaring a critical contingency,—

- (a) publish a statement that a critical contingency has been declared, the date and time that the critical contingency was declared, and detail the pipeline areas affected; and
- (b) ensure an appropriate critical notice (as defined in OATIS) is posted on OATIS.

*Declaring regional critical contingency*

**52A Declaration of regional critical contingency**

- (1) As soon as possible after determining a critical contingency the critical contingency operator must determine whether the critical contingency is or is not a regional critical contingency.

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- (2) In making the determination under subclause (1) the critical contingency operator must have regard to the guidelines published by the industry body under regulation 46G(2).
- (3) Upon determining that a critical contingency is or is not a regional critical contingency then the critical contingency operator must publish a notice declaring either—
  - (i) that a regional critical contingency has been determined and which parts of the transmission system are subject to the critical contingency determination; or
  - (ii) that the critical contingency is not a regional critical contingency.
- (4) For the purpose of regulation 75(b)(ii) the declaration made under subclause (3) is not a revision to the status of a critical contingency.

*During critical contingency*

**53 Role of critical contingency operator during critical contingency**

- (1) For the duration of a critical contingency, the critical contingency operator must—
  - (a) monitor the pressure (including linepack levels) in the ~~section or~~ sections of the transmission system affected; and
  - (b) receive and consider communications from the transmission system owners and any other persons identified in the information guide; and
  - (c) explore available opportunities to increase upstream gas production and draw on gas storage, excluding any gas stored in the transmission system or any distribution system, in order to mitigate the severity of the critical contingency; and
  - (d) for the purpose of stabilising the pressure (including linepack levels) in ~~the part of~~affected parts of the transmission system~~—affected~~, issue directions by giving urgent notice to transmission system owners in accordance with regulation 50 and the communications plan directing the transmission system owners to—
    - (i) implement curtailment of demand for gas in accordance with the curtailment arrangements and with these regulations; and

- (ii) where necessary, revise curtailment of demand for gas by directing greater curtailment or rescinding earlier curtailment directions in accordance with the curtailment arrangements and with these regulations; and
- (da) in the event that band 1 or band 2 may be required to be curtailed
  - (i) consult with the electricity system operator on any need for electricity system security providers to provide electricity system security and use gas in accordance with their designation under section 45(A)(b); and
  - (ii) having regard for the objectives set out in Schedule 2, determine whether to allow those electricity system security providers to start up an alternate thermal fuel unit or to synchronise a unit for voltage support; and
  - (iii) convey that determination via urgent notice to the electricity system security providers.
- (db) in the event that the critical contingency operator considers that curtailment of bands 0 through 6 is insufficient to stabilise the pressure in the affected part or parts of the transmission system then the critical contingency operator must instruct retailers to commence appeals via media in accordance with their plans in regulation 46E.
- (dc) if reconfiguration of part of the transmission system is feasible within the timeframe of a critical contingency and if such reconfiguration would, in the opinion of the critical contingency operator or the transmission system owner, be likely to better meet the purpose of these regulations then the critical contingency operator and transmission system owner must consult on the reconfiguration. Following consultation with the transmission system owner, if the critical contingency operator considers that reconfiguration would better meet the purpose of the regulations then the critical contingency operator must direct the transmission system owner to undertake the reconfiguration.
- (dd) if the critical contingency operator becomes aware that a large consumer or a consumer with a deferred curtailment designation is not complying with curtailment directions or the terms of its designation, then the critical contingency operator must notify –

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- (i) the responsible retailer, or the transmission system owner in the case of a large consumer, who must contact the consumer and direct it to adhere to curtailment directions; and
  - (ii) the industry body, who may seek an interim injunction under regulation 47.
- (e) once pressure (including linepack levels) in the part ~~of~~ ~~parts~~ of the transmission system affected has stabilised to a level where the critical contingency operator is satisfied that it is appropriate to restore gas supply, give urgent notice to transmission system owners in accordance with the communications plan directing either—
  - (i) the restoration of gas supply to consumers in ~~ae-~~ ~~ordane~~ accordance with the curtailment arrangements set out in clause 3 of Schedule 2; or
  - (ii) if there is a civil defence emergency, the restoration of gas supply to consumers in accordance with The Guide to the National Civil Defence Emergency Management Plan issued by the Director of Civil Defence Emergency Management under section 9(3) of the Civil Defence Emergency Management Act 2002, or any equivalent or replacement document under any subsequent replacement legislation; and
- (f) to the extent that is reasonably practicable in the circumstances, ensure the following persons are kept informed of the status of the critical contingency:
  - (i) the persons listed in regulation 51; and
  - (ii) affected transmission system owners, interconnected parties, retailers, and shippers; and
- (g) publish—
  - (i) updated information on the status of the critical contingency; and
  - (ii) all urgent notices given by the critical contingency operator; and
  - (iii) information according to the timeframes and content as set out in section 1 of Schedule 3.
- (h) consider whether any event has occurred that would



revise its determination under regulation 49A and if so to publish a notice stating either—

(i) that a regional critical contingency has been determined and which parts of the transmission system are subject to the critical contingency determination; or

(ii) that the critical contingency is no longer a regional critical contingency.

- (2) To avoid doubt, the critical contingency operator may direct curtailment of ~~only~~ a subset of load within a curtailment band (if it is satisfied that the direction would further the objectives set out in Schedule 2), including—
- (a) subsets of gas-fired electricity generation, to enable remaining gas-fired electricity generation within a curtailment band to assist with voltage support or electricity system stability or both (provided the critical contingency operator has consulted with the electricity system operator); and
  - ~~(b)~~ geographical subsets of load; and
  - subsets defined by a percentage of maximum consumer load; and
  - subsets defined by one or more gas gates; and
  - subsets defined by reference to transmission system pressure levels.

#### **54 Role of transmission system owner during critical contingency**

If the critical contingency operator determines that there is a critical contingency under regulation 48, each transmission system owner must—

- (a) comply with the directions of the critical contingency operator given under these regulations; and
- (b) subject to paragraph (a), issue directions to retailers and large consumers—
  - (i) in accordance with these regulations; and
  - (ii) in a manner consistent with the relevant critical contingency management plan and the communications plan; and (iii) within 30 minutes of receiving them from the critical contingency operator.

**54A Asset owners to communicate information about failed assets**

- (1) For the purposes of keeping transmission system owners, retailers, and consumers well-informed during a critical contingency, it is important for information about the cause of the critical contingency to be publicly available.
- (2) Where a component of the gas supply chain becomes damaged or has failed, and that damage or failure has caused or contributed to the critical contingency by reducing gas deliveries by 5 standard cubic metres per second or more, then the owner of any such damaged or failed component must publish information according to the timeframes and content as set out in section 2 (for transmission system owners) or section 3 (for owners of production stations) of Schedule 3.

**55 Retailers and large consumers must follow directions**

- (1) Retailers and large consumers must, as soon as is reasonably practicable, comply with the directions of a transmission system owner given under these regulations during a critical contingency.
- (2) Retailers and large consumers must provide the critical contingency operator and a transmission system owner with ~~regular~~ updates both at intervals no longer than four hours and within two hours of a transmission system owner requesting such information. of—
  - (a) the retailer's or large consumer's compliance with the directions of the transmission system owner; and
  - (b) consumers' compliance with the retailer's directions issued in accordance with the directions of the transmission system owner.

**56 Retailers to instruct consumers**

- (1) As soon as is reasonably practicable after receiving a direction from a transmission system owner under regulation 55(1), retailers must give urgent notice to their consumers affected by that direction—
  - (a) directing the consumer to curtail demand in accordance with the direction from the transmission system owner;  
or
  - (b) if applicable, advising the consumer that the

- consumer's gas supply has been restored in accordance with the direction from the transmission system owner.
- (2) The urgent notice given under subclause (1)(a) must include statements as follows:
- (a) that a critical contingency has been declared by the critical contingency operator; and
  - (b) that the critical contingency operator has issued a direction for the curtailment band that the notified consumer falls within; and
  - (ba) urgent action is required by consumers to curtail demand for gas; and
  - (c) either—
    - (i) the consumer must curtail all its demand; or
    - (ii) if the transmission system owner's direction is for partial curtailment, then the consumer must curtail in accordance with the transmission system owner's direction; and
    - ~~(ii) if the consumer is a minimal load consumer, gas demand~~ d) where curtailment of a deferred curtailment band is required, that curtailment can no longer be deferred and the consumer must curtail all its demand in full; and
    - (e) for the avoidance of doubt, for any consumer holding a deferred curtailment status, the part of its consumer installation not subject to deferred curtailment status must be curtailed in accordance with the agreement with the retailer under regulation 45(6) directions for its default curtailment band in subclause (c).

**57 Consumers to comply with directions**

(1) Consumers must comply with the directions issued by their retailer under regulation 56 as soon as is reasonably practicable.

(2)

**58 Gas distributors must act reasonably**

Gas distributors must not act in a manner that is inconsistent with, or would frustrate, these regulations or any directions issued under these regulations.

**59 Continuing critical contingency**

- (1) If a critical contingency has not been terminated under regulation 60 within 3 days from the date the critical contingency was declared under regulation 49, the critical contingency operator must give urgent notice of that situation to the industry body, the director of civil defence emergency management, the Secretary, and the Minister of Energy.
- (2) On receiving urgent notice under subclause (1), the industry body, the director of civil defence emergency management, or the Minister of Energy may require the critical contingency operator to provide any information it holds concerning the critical contingency.

*Termination of critical contingency*

**60 Termination of critical contingency**

- (1) The critical contingency operator must make a determination to terminate a critical contingency when the transmission system is capable of supplying gas to all consumers at the level at which gas was supplied immediately before the event that gave rise to the critical contingency.
- (2) To avoid doubt, the critical contingency operator may make a determination to terminate a critical contingency under subclause (1) before gas supply has been restored to all consumers.
- (3) ~~If a critical contingency has not been terminated under subclause (1) within 12 hours from the time that the critical contingency was declared under regulation 49, the~~The critical contingency operator may make a determination to terminate the critical contingency if it is satisfied that—
  - (a) the supply of gas into the transmission system is sufficient to meet or exceed the reasonably expected consumption of gas following the determination; and
  - (b) the determination would better achieve the purpose of the regulations.

**61 Process for termination**

As soon as is reasonably practicable after making a determination to terminate a critical contingency under regulation 60, the critical contingency operator must give urgent notice to all affected transmission system owners

advising them—

- (a) of the date and time on which the critical contingency terminates or has been terminated; and
- (b) that they must give urgent notice to all affected retailers that the critical contingency has been terminated and must direct retailers to advise their consumers that the critical contingency has been terminated; and
- (c) that they must give urgent notice to all consumers connected directly to the parts of the transmission system owned by the transmission system owner that the critical contingency has been terminated.

**62 Notification of termination to certain parties**

As soon as is reasonably practicable after making a determination to terminate a critical contingency under regulation 60, the critical contingency operator must give urgent notice to the following persons that the critical contingency has been terminated:

- (a) the electricity system operator; and
- (b) the director of civil defence emergency management; and
- (c) operators of gas storage facilities; and
- (d) operators of upstream gas production facilities; and
- (e) the industry body; and
- (f) the Minister of Energy and the Secretary;
- (g) gas distributors in the affected region; and
- (g) the director, Emergency Management, Ministry of Health.

The critical contingency operator must also advise any other interested persons of the critical contingency termination by SMS and/or electronic mail, where:

- (a) the person has notified the critical contingency operator of its interest in receiving such advice; and
- (b) has provided a current email address and/or New Zealand based mobile number.

**63 Publication of termination of critical contingency**

The critical contingency operator must, as soon as is reasonably practicable after making a determination to terminate a critical contingency under regulation 60, publish a

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statement that the critical contingency has been terminated.

**63A Offence to fail to comply with directions**

- (1) A consumer that fails to comply with a direction given under this Part commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.
- (2) It is a defence to a prosecution for an offence under this regulation if the defendant proves that:
- (a) the failure to comply was necessary to prevent or lessen a serious and imminent threat to the health and safety of any person; and
  - (b) the threat could not reasonably have been foreseen and mitigated by the defendant so that the conduct that constituted the offence could have been avoided.

**Part 4**

**Obligations after critical contingency**

*Reporting requirements*

**64 Incident report**

As soon as is reasonably practicable, but no later than 5 business days after making a determination to terminate a critical contingency under regulation 60, the critical contingency operator must, in consultation with the affected transmission system owners, prepare and publish an incident report that states—

- (a) the cause of the critical contingency; and
- (b) the duration of the critical contingency; and
- (c) the actions taken by the critical contingency operator and transmission system owner during the critical contingency; and
- (d) the level of general compliance by retailers and consumers with the directions of the transmission system owners and retailers during the critical contingency; and
- (e) any other matters that the critical contingency operator considers are appropriate.

**65 Performance report**

- (1) No later than ~~20~~30 business days after making a determination to terminate a critical contingency under

regulation 60, or as otherwise agreed between the critical contingency operator and the industry body, the critical contingency operator must prepare and publish a performance report that—

- (a) assesses ~~the critical contingency operator's and transmission system owners' compliance with these regulations and~~ the effectiveness of the critical contingency management plans, the communications plan, and the information guide; and
  - (b) assesses the extent to which it considers that these regulations, the critical contingency management plans, the communications plan, and the information guide achieve the purpose of these regulations; and
  - (c) identifies, where applicable, any amendments to these regulations, the critical contingency management plans, the communications plan, and the information guide that it considers would better achieve the purpose of these regulations.
- (2) In preparing the performance report under subclause (1), the critical contingency operator must consult with—
- (a) each affected transmission system owner; and
  - (b) any other person it considers necessary.

(2A) The critical contingency operator must:

- (a) publish a draft of the report, together with information on how to make a submission to the critical contingency operator, noting that all submissions will be forwarded to the industry body for publication on its website; and
  - (b) notify the industry body, who must notify its known stakeholders of the opportunity to provide a submission; and
  - (c) allow at least five business days for receiving submissions, and
  - (d) provide to the industry body copies of every submission. The industry body must publish the submissions on its website.
- (3) If the performance report identifies an amendment to a critical contingency management plan, the relevant transmission system owner must—
- (a) prepare a proposed amendment to the critical contingency management plan that is consistent with

- the amendment identified in the performance report;  
and
- (b) consult on the proposed amendment in accordance with regulation 26, except if the transmission system owner and the critical contingency operator agree that the proposed amendment is immaterial; and
  - (c) submit the proposed amendment to the industry body for approval in accordance with regulations 27 to 30.
- (4) If the performance report identifies an amendment to the communications plan or information guide, the critical contingency operator must amend and publish a revised communications plan in accordance with regulation 35 or a revised information guide in accordance with regulation 37, as applicable.
- (5) The performance report must also state whether the assessment in subclause (1) is such that the critical contingency management plans have met the test criteria in regulation 34(1).

**65A Industry body may audit the performance of obligations**

- (1) Within 20 business days of receiving a performance report from the critical contingency operator the industry body may notify the critical contingency operator and industry participants that it intends to conduct an audit of the performance of the critical contingency operator any asset owner, and/or any retailer and notify each person who is to be the subject of the audit.
- (2) The purpose of an audit under this regulation is to determine whether:
- (a) the person who is the subject of the audit has carried out its obligations under these Regulations during a critical contingency event; and/or
  - (b) the regulations created any impediments to that person responding efficiently to the critical contingency event; and/or
  - (c) there is any additional information that should have be reported on in the critical contingency operator's performance report.
- (3) If it chooses to commission an audit under subclause (1) the industry body must:
- (a) appoint a person who is independent of, and not in a



- position of conflict of interest with, the persons to be audited.
- (b) may not appoint any officer or employee of the industry body.
- (4) In conducting an audit, the auditor may request any information from a person that is the subject of the audit, or from the industry body provided:
- (a) the request must be reasonable and strictly for the purposes of the audit.
- (b) the persons that are the subject of the audit or the industry body may indicate to the auditor any information provided that is considered to be confidential.
- (5) The auditor must prepare a written audit report and, within a timeframe agreed with the industry body, give that audit report to both the industry body and the relevant person being audited.
- (6) The audit report may be used by the industry body to require the person to provide correct information to the critical contingency operator for the purposes of regulation 39.
- (7) The person being audited must pay the costs of the audit and where there is more than one party being audited then each person must pay a proportionate share of the costs of the audit.
- (8) For the purposes of this regulation, the costs of the auditor are those costs that have been agreed between the industry body and the auditor.

**66 Assistance with report**

A transmission system owner must provide any information and assistance reasonably requested by the critical contingency operator for the purpose of preparing the reports under regulations 64 and 65.

**66A Process for identifying gas usage contrary to curtailment directions**

- (1) As soon as possible following the termination of a critical contingency the industry body must request from the allocation agent appointed under the Gas (Downstream Reconciliation) Rules 2008 copies of allocation participants' data submissions for consumer installations in allocation

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- groups 1 and 2 for the consumption period (or periods if more than one) that contains the period of the critical contingency.
- (2) The allocation agent must provide the data requested within five business days of receiving that data from allocation participants.
  - (3) The industry body must analyse the data to ascertain whether the data indicates that any consumer installations continued to use gas after being instructed to curtail.
  - (4) For each consumer installation that is suspected of using gas in contravention of a curtailment direction the industry body must request the following information from that consumer's retailer—
    - (a) whether and when the curtailment direction was issued in respect of that consumer installation; and
    - (b) whether and when a restoration direction was issued in respect of that consumer installation; and
    - (c) what other communications if any took place between the persons responsible for that consumer installation and the retailer; and
    - (d) full contact details for the persons responsible for that consumer installation including physical address, postal address, business name, contact person(s), telephone number, and email address.
  - (5) Retailers must provide to the industry body the information listed in subclause (4) within five business days.
  - (6) Where the industry body has a reasonable belief that a consumer installation continued to use gas after receiving a direction to curtail the industry body must contact the persons responsible for that consumer installation to advise them that they are suspected of having committed an offence under these regulations and request an explanation.
  - (7) If the explanation is unsatisfactory or no explanation is provided then the industry body must provide the information that indicates gas was used in contravention of a curtailment direction to [MBIE] and [MBIE] is required to commence summary proceedings.

*Critical contingency price for contingency imbalances*

**67 Purpose of applying critical contingency price to contingency imbalances**

The purpose of regulations 68 to 71 is to determine a critical contingency price to be applied to the contingency ~~imbalance sustained~~ imbalances sustained by interconnected parties and shippers during a critical contingency to—

- (a) avoid shippers instructing their suppliers of gas to reduce supply during a critical contingency when those shippers' consumers have been curtailed; and
- (b) signal to suppliers and consumers of gas that it is a scarce and valuable product during a critical contingency; and
- (c) provide incentives before a critical contingency, particularly for retailers who supply gas to consumers who are unlikely to be curtailed, to make alternative arrangements to minimise the financial consequences of a critical contingency.

**68 Nomination of industry expert**

- (1) Each transmission system owner, interconnected party, and shipper who will be affected by the determination of a critical contingency price may nominate 1 person to be considered by the industry body when appointing an independent industry expert to determine the critical contingency price.
- (2) Each affected transmission system owner, interconnected party, and shipper must provide the name, qualifications, and industry associations of their nominee to the industry body in writing within 5 business days of the termination of a critical contingency.

**69 Appointment of industry expert**

- (1) Subject to subclauses (2) to (4), the industry body must appoint an industry expert to determine the critical contingency price from the persons nominated under regulation 68 within 10 business days of the termination of a critical contingency.
- (2) The industry body must only appoint a person ~~nominated under~~ nominated under regulation 68 if the industry body considers that the nominee would be an independent

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- and suitably qualified industry expert.
- (3) No person may be appointed as an independent industry expert under this regulation if the person—
    - (a) has a material financial interest in an industry participant; or
    - (b) is a director, officer, member, employee, or trustee of an industry participant; or
    - (c) is otherwise directly or indirectly materially interested in an industry participant.
  - (4) If the industry body considers that none of the nominees would be an independent industry expert, the industry body has absolute discretion to appoint an independent industry expert who has not been nominated under regulation 68.
  - (5) The industry body must publish the appointment of the industry expert within 2 business days of making such an appointment.
  - (6) The following are both final and binding on all affected transmission system owners, interconnected parties, and shippers:
    - (a) a decision of the industry body to appoint a person as the industry expert; and
    - (b) a determination of the critical contingency price by the industry expert.

**70 Terms of appointment of industry expert**

- (1) The industry expert is appointed as a service provider on the terms and conditions set out in a service provider agreement.
- (2) The remuneration of the industry expert is as agreed between the industry body and the industry expert in the service provider agreement.

**71 Determining critical contingency price**

- (1) The industry expert must determine the critical contingency price in dollars per gigajoule of gas.
- (2) The industry expert must seek to set the critical contingency price at a level that reflects the price that would be established by an efficient short-term market that allocated scarce gas resources to the highest value uses during the critical contingency.

- (3) If—
- (a) only consumers in curtailment bands 0 and ~~1a,1~~ or 0, ~~1a,1~~ and ~~1b,2~~ were curtailed during the critical contingency, the industry expert must base his or her determination on the prices in the wholesale market for electricity ~~during~~ during the critical contingency except where that would be contrary to subclause (2); and
  - (b) any other circumstances apply, the industry expert must take into account the following matters:
    - (i) the prices in the wholesale market for electricity during the critical contingency; and
    - (ii) the economic cost of the loss of gas supply to those consumers who had their gas supply curtailed; and
    - (iii) any other matters that the industry expert considers relevant to achieving subclause (2).

**72 Procedure for finalising critical contingency price**

- (1) No later than 15 business days after being appointed under regulation 69(1), the industry expert must give notice of the proposed critical contingency price, with reasons, to—
  - (a) affected transmission system owners and potentially affected parties; and
  - (b) the industry body; and
  - (c) any affected gas distributor, retailer, or large consumer who has advised the industry body that it wishes to receive such notice.
- (2) The persons listed in subclause (1) may make a submission, including giving any relevant information, to the industry expert on the proposed critical contingency price.
- (3) Any submission must be provided to the industry expert no later than 5 business days after the notice in subclause (1) is given.
- (4) No later than 10 business days after giving notice under subclause (1), the industry expert must, after considering any submissions provided in accordance with this regulation, give notice of the critical contingency price, with reasons, to the persons listed in subclause (1).

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*Determining and resolving contingency imbalances*

**73 Contingency imbalance provisions**

- (1) The objectives of regulations 74 to 82 are to—
  - (a) ensure the gas supplied and consumed during a critical contingency and any resulting contingency imbalances are accurately determined and allocated to affected parties; and
  - (b) ensure fair, effective, and transparent arrangements are implemented for the determination, allocation, and payment of contingency imbalances between affected parties.
- (2) The industry body may perform its functions under regulations 76, 78, and 79 by entering into an arrangement or contract with any person or persons for the performance of those functions.

**74 Determining contingency imbalances**

- (1) Within 35 business days of the end of the month in which a critical contingency was terminated, the transmission system owner must determine the contingency imbalances for each affected party over the period of the critical contingency.
- (2) A contingency imbalance may be a negative contingency imbalance or a positive contingency imbalance and, for the purposes of these regulations,—
  - (a) a **negative contingency imbalance** means,—
    - (i) for an interconnected party who injects gas into the transmission system at an interconnection point, the amount by which the quantity of gas which that party has contractually agreed to inject exceeds the measured quantity of gas injected; and
    - (ii) for an interconnected party who takes gas from the transmission system at an interconnection point, the amount by which the measured quantity of gas taken exceeds the amount of gas which that party was contractually entitled to take; and
    - (iii) for a shipper, the amount by which that party and its consumers have or are considered to have, taking into account any allocation results under

the Gas (Downstream Reconciliation) Rules 2008, in aggregate taken more gas than the total gas which that party was contractually entitled to take; and

- (b) a **positive contingency imbalance** means,—
- (i) for an interconnected party who injects gas into the transmission system at an interconnection point, the amount by which the measured quantity of gas injected exceeds the quantity of gas which that party has contractually agreed to inject; and
  - (ii) for an interconnected party who takes gas from the transmission system at an interconnection point, the amount by which the quantity of gas which that party was contractually entitled to take exceeds the measured quantity of amount of gas taken by that party; and
  - (iii) for a shipper, the amount by which that party and its consumers have or are considered to have, taking into account any allocation results under the Gas (Downstream Reconciliation) Rules 2008, in aggregate taken less gas than the total gas which that party was contractually entitled to take; and
- (c) if aggregate negative contingency imbalances exceed aggregate positive contingency imbalances, the difference will have arisen from the consumption of linepack provided by the transmission system owner to maintain gas supply during the critical contingency and must be treated as a positive contingency imbalance to be allocated to the relevant transmission system owner.
- (3) In accordance with regulations 75 to 79,—
- (a) each party with a negative contingency imbalance is liable to pay the critical contingency price for each gigajoule of that imbalance; and
  - (b) each party with a positive contingency imbalance is entitled to receive the critical contingency price for each gigajoule of that imbalance.
- (4) In this regulation, **Gas (Downstream Reconciliation) Rules 2008** includes any gas governance regulations or rules concerning downstream and upstream reconciliation.

**75 Contingency imbalance calculation methodology**

When determining a contingency imbalance for each affected party, the transmission system owner must—

- (a) use the best information available that is in its possession or can be obtained or derived without unreasonable difficulty or expense in the 35 business days after the end of the month in which the critical contingency was terminated; and
- (b) calculate the contingency imbalances for the period of the critical contingency either—
  - (i) on a part-day basis, commencing and concluding on the nearest hour to that on which the critical contingency was declared and terminated; or
  - (ii) where the information required to calculate on a part-day basis cannot be obtained or derived by all transmission system owners in accordance with paragraph (a), on a whole-day basis—
    - (A) commencing at 0000 hours on the day on which the critical contingency was declared or the status of an existing regional critical contingency was revised; and
    - (B) concluding at 2400 hours on the day on which the critical contingency was terminated or the status of an existing critical contingency was changed to a regional critical contingency; and
- (c) assume that interconnected parties, retailers, and shippers, and their consumers, have complied with any curtailment directions issued by the critical contingency operator during the critical contingency when determining quantities consumed, unless there is evidence to the contrary; and
- (d) proportionally adjust quantities consumed on the basis of any evidence that interconnected parties, retailers, and shippers, or their consumers, did not comply with curtailment instructions; and
- (e) treat trades—
  - (i) purchasing gas over the transmission system as injections into the transmission system; and



- (ii) selling gas over the transmission system as withdrawals from the transmission system; and
- (f) in respect of changes in linepack across the relevant part or parts of the transmission system affected during a critical contingency,—
  - (i) if the aggregate amount of all negative imbalances over the period of the critical contingency is greater than the aggregate value of all positive imbalances, treat that difference as if it arose from the consumption of linepack provided by the transmission system owner to maintain gas supply during the critical contingency and as if it were a positive contingency imbalance to be allocated to the relevant transmission system owner; and
  - (ii) if the aggregate amount of all negative imbalances is less than the aggregate value of all positive imbalances, treat that difference as if it arose from an increase in linepack during the critical contingency and accordingly—
    - (A) the amount of each positive contingency imbalance must be adjusted in accordance with the following formula:
$$M_A = M_{+ve} \times (\sum M_{-ve} / \sum M_{+ve})$$
where—
      - $M_A$  is the adjusted positive imbalance of an affected party (**person A**) in gigajoules to be used in accordance with paragraph (h)
      - $M_{+ve}$  is the positive imbalance of person A in gigajoules
      - $\sum M_{-ve}$  is the absolute value of the total of all the negative imbalances of affected parties in gigajoules
      - $\sum M_{+ve}$  is the total of all the positive imbalances of affected parties in gigajoules; and
    - (B) to avoid doubt, the difference between the adjusted positive imbalance ( $M_A$ ) and the unadjusted positive imbalance ( $M_{+ve}$ ) in

subsubparagraph (A) must be accounted for by transmission system owners ~~under their~~ under their respective contractual arrangements with the affected party concerned; and

- (g) calculate the volume of each contingency imbalance for the critical contingency in gigajoules; and
- (h) calculate the value of each contingency imbalance for the critical contingency in accordance with the following formula:

$$X_A = P \times M_A$$

where—

$X_A$  is the amount in dollars to be received by or paid by (as applicable) a transmission system owner or affected party (**person A**)

$P$  is the critical contingency price in dollars per gigajoule as notified by the industry expert in accordance with regulation 72(4)

$M_A$  is the positive or negative imbalance of person A in gigajoules (or, if applicable, the positive imbalance as adjusted under paragraph (f)(ii)).

**76 Industry body to hold contingency cash pool**

The industry body must receive and hold the payments made in accordance with regulation 78 in a secure and separate bank account in trust for the benefit of parties with a positive contingency imbalance.

**77 Transmission system owners to provide contingency imbalance information**

- (1) On the next business day following the date specified in regulation 74(1), a transmission owner must provide to the industry body—
  - (a) the amounts (volume and value) of each positive and negative contingency imbalance calculated in accordance with regulations 74 and 75; and
  - (b) the associated information used to calculate those imbalances in accordance with regulations 74 and 75.
- (2) For the purposes of the information referred to in subclause (1),—

- (a) the industry body may give notice to transmission system owners specifying the format that the information must be provided in; and
- (b) transmission system owners must provide the information to the industry body in that format.

(3) The industry body must publish the information received under subclause (1) within five business days.

**78 Negative contingency imbalances**

- (1) On the first business day of the month that is 2 months after the month in which the critical contingency was terminated, the industry body must issue invoices to affected parties with negative contingency imbalances for the amounts provided in accordance with regulation 77.
- (2) No later than the 20th day of the month after the month in which the invoice was issued, each affected party with a negative contingency imbalance determined under regulations 74 and 75 must pay the amount stated on the invoice to the industry body.

**79 Positive contingency imbalances**

- (1) On the first business day of the month that is 2 months after the month in which the critical contingency was terminated, the industry body must issue credit notes to affected parties and transmission system owners with positive contingency imbalances for the amounts provided in accordance with regulation 77.
- (2) On the last business day of any month during which the payments required under regulation 78 have been received, the industry body must pay the amount calculated in accordance with the following formula to each transmission system owner and affected party with a positive contingency imbalance:

$$R_A = C \times (M_A / \sum M_{-ve})$$

where—

$R_A$  is the amount in dollars to be received by the transmission system owner or affected party (**person A**)

$C$  is the total amount of money in dollars held in the

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contingency cash pool at a specified time in relation to the relevant critical contingency

$M_A$  is the positive imbalance of person A in gigajoules (or, if applicable, the positive imbalance as adjusted under regulation 75(f)(ii))

$\sum M_{-ve}$  is the absolute value of the total of all the negative imbalances of affected parties in gigajoules.

- (3) Subject to subclause (4), the industry body must make subsequent payments to transmission system owners and affected parties calculated in accordance with subclause (2) so that the amount stated in the credit note is fully paid out to those interconnected parties and shippers.
- (4) The industry body is not required to pay out an amount greater than the total amount of payments received under regulation 78(2) held in its contingency cash pool at that time.

**80 Errors in allocated contingency imbalances**

- (1) If a transmission system owner or an affected party who has been allocated a contingency imbalance under regulations 74 to 79 considers that a contingency imbalance has been calculated or allocated in error, the person must advise the industry body of the error as soon as practicable.
- (2) Subclause (3) applies if the industry body considers—
  - (a) an error has occurred; and
  - (b) the error has resulted in a materially different allocation of a contingency imbalance than would have resulted had the error not occurred.
- (3) The industry body may give notice to the relevant transmission system owners directing them to recalculate any affected imbalances in accordance with regulations 74 and 75 and resubmit the corrected contingency imbalance information to the industry body under regulation 77.
- (4) If subclause (3) applies, then the industry body must—
  - (a) immediately give notice to all affected persons of the error and that the contingency imbalances are to be adjusted based on corrected contingency imbalance information; and
  - (b) as soon as practicable after receiving the corrected contingency imbalance information under subclause

- (3), reissue invoices and credit notes under regulations 78(1) and 79(1), as applicable, for the difference between the incorrect and the adjusted contingency imbalances.
- (5) Regulations 78(2) and 79(2) to (4) apply to any adjusted contingency imbalances, with all necessary modifications.
- (6) The industry body may not give notice under subclause (3) later than 6 months after the date that the relevant critical contingency was terminated.

**81 Imbalance obligations under MPOC, VTC, etc.**

- (1) A payment made under these regulations in relation to a contingency imbalance discharges in full any payment obligation or liability under MPOC, VTC, or any other transmission system code in respect of the same contingency imbalance.
- (2) This regulation does not limit regulation 13(~~21~~) and (~~32~~).

**82 Price and imbalances provisions do not apply to regional critical contingencies**

- (1) ~~In this regulation, a regional critical contingency means a critical contingency where—~~  
~~(a) there is a substantial reduction to, or total loss of, the supply of gas to a part of the transmission system; and~~  
~~(b) that part of the transmission system has become isolated from any other significant sources of gas supply.~~(2) Regulations 67 to 81 do not apply to a regional critical contingency.

**Part 5**

**Miscellaneous provisions**

**83 Audits**

- (1) In appointing an auditor to conduct an audit of a large consumer, retailer and allocation agent under regulation 42, the industry body must appoint a person who is independent of, and not in a position of conflict of interest with, the ~~retailer~~party that is to be audited.

- (2) No officer or employee of the industry body may be appointed as an auditor.
- (3) The ~~retailer~~party that is to be the subject of the audit may recommend 1 or more auditors for the industry body's consideration.
- (4) In conducting an audit, the auditor may request any information from the ~~retailer~~party or the industry body.
- (5) The request must be reasonable and strictly for the purposes of the audit.
- (6) In providing information to the auditor, the ~~retailer~~party or the industry body may indicate to the auditor that the information is considered to be confidential.
- (7) The auditor must prepare a written audit report and, within the time frame agreed with the industry body, give that audit report to both the industry body and the ~~retailer~~party audited.
- (8) The audit report may be used—
  - (a) for the purposes of any functions or processes set out in these regulations, the Gas Governance (Compliance) Regulations 2008, and any other gas governance regulations or rules made under Part 4A of the Act; and
  - (b) by the industry body to require the ~~retailer~~party to provide correct information to the critical contingency operator for the purposes of regulation 39.
- (9) The ~~retailer~~party being audited must pay the costs of the audit.
- (10) For the purposes of this regulation, the costs of the auditor are those costs that have been agreed between the industry body and the auditor.

**84 ~~Treatment of critical contingency occurring before go-live date~~Deleted**

- ~~(1) If a national gas contingency or a regional gas contingency (as defined in the National Gas Outage Contingency Plan) occurs before the go-live date, the National Gas Outage Contingency Plan will apply to those persons participating in that plan.~~
- ~~(2) To avoid doubt, before the go-live date, Parts 3 and 4 of these regulations do not apply to a national gas contingency or a regional gas contingency under the National Gas Outage Contingency Plan.~~

**85 Separation of roles for critical contingency operator**

The critical contingency operator's role under these regulations is distinct and ~~separate~~independent from any other role or capacity, including as a transmission system owner or system operator, that the critical contingency operator may have under the MPOC, VTC (or other transmission system code), or any contractual agreement.

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**Comment [JH7]:** There may be a need for an audit provision to provide assurances of independence to industry participants.

Schedule 1 r 25

Schedule 1

**Critical contingency threshold limits**

In accordance with regulation 25(1)(a), the permissible limits for the thresholds specified in a critical contingency management plan that apply to the following parts of the transmission system (as identified on the map published in accordance with regulation 10) are:

Pipeline	Maximum time before minimum operating pressure is reached	Minimum time before minimum operating pressure is reached	Minimum operating pressure range	Point of measurement*
<i>Maui pipeline</i>				

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Rotowaro	5 hours	2 hours	32 ( $\pm 2.5$ ) bar g	Rotowaro Compressor Station
<b>Vector pipeline</b>				
South	10 hours	3 hours	35 ( $\pm 2.5$ ) bar g	Waitangirua WTG06910
Hawkes Bay lateral	6 hours	3 hours	30 ( $\pm 2.5$ ) bar g	Hastings HST05210
Frankley Rd to Kapuni	6 hours	3 hours	35 ( $\pm 2.5$ ) bar g	Kapuni (GTP) KAP09612
Bay of Plenty	6 hours	3 hours	30 ( $\pm 2.5$ ) bar g	Gisborne GIS07810
Bay of Plenty	6 hours	3 hours	30 ( $\pm 2.5$ ) bar g	Taupo TAU07001
Bay of Plenty	6 hours	3 hours	30 ( $\pm 2.5$ ) bar g	Tauranga TRG07701
Bay of Plenty	6 hours	3 hours	30 ( $\pm 2.5$ ) bar g	Whakatane WHK32101
Morrinsville lateral	6 hours	3 hours	30 ( $\pm 2.5$ ) bar g	Cambridge CAM17201
Central (North)	6 hours	3 hours	40 ( $\pm 2.5$ ) bar g	Westfield WST03610

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Pipeline	Maximum time before minimum operating pressure is reached	Minimum time before minimum operating pressure is reached	Minimum operating pressure range	Point of measurement*
North	6 hours	3 hours	25 ( $\pm 2.5$ ) bar g	Whangarei WHG07501
For any other gas gate on the Maui or Vector pipeline	6 hours	3 hours	30 ( $\pm 2.5$ ) bar g	Gas gate not specified elsewhere

\*The codes specified in the fifth column of this table refer to the gas gate codes determined under the Gas (Switching Arrangements) Rules 2008.

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~~Schedule 2~~ rr 5, 25, 53

## Schedule 2

### Curtailment arrangements

#### 1 Objectives of curtailment arrangements

The objectives of the curtailment arrangements set out in this schedule are to—

- (a) ensure that gas is supplied in a safe, efficient, and reliable manner; and
- (b) minimise net public cost; and
- (c) prioritise the supply of gas to essential service providers and critical care providers; and
- (d) allow for minimal load consumer supply; and
- (da) allow for electricity system security providers; and
- (e) ensure efficient utilisation of gas in storage facilities; and
- (f) ensure effective operational management of a critical contingency.

#### 2 Curtailment bands

During a critical contingency, any curtailment of gas consumption is to occur in the order of the defined groups of consumers (**curtailment bands**) set out in the table below (for example, curtailment band 0 is curtailed first and curtailment band 6 is curtailed last). Subject to regulation 53(2), consumers in each curtailment band are to be given equal priority in terms of any curtailment.

For consumers who have been given deferred curtailment status, the part or parts of their consumer installations that do not relate to their deferred curtailment status must be curtailed according to their default curtailment band.

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Curtailment band	Consumption in terajoules (TJ) or gigajoules (GJ)	Description	<a href="#">Deferred curtailment designation actions in response to a curtailment direction</a>
0	N/A	Gas offtaken for injection into storage.	
1a	More than 15TJ per day	Consumers <del>(excluding essential service providers)</del> supplied directly from the transmission system and that have an alternative fuel capability. <del>If minimal load consumer, then manage wind-down of plant.</del>	<a href="#">Minimal load consumers to follow agreed load reduction profile.</a> <a href="#">Essential service providers curtail load down to approved consumption level.</a> <a href="#">Critical care providers curtail load down to approved consumption level.</a>
1b	More than 15TJ per day	Consumers <del>(excluding essential service providers)</del> supplied directly from the transmission system that do not have an alternative fuel capability. <del>If minimal load consumer, then manage wind-down of plant.</del>	<a href="#">Minimal load consumers to follow agreed load reduction profile.</a> <a href="#">Essential service providers curtail load down to approved consumption level.</a> <a href="#">Critical care providers curtail load down to approved consumption level.</a>
2	More than 10TJ per annum and up to 15TJ per day	Consumers (excluding essential service providers) with alternative fuel capability. <del>If minimal load consumer, then manage wind-down of plant.</del>	

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3	More than 10TJ per annum and up to 15TJ per day	<del>Consumers (excluding essential service providers) without alternative fuel capability. If minimal load consumer, then manage wind-down of plant. Typically large industrial and commercial consumers.</del>	<u>Minimal load consumers to follow agreed load reduction profile.</u> <u>Essential service providers curtail load down to approved consumption level.</u> <u>Critical care providers curtail load down to approved consumption level.</u>
4	More than <del>2TJ</del> <u>250GJ</u> per annum and up to 10TJ per annum	<del>Consumers, excluding essential service providers. Minimal load Medium-sized industrial and commercial consumers in curtailment bands 1a to 3 curtailed in full.</del>	<u>Minimal load consumers in curtailment bands 1 to 3 curtailed in full.</u> <u>If band 4 minimal load consumer, manage wind-down of plant.</u> <u>Essential service providers curtail load down to approved consumption level.</u> <u>Critical care providers curtail load down to approved consumption level.</u>
5	More than 2TJ per annum	Essential service providers.	<u>Minimal load consumers in curtailment bands 1 to 3 curtailed in full.</u> <u>If band 4 minimal load consumer, manage wind-down of plant.</u> <u>Critical care providers curtail load</u>

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6	<del>2H</del> <u>250GJ</u> or less per annum	<del>All remaining</del> <u>Small commercial</u> consumers	<u>down to approved consumption level.</u> <u>All gas consumers in bands 1-6 curtailed in full, including minimal load consumers and essential service providers.</u> <u>Critical care providers curtail load down to approved consumption level.</u>
<u>7</u>	<u>N/A</u>	<u>Critical care providers</u>	<u>All non-domestic gas use curtailed in full.</u>

**3 Restoration of supply**

- (1) The restoration of gas supply during a critical contingency must occur in reverse order to the curtailment bands specified above (i.e., the last band curtailed is the first to be restored).
- (2) However, the restoration of gas supply during a critical contingency may occur in a different order than that set out in subclause (1) if that order is considered by the transmission system owner and critical contingency operator, in the circumstances of the critical contingency, to better achieve the purpose of these regulations, having regard to the objectives of the curtailment arrangements as set out in this schedule.

**Schedule 3**  
**Communication arrangements**

**1 Public statements by critical contingency operator**

- (a) The critical contingency operator is required to ensure that information is published and updated regularly so that interested parties are able to be informed of the status of a critical contingency and the expected duration where that can be determined. The critical contingency operator must—
- (b) following determination of a critical contingency prepare a statement containing the following information—
- (i) the time at which the critical contingency was declared; and
  - (ii) whether the critical contingency was precipitated by the failure of one or more production stations or the failure of a gas pipeline or caused by something else; and
  - (iii) what actions are being taken by the CCO in order to stabilise the gas system, including: curtailment, seeking increased supplies from alternative sources; and
  - (iv) where curtailment is required, the critical contingency operator's current estimate of which bands will be directed to curtail and examples of the types of consumers in the affected curtailment bands; and
  - (v) the extent of the geographic area(s) affected by the reduction in gas supplies; and
  - (vi) any information that the critical contingency operator may have on the estimated time to repair the underlying problem.
- (c) update the statement published under subclause (a) at 9am, 1pm and 5pm on every day that the declaration of critical contingency continues to be in force. Those updates must include all of the information listed in subclause (a) as well as the following information—
- (i) the critical contingency operator's best estimate of the timing of any revised curtailment notices and whether such revisions will increase or decrease the extent of curtailment; and
  - (ii) where the critical contingency operator has information on the likely time for repairs to be completed, the critical contingency operator's best estimate of when restoration is expected to commence and the likely times at which curtailed bands might be restored; and
  - (iii) where the critical contingency operator has no information on expected repair times and cannot estimate a restoration schedule, a statement to that effect; and
  - (iv) any other information that the critical contingency

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operator holds that would better inform the market.

(d) For the avoidance of doubt, the critical contingency operator is not required to publish any information that it does not have but is required to state that it does not have the missing information.

**2 Public statements by asset owners**

(a) In accordance with regulation 54A, every asset owner whose asset has become damaged or has failed and caused or contributed to a critical contingency is required to ensure that the information in subclause (b) is published and updated regularly so that interested parties are informed about a critical contingency.

(b) The asset owner must, following determination of a critical contingency, prepare a statement containing the following information—

(i) a description of the damaged or failed asset and the cause of the damage or failure; and

(ii) what actions are being taken by the asset owner to effect repairs; and

(iii) the likely duration of each step of the repair process including any testing and certification required before the asset can be restored to service; and

(iv) the asset owner's best estimate of the time at which the asset will be returned to service; and

(v) if the asset will be temporarily restored to a reduced level of service, information about the reduced capacity and likely duration of reduced capacity; and

(vi) an assessment of the likely accuracy of the times provided in subclauses (iii), (iv), and (v) as well as a description of the identified risk factors and the likely effects that each would be expected to have on those times.

(c) For the avoidance of doubt, the asset owner is not required to publish any information that it does not have but is required to state that it does not have that information.

Rebecca Kitteridge,  
Clerk of the Executive Council.

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### **Explanatory note**

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations provide arrangements relating to outages and other security of supply contingencies, in so far as they relate to wholesale markets for gas. Most of the regulations come into force on the 28th day after the date of their notification in the *Gazette*. However, Parts 3 and 4 come into force only after the industry body, the Gas Industry Company Limited, has approved critical contingency management plans to cover all of the transmission system.

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Issued under the authority of the Acts and Regulations Publication Act 1989.  
Date of notification in *Gazette*: 6 November 2008.  
These regulations are administered by the Ministry of Economic Development.

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