Recommendation to the Minister of Energy and Resources to amend the Gas Governance (Critical Contingency Management) Regulations 2008

July 2013

GAS INDUSTRY COMPANY LIMITED

185502.9

About Gas Industry Co.

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

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

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

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

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Executive summary

Gas Industry Co recommends to the Minister of Energy and Resources (Minister), under sections 43F(2)(a)(vi), 43S, and 43T of the Gas Act 1992 (Gas Act), amending the Gas Governance (Critical Contingency Management) Regulations (CCM Regulations) as set out in section 4 of this paper, so that the industry can better manage gas critical contingencies. In essence, these are events that cause the gas transmission system to fall below specified minimum pressures and require intervention to protect the integrity of gas supply on gas distribution systems.

The CCM Regulations were made in 2008 following a recommendation by Gas Industry Co to the Minister. Their purpose is '*the effective management of critical gas outages and other security of supply contingencies without compromising long-term security of supply*'. In critical contingency events there is a need to shed load from the gas system as quickly as possible so as to better match offtakes with any remaining gas injections and achieve balance while the underlying physical problem is fixed.

The CCM Regulations have been invoked on three occasions, the most significant of which was a 5½ day outage in October 2011 caused by a leak in the Maui gas pipeline (Maui outage). That leak reduced gas deliveries north and east of Taranaki by some 90% and was a major test of the CCM Regulations as well as a test of industry resilience, particularly for large users.

While the Maui outage showed that the CCM Regulations generally worked well, a number of areas were identified in which improvements could be made, most notably in the areas of deferred curtailment (customers who are given priority access to gas) and stakeholder communications.

The CCM Regulations at work

Unlike electricity, it is not safe to "switch off" gas supply to customers remotely. Instead, the nature of the gas system requires that customers shut down their own installations or, in the most extreme circumstances, that network operators visit those installations and isolate them from the network. Any failure to balance the gas system risks pressures dropping to levels that would render downstream networks inoperable for significant periods of time. To avoid such outcomes the CCM Regulations ensure Critical Contingencies are managed by providing for:

- a Critical Contingency Operator (CCO) who:
    - determines the onset of a critical contingency;
    - calls for load curtailment as required to balance the system;
    - continuously monitors the supply/demand balance and adjusts load curtailment directions as necessary; and

- determines when it is safe to terminate a critical contingency;

- predetermined "curtailment bands" that group customers by volume of gas consumption for efficient management of load curtailment;
- a system of cascading curtailment directions from the CCO to Transmission System Owners (TSOs) and then to large users and retailers, and from retailers to their customers; and
- criteria and processes for deferring curtailment in certain cases so as to minimise social costs associated with critical contingencies.

The CCM Regulations also require each TSO to create a Critical Contingency Management Plan so as to ensure that it is well-prepared to carry out the CCO's directions when required.

Recommended changes

Table 1, overleaf, outlines the most significant changes that Gas Industry Co is recommending.

Table 1 Significant recommended changes to the CCM Regulations

Recommended change	Description	Rationale	Submitters' views
Amend the curtailment bands	Move customers in band 2 to band 3 and rename bands 1a/1b as bands 1/2. Lower the cut-off for band 4 from >2 TJ/annum to >250 GJ per annum (and reduce the upper limit for band 6 to 250 GJ/annum). Introduce a new, highest-priority curtailment band 7 for customer sites that are Critical Care Providers (CCPs).	Reduce any disincentive for end-users to invest in dual-fuel resilience. Increase effectiveness of band 4 curtailment and reduce likelihood of band 5 (essential service providers) needing to be curtailed. Ensure hospitals and other vulnerable communities are offered the greatest protection.	Ten of 13 submitters fully supported combining bands 2/3. Three expressed concerns regarding aspects of the proposal but were not opposed. Adjusting the boundary between bands 4 and 6 arose from submissions. All submitters either supported or were not opposed to the new band 7 for CCPs.
Increase customer resilience by improving knowledge about the CCM Regulations	Require retailers to inform their customers that: the CCM Regulations exist; customers must comply with curtailment directions; the categories for "deferred curtailment" and the requirement for customers to apply to Gas Industry Co if they wish to receive a deferred curtailment designation; and options available for receiving information about critical contingencies and how to subscribe.	The CCM Regulations required retailers to inform customers about the CCM Regulations and the existence of the Essential Service Provider (ESP) band. However, this was either not done well or the messages ignored as many consumers were ill-prepared for such an outage. The proposed change will ensure that gas users are well-informed and able to make efficient decisions regarding resilience.	All submitters supported the notion that customers should be well-informed. The proposal was for annual updates and four submitters considered that was too frequent, preferring two-yearly intervals. There is a balance to be struck between cost and ensuring gas users are well-informed. The best way to accommodate this may be by providing the industry body with discretion in the CCM Regulations to set the interval between successive updates

Recommended change	Description	Rationale	Submitters' views
Improve the incentives for gas consumers to comply with curtailment directives	The existing compliance and enforcement arrangements for the CCM Regulations are contained within the Gas Governance (Compliance) Regulations 2008 (Compliance Regulations). The Compliance Regulations will continue to be used for "industry participants"[1] but non-industry participants will be covered by new offence provisions in the CCM Regulations that will provide for fines to be levied on summary conviction. The Compliance Regulations also provide for urgent injunctions to be sought where necessary. That provision will be moved from the Compliance Regulations to the CCM Regulations to improve transparency for all parties. Note that changes to the Compliance Regulations are covered by a separate recommendation.	As the Compliance Regulations only provide effective sanctions against "industry participants", most gas consumers are not subject to any compliance regime. The costs of an uncontrolled gas outage are estimated in the hundreds of millions. Accordingly, effective enforcement arrangements are required for any consumer who may elect not to comply with a lawful curtailment instruction. In the most extreme circumstances it may be necessary to force a gas user to stop using gas so as to protect all consumers from an extended system outage. Making the injunction provision more visible will help to incentivise compliance.	All submitters who commented on this matter agreed that effective compliance and enforcement arrangements are necessary to the success of the CCM Regulations .

[1] An industry participant is defined in Part 4A of the Gas Act 1992 and includes gas retailers, distributors, producers, pipeline owners. wholesalers, persons who purchase gas directly from any gas producer or gas wholesaler or on any wholesale gas market, service providers appointed under any gas governance regulations, and gas metering equipment owners.

Recommended change	Description	Rationale	Submitters' views
Clarify and tighten the definition of Essential Service Provider (ESP)	A review of the types of customers that have been granted ESP status by their retailers highlighted that the criteria are open to interpretation and need to be tightened. The recommended amended provision in the CCM Regulations refers to an explicit list of types of service provision that would qualify for ESP status. This change will result in a lesser number of ESP designations and a lesser total volume of gas subject to those designations.	During the 2011 Maui outage the ESP band, band 5, swelled in size due to a number of large end users pressing for ESP status. At present the ESP band is of such size that a critical contingency event requiring curtailment beyond band 3 would almost certainly result in curtailment of band 5. To get the non-essential loads in band 5 off the system would require curtailing the band, requiring hospitals and other emergency providers to shut down. The recommended criteria limit access to priority gas to those gas consumers whose cessation of gas would have immediate public health implications. This change will improve the management of more severe critical contingencies.	There was strong support for tightening the criteria for ESP status, although there was also opposition from the gas consumers who would no longer be eligible for the ESP designation – some food manufacturers and dairy processors. Food security, while important, is not included in the criteria because, in the usual timeframe of a critical contingency, it is unlikely to be a crucial issue; only a limited amount of food requires gas for processing; there are options for importing food from unaffected areas or from abroad if necessary; and, if necessary, there is the ability for the Ministry of Civil Defence and Emergency Management to declare a civil emergency and re-prioritise available gas supplies. The issue of risk to the environment from raw milk disposal is more appropriately managed by making sure that dairy farmers and milk processors have plans in place to manage any situation in which milk cannot be processed, as the volumes of gas needed to avoid these problems can never be guaranteed.

Recommended change	Description	Rationale	Submitters' views
Broaden the Minimal Load Consumer (MLC) definition	The tightening of the ESP criteria has highlighted that there may be instances where a large consumer needs time to undertake an orderly shut-down of its plant so as to avoid damage or other undesirable outcomes. The criteria have been broadened to include the ability to seek MLC status for completion of critical processing.	Depending on the rate at which the CCO needs to direct load-shedding the system may be able to accommodate completion of critical processing by some gas users. Provided amounts of gas to be used are strictly controlled and the CCO is able to call for faster curtailment when required, this option will reduce costs to such businesses.	Submitters generally supported this proposal. However, a few submitters voiced concerns that "critical processing" might be difficult to define.
Provide for "Electricity System Security Providers" (ESSP)	A new ESSP designation is intended to provide for a small amount of gas either for starting up a generation unit that can then switch completely to an alternative fuel or to spin-up a unit to synchronise with the grid and, once motoring, provide voltage support without further gas consumption. In either case, there will be a requirement to confirm that the electricity System Operator requires the ESSP to operate for grid security and the CCO will need to determine whether the additional gas use can be accommodated without unnecessary risk to the gas system.	Gas outages can adversely affect the electricity system depending on the time of year and factors such as hydrology. The proposal is a way to alleviate those adverse effects, albeit tempered by the CCO needing to be assured that there is sufficient gas available. However, given the relatively small amounts of gas required, this is a pragmatic way to provide some support to the electricity system.	All submitters who commented on this question supported the principle. Varying views were expressed on whether the electricity System Operator should be deciding there is a need should be a prerequisite for an ESSP being permitted to use the gas. Gas Industry Co concluded that such a requirement should be factored into the recommendation.

Recommended change	Description	Rationale	Submitters' views
Make the Industry Body responsible for processing and approving deferred curtailment applications.	The CCM Regulations currently require consumers to apply to their retailers for an ESP or MLC designation. This arrangement is inefficient and can result in inconsistent application of the criteria. The recommended change is to move that role to the Industry Body (Gas Industry Co). Gas Industry Co will also be responsible for designating the new CCP and ESSP bands.	The status quo places retailers in the difficult position of tending a commercial relationship alongside fulfilling a statutory role. It is unsurprising that this has resulted in inconsistent application of the ESP criteria among retailers. Moving that role away from retailers to Gas Industry Co eliminates any conflict of interest and should ensure that determinations are made consistently.	All submitters who commented on this proposal supported the change.
Provide consistent incentives for health and safety concerns	Examination of the existing CCM Regulations identified a risk that the existing health and safety provision was too broad and open-ended, and provided weak signals to gas users about the need to be prepared for curtailment. The recommended amendment makes it clearer to gas consumers that they need to explicitly recognise any HSE risks associated with the need to curtail gas consumption. At the same time, the recommended amendment will provide for the situation of a truly unforeseeable occurrence.	Because gas critical contingencies that affect customers below bands 0/1a/1b are rare, there is a risk that gas consumers may not turn their minds to the issue. That is of concern in situations where a loss of gas supply might precipitate an HSE issue. With the proposed change Gas Industry Co has focussed on ways to make it clear to employers that they must turn their minds to preparing for such contingencies in a manner proportionate to the risk exposure. The proposed amendment is consistent with similar provisions in other legislation.	No submitter objected to the proposed change.

Recommended change	Description	Rationale	Submitters' views
Improve communications	The Maui outage highlighted a gap in the CCM Regulations in that no one has specific responsibility for providing public communication in a serious critical contingency. The recommended change is to require the CCO and the owner(s) of any asset that has caused (or exacerbated) a critical contingency to publish key information to ensure that there is not an absence of information as happened in the first 36 hours of the Maui outage.	The CCM Regulations only sought to regulate those matters that were necessary. The gas industry had performed well over the years in the area of communications during contingency events and it was expected that would continue to be the case. During the Maui outage there was a significant period during which no-one from the industry issued any public information to assist the market. The proposed change is to mandate the release and updating of a minimum set of information so as to ensure that the market is informed in a timely manner during any critical contingency requiring curtailment beyond band 1b.	This was an issue on which submitters were divided. Generally, those who stood to benefit from such information were strongly supportive of the proposal. By contrast, those submitters who would be required to provide the information were opposed to provision of that information being mandatory. Gas Industry Co concluded that clearer requirements for communication are necessary for successful management of critical contingencies, and that the requirements proposed are not unduly onerous.

In addition there are a number of less significant changes recommended that will clarify and/or streamline the CCM Regulations.

Extensive consultation

In preparing this recommendation, Gas Industry Co has undertaken an extensive consultation process that has included:

- commissioning Concept Consulting Group to undertake a comprehensive review, including stakeholder interviews, to identify the issues and lessons from the Maui outage (Concept Review);
- issuing the Concept Review for consultation and publishing an analysis of submissions;
- holding a series of meetings with large end users and the Major Gas Users Group to discuss their concerns, and to help them understand the limited options that are available to the CCO when managing the worst critical contingencies;
- holding a workshop on improvements to communications;
- consulting on a statement of proposal (SoP) that described the proposed changes to the CCM Regulations and publishing an analysis of submissions on that SoP (the consultation was notified to over 220 stakeholders known to Gas Industry Co – covering approximately 100 organisations – and was also publicised by inserting public notices in the daily papers);
- holding a workshop on the SoP to allow stakeholders an opportunity to explore and discuss the thinking that underpinned the proposed changes; and
- circulating draft amended CCM Regulations to stakeholders and holding two drafting workshops. A document setting out detailed wording for the proposed amendments is provided to assist Parliamentary Counsel Office, and is attached as Appendix A.

Gas Industry Co considers that feedback from the consultation process has materially improved the proposals contained in this recommendation and is grateful to stakeholders for the time and effort that they have put in to this process.

Transition arrangements

Certain of the changes that are recommended, and particularly changes to deferred curtailment designations, will require end users to review their resilience and consider whether they need to have alternative arrangements in place in the event of a critical contingency. That will take time and, therefore, the recommended amendments provide for a nine-month transition period during which existing deferred curtailment designations will be grandfathered. That will provide sufficient time for those parties either to apply for and receive a deferred curtailment designation under the amended CCM Regulations (where they qualify) or, for those that do not meet the criteria, to make alternative arrangements.

Suggested change to the Gas Act

The recommendations in this document will go a long way to clarifying and strengthening the incentives on parties to comply with the provisions of the CCM Regulations and in particular the instructions of the CCO during a critical contingency. The Gas Act (at s43T) provides for fines not exceeding $20,000 for noncompliance with gas regulations. This sum of money should be effective in incentivising relatively small consumers to comply with curtailment directions. However, although the reputational risk of being prosecuted may encourage compliance, the financial risk may not be sufficient for all large consumers. For some organisations, the fine may seem a small price to pay to avoid a shutdown during a critical contingency. In order to better manage this risk, when the Gas Act next comes up for review, it is suggested that the Minister direct officials at the Ministry of Business, Innovation, and Employment to consider introducing more effective fines for noncompliance.

Contents

1 Introduction and background

In the last week of October 2011, a leak was discovered in the Maui pipeline that transports a large proportion of the natural gas used in New Zealand. The location of the leak meant that gas could not be delivered from the Maui pipeline north and east of Taranaki. A critical contingency was declared, in accordance with the CCM Regulations, and non-residential gas customers were required to curtail their gas usage. Within six days the pipeline was repaired, supply to gas customers was restored, and the critical contingency was terminated.

This event represents the first major critical contingency since the commencement of the CCM Regulations, and it has provided a good test of the arrangements. Gas Industry Co, in conjunction with industry participants and other stakeholders, has undertaken a comprehensive review of the CCM Regulations in order to capture the lessons from the October 2011 incident and to identify changes to the CCM Regulations that would improve their effectiveness.

1.1 The need for regulations

Safe pressures must be maintained in downstream networks

When a gas supply incident occurs, typically either through a production station failure or a rupture in a pipeline, it reduces or stops the flow of gas into or through the affected pipeline. The remaining gas pressure in the transmission and distribution systems will cause the gas to keep flowing to delivery points or customer premises, at least until the pressure is no longer sufficient to maintain the flow. Two things happen when gas pressures fall to such a low level that the gas stops flowing: pilot lights get extinguished, and air potentially can get into the pipes. If that is allowed to happen, then, before any affected network can be recommissioned, it will be necessary for:

- gas-fitters to visit each affected supply point on the network and turn off the main valve;
- the network owner to completely purge and re-pressurise the network (or affected parts); and
- gas-fitters to attend to each gas installation (i.e. supply point) to test for soundness, purge the installation of air, relight pilot lights (if any), and certify that the installation is safe for use.

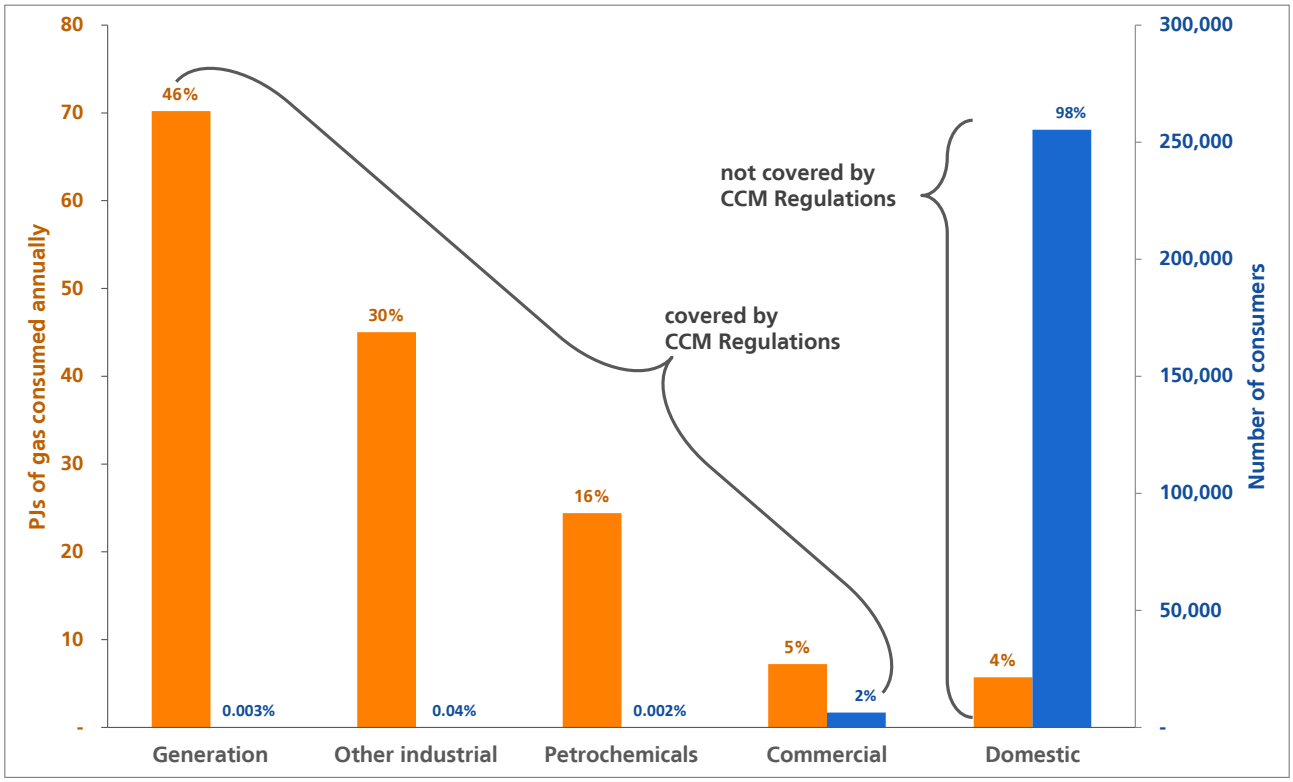
Although large loads connected directly to transmission systems could be restored quickly, it is estimated that recovering a distribution network serving a large urban area could take many months.

Thus, one of the most important functions of the CCM Regulations is to ensure that sufficient pressure is maintained in those downstream networks.

Curtailing load is key to success

The key mechanism for managing a critical contingency is directing industrial and commercial gas consumers to stop (or in some instances reduce) their use of gas. The CCM Regulations apply to non-domestic consumers; only industrial and commercial gas consumers can be required to stop using gas. In this way, the CCM Regulations cover 96% of gas usage but just over 2% of all gas consumers by number, as shown in the chart below. Because the CCM Regulations do not apply to domestic consumers, the word "consumers" in this paper should henceforth be taken to mean "commercial and industrial gas consumers."

Chart 1 Gas volumes and consumer numbers covered by CCM Regulations



The CCM Regulations provide for a Critical Contingency Operator, who is responsible for declaring critical contingencies if certain conditions are met and for stabilising pressure in the affected parts of the transmission system. The CCO will direct more and more industrial and commercial customers to curtail gas use until the gas system is stabilised, i.e. the deliveries of gas into the affected parts of the transmission system closely match the offtakes. This is particularly true in situations where there is a problem affecting a gas production station, so that gas supply to affected networks is diminished but

not stopped. Once the gas transmission system is stabilised, then it is normally just a matter of time until the precipitating problem is repaired and full supply can be resumed.

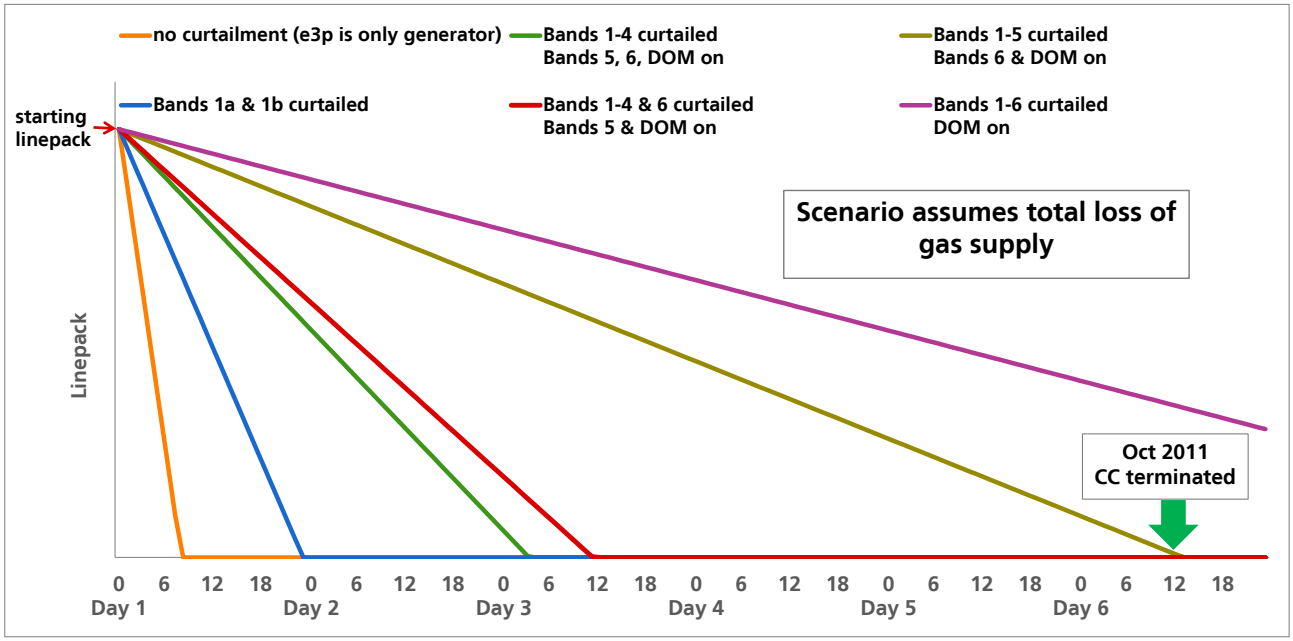
The problem of maintaining pressure becomes more acute in circumstances where a pipeline is broken and the network(s) downstream are isolated from any other source of supply. In that case, the only way to maintain pressure is to carefully eke out the remaining linepack in the isolated part of the system until supply can be restored.

Order of curtailment is operationally and economically efficient

To be able to have the best chance of stabilising the transmission system (i.e., balancing injections and offtakes), the CCO needs to be able to effect curtailment in an efficient manner. The fastest and most efficient way to stabilise the transmission system is to direct curtailment in order of customer size, i.e. from largest to smallest. As each large consumer ceases taking gas, the rate of decline in pressure is reduced. This has the effect of extending the time to failure and, in the most severe critical contingencies where deep cuts are required, allows the time necessary to contact the larger numbers of smaller consumers. This is exactly how the CCM Regulations work, with consumers sorted into curtailment bands according to annual consumption. This was also the approach used under the voluntary industry arrangements that preceded the Regulations, and the Regulations were developed as best fit for the New Zealand market following a review of international practice.

The chart below is a stylised representation of curtailment of different sets of curtailment bands. It depicts a hypothetical scenario in which a break of the Maui pipeline prevents all gas supply to points northward. The different coloured lines represent the resulting linepack over time, given the curtailment of different curtailment bands. For context, the point at which the system was restored following the Maui outage in October 2011 is labelled. The point is that, in such a situation, the deeper the curtailments, the longer is the system survival time.

Chart 2 Curtailment scenario



Curtailing the largest loads first is clearly the most efficient way operationally to stabilise transmission system pressure during a critical contingency. Gas Industry Co was also concerned to investigate the economic efficiency of this arrangement, and to that end asked NZIER to undertake a study of the value of gas consumption to various types of gas consumers. The NZIER analysis showed that, while large gas users produce considerable value added in absolute terms, industries that use a relatively small amount of gas derive a greater benefit per unit of gas compared with the large industrials.

A summary of NZIER's findings is contained in the table below. It shows, for example, that Band 1 customers use the largest amount of gas, and that gas use provides the largest amount of added value of the bands – but on a value per unit of gas, it is the smaller users in Bands 4 and 6 that get the most value from gas consumption. In a situation requiring rationing, value per unit of gas is the most appropriate measure to use. Economic value per unit is roughly inversely proportional to total gas use, which means that curtailing larger users first is not only operationally efficient, it is also economically efficient.

Table 2 Estimated value added by CCM band

2011, real 2007 dollars

		Band 1	Bands 2&3	Band 4	Band 5	Band 6
Demand						
	TJ	115,200	21,648	1,974	11,060	3,467
	%	72%	14%	1%	7%	2%
Value added						
	$ millions	2,423	1,741	580	2,339	1,019
	% of total	30%	21%	7%	29%	13%
	$/GJ	21	100	294	211	294

Source: NZIER

1.2 Outline and purpose of the CCM Regulations

The CCM Regulations were made in 2008 and came fully into force in January 2010. With a purpose of achieving '*the effective management of critical gas outages and other security of supply contingencies without compromising long-term security of supply*', the CCM Regulations provide for:

- A CCO which is tasked with determining the onset of a critical contingency; using the power to direct and revise load curtailment so as to ration available gas to balance remaining supply and demand; directing restoration of load once it is safe to do so; communicating with key stakeholders throughout the incident; terminating the critical contingency; and reporting on the incident and the CCO's performance after the dust has settled.
- Each Transmission System Owner ('TSO') to create a Critical Contingency Management Plan that defines the processes and procedures it will follow so as to implement the CCO's curtailment and other directions. TSOs are required to pass the CCO's curtailment directions on to the retailers that use their pipelines to convey gas to customers.
- A system of classifying customers into groups defined by annual consumption – curtailment bands – so that the process of load curtailment can be efficiently managed.
- Processes for deferring curtailment for certain classes of customer that provide essential services or where providing time for an orderly shutdown of the plant would prevent or mitigate either major plant damage or environmental damage.
- A post-facto settlement among pipeline users and interconnected parties that is designed to ensure that suppliers are paid for the gas used during a critical contingency whether that gas was used by their customers or those of another retailer.

The CCM Regulations were designed primarily to address relatively short-term outages lasting from hours to 1-2 weeks, consistent with industry experience of such events. Most situations that cause a critical contingency are expected to fall into this classification. For example, equipment failure at a gas production station is normally able to be fixed within a day, and pipeline operators are generally able to repair damaged pipelines within a week or so.

For longer-term outages, or for situations where a natural disaster has precipitated a number of infrastructure failures, other remedies need to be considered. The CCM Regulations give specific precedence to the Civil Defence Emergency Management Act 2002 (CDEMA) by providing that a person is not required to comply with the CCM Regulations where doing so would prevent compliance with the requirements of the CDEMA. This provision allows the gas contingency to be managed in the context of a civil defence emergency, which would bring a centralised, whole-of-government approach to the management of the situation.

2 Overview of issues identified with the CCM Regulations

There were three main sources used for identifying aspects of the CCM Regulations that might need to be amended:

- the *Critical Contingency Performance Report* prepared by the CCO (Performance Report) following termination of the October 2011 critical contingency;
- the Concept Review commissioned by Gas Industry Co and that surveyed a range of stakeholders; and
- various issues previously identified by Gas Industry Co.

2.1 Performance Report

Regulation 65 of the CCM Regulations requires the CCO to prepare and publish a performance report that assesses the effectiveness of the critical contingency management arrangements and identifies any amendments that would better achieve the purpose of the regulations. The CCO's Performance Report,[2] published on 21 December 2011, stated that, "…overall, that system worked well and achieved the purposes for which it was designed" but noted that "[s]ome modest improvements are possible…which we hope will lead to a better system…"

The recommendations the CCO identified included:

- Reviewing the curtailment bands, including the criteria for and treatment of essential service providers;
- Clarifying the provisions relating to the declaration of regional critical contingencies;
- Considering the most appropriate mechanism for increasing public knowledge and understanding of the critical contingency system;
- Introducing greater incentives for compliance with directions under the regulations; and

[2] Available on the CCO website: go to www.oatis.co.nz and click on the CCO button, then click Publications on the top menu. The report is listed under the CCO Performance Reports heading.

- Improving the review and reporting process following a critical contingency.

2.2 Concept Review

Gas Industry Co engaged Concept Consulting to undertake a review of the CCM Regulations in light of experience of the Maui outage in October 2011.[3] Concept interviewed a range of industry stakeholders, including large consumers, retailers, and those involved in managing the contingency. The Concept Review also examined the approaches to contingency management and demand curtailment in international markets. It made recommendations for amendments to a number of areas of the CCM Regulations, some of which mirrored the recommendations from the CCO's Performance Report.

The recommendations from the Concept Review included:

- Changing the way ESPs and MLCs are designated, including changing the body responsible for making designations and strengthening and narrowing the criteria for designations;
- Requiring retailers to prepare and maintain curtailment plans to ensure they are adequately prepared to respond in the event of a critical contingency;
- Assigning responsibilities for communications during a critical contingency, so that stakeholders and the public are adequately informed;
- Ensuring that the CCO has the information required, and with the necessary level of detail, to manage a critical contingency effectively;
- Clarifying the distinction between regional and national critical contingencies; and
- Considering how best to encourage compliance with curtailment directions.

2.3 Other issues identified

There were a number of matters that Gas Industry Co identified from its own work. Some of those changes relate to changes elsewhere in the industry (such as the expiration of the contracts between the Crown and the Maui Mining Companies). There are also transition provisions in the CCM Regulations that are no longer needed, now that they have come fully into force. Still other changes are minor and technical in nature.

Included among the issues identified by Gas Industry Co are:

- Clarifying the drafting of the CCM Regulations so that "any person" can be appointed as CCO;
- Ensuring that an independent CCO has the tools and information required to carry out the requirements of the CCO role;

[3] The Concept Review can be found on the Gas Industry Co website at http://gasindustry.co.nz/work-programme/discussion-papers-presentations-and-reports/review-gas-critical-contingency-managemen

- Requiring a TSO to provide the CCO and public with information and regular updates in the event that a pipeline failure is the cause of a critical contingency; and
- Clarifying the compliance provisions related to the CCM Regulations.

3 Consultation and engagement with stakeholders

This recommendation has been informed by extensive consultation and engagement with stakeholders. Stakeholders and interested parties have had formal opportunities to provide feedback, including through consultation on review papers and consultation documents and participation at workshops. Stakeholders have also engaged informally with Gas Industry Co on issues of particular interest in the course of the review.

3.1 Concept Review

As outlined earlier in this recommendation, the Concept Review was informed by interviews with stakeholders, including large consumers who were asked to curtail their consumption during the Maui outage in October 2011; retailers who were required to contact customers and inform them of their need to curtail; and system owners and operators, who were either directly or indirectly involved in the October 2011 event.

The consensus amongst stakeholders was that the contingency management arrangements generally worked well, and the outcomes were generally as intended by the CCM Regulations. Most agreed, though, that there were issues to be addressed and lessons to be learned. Some noted that they had already implemented changes to their systems and processes following the event and would be better prepared if such an event were to happen again soon.

The issues gleaned from the interviews were incorporated into the recommendations in the Concept Review, which were outlined in the previous section.

The Concept Review was published for public consultation. Gas Industry Co received eight submissions on the report, from large users, retailers, transmission system owners, and distribution system owners.

3.2 Economic analysis

As a means of evaluating the costs and benefits of the identified options, Gas Industry Co commissioned a report from NZIER, *Value added associated with gas demand: Estimates of value*

added by industry for informing decisions on critical contingency management.[4] The report provided estimates of value added across industries in the North Island which use gas, which was useful in considering amendments to the order of demand curtailment specified in the CCM Regulations. It was also valuable for confirming that the underlying construct and order of the curtailment bands is efficient.

3.3 Statement of proposal

Gas Industry Co considered stakeholder feedback, recommendations from the Performance Report and the Concept Review, and its own experience in preparing the *Statement of Proposal – amendments to the Gas Governance (Critical Contingency Management) Regulations 2008*[5] (SoP), which was published for consultation on 12 November 2012. Publication of the SoP was notified to Gas Industry Co's list of stakeholders, comprising over 200 individuals and covering approximately 100 organisations. In addition, and because the impact of the CCM Regulations goes beyond gas industry participants, we also placed public notices in the dailies so as to alert a wider audience to the existence of the SoP.

Nineteen submissions were received, from retailers, transmission and distribution owners, consumers, consumer advocates, and organisations involved in emergency planning. Those submissions were carefully considered and an analysis of submissions was published on the Gas Industry Co website[6] that shows where either proposals in the SoP were confirmed or were changed as a result of the information contained in submissions.

3.4 Informal stakeholder engagement

Gas Industry Co has engaged informally with a range of large users and gas industry participants on issues related to critical contingencies. In the course of reviewing the CCM Regulations, we have actively sought input from the Major Gas Users' Group and such industry associations as the Food and Grocery Council and the Dairy Companies Association of New Zealand.

We have also held a series of meetings with large end users and the Major Gas Users Group to discuss their concerns, and to help them understand the limited options that are available to the CCO when managing the worst critical contingencies. Through these engagements, stakeholders have come to understand better the limited options available for managing gas critical contingencies and the fact that load curtailment is the key tool for the CCO. Better understanding among those stakeholders has led to better engagement and better quality submissions. Gas Industry Co has also noticed that informed stakeholders tend to appreciate the need to make their own preparations wherever possible, so that they can be resilient to gas outages.

[4] Available on Gas Industry Co website at http://gasindustry.co.nz/sites/default/files/consultations/254/2012_october_-_nzier_-_value_added_associated_with_gas_demand_final.pdf
[5] Available on the Gas Industry Co website at http://gasindustry.co.nz/work-programme/critical-contingency-management/statement-proposal-supplementary-consultations-and-an
[6] Available at http://gasindustry.co.nz/work-programme/statement-proposal-supplementary-consultations-and-analysis/statement-proposal-amendments-gas-governance-critical

Engagement with stakeholders has also provided gas consumers with an understanding of the likely incidence and scale of critical contingency events. Events such as the Maui pipeline outage are extremely rare; the majority of critical contingencies are caused by production station failures, and those events can generally be managed by curtailing only the very largest users – power generators and petrochemical plants. In such cases, other gas consumers may not even be aware that a critical contingency has been declared.

Gas Industry Co has also engaged with relevant government departments, including the Ministry of Health; Ministry of Primary Industries; Ministry of Civil Defence and Emergency Management; Ministry of Business, Innovation and Employment; and Ministry of Corrections. We have also sought feedback from the electricity System Operator, Transpower, and met with the Electricity Authority's Security and Reliability Council. In this way, Gas Industry Co tested and refined its proposals for the CCM Regulations, making sure that they made good sense not only from an operational point of view but also from the perspective of stakeholders who may be affected by the recommended changes.

3.5 Workshops

Gas Industry Co has hosted four workshops regarding the proposed amendments to the CCM Regulations. A workshop on improving communications during Critical Contingencies through an industry protocol or/and amendments to the CCM Regulations was held on 23 May 2012. A workshop to outline the proposals contained in the SoP was held on 6 December 2012. Drafting workshops, where possible wording for amendments to the CCM Regulations was debated, were held on 13 March and 23 April 2013. All were well-attended by stakeholders. The resulting document containing the possible amendments is attached as Appendix A to assist Parliamentary Counsel Office.

4 Proposed changes to the CCM Regulations

This chapter outlines the recommended amendments to the CCM Regulations. A more complete description of the issues and options leading to the recommendations is set out in the various background papers referred to above, and particularly the SoP. Where the recommendation differs from the proposal presented in the SoP in light of consultation or further information, it is noted in the discussion below. Appendix A comprises draft, amended regulations, in the form of mark-ups to the existing CCM Regulations, and is provided to assist the Parliamentary Counsel Office.

4.1 Critical contingency curtailment bands

Combine Bands 2 and 3

Curtailment bands 2 and 3 are both for gas customers consuming more than 10TJ per year but less than 15TJ per day. The distinction between those bands is that Band 2 is for gas customers with alternate fuel capability, while Band 3 is for customers without back-up fuel arrangements. As it is, there is no practical difference between the bands, since the load represented by Band 2 is about 10% of Band 3. If the CCO needed to direct load curtailment beyond the power generators and petrochemical plants, he would need to call the load contained in both Bands 2 and 3. Further, the distinction may present a disincentive to gas customers considering installing alternative fuel capability, which would be detrimental to dynamic efficiency. It is therefore recommended to combine Bands 2 and 3 into Band 3.

Consequentially, the bands above Band 2 can be renumbered: Band 1a becomes 1 and Band 1b becomes 2.

Redefine Bands 4 and 6

Feedback received on the SoP suggested splitting Band 6, as there is a broad distribution of customer size within that band. Splitting this band would improve the operation of the CCM Regulations, allowing larger customers – those with greater potential to help stabilise the system in the event of a critical contingency – to be curtailed before smaller ones. At the moment, Band 4 is defined as having consumers that use more than 2 TJ but less than 10 TJ per year. In terms of annual consumption volumes, it is smaller than Band 6.

This recommendation would change the definition of Band 4 to include the largest consumers from Band 6, by lowering the lower threshold for the band to 250 GJ per year. In this way, should curtailment of these lower bands be required, it can be done in a more efficient manner. The change also makes sense administratively, because it aligns the definitions of curtailment bands more closely to the allocation groups used under the Gas (Downstream Reconciliation) Rules 2008. Because this change would significantly increase Band 4 in customer numbers as well as volume, it is recommended that retailer requirements for relaying curtailment notices be less stringent for consumers using less than 2 TJ per year. This aspect of the recommendation is covered in more detail in the Retailers' roles section below.

Remove ambiguity regarding partial restoration

Feedback from stakeholders suggested that there was uncertainty regarding whether the CCM Regulations allowed a partial restoration of curtailed demand in advance of the situation that caused the critical contingency being resolved. An amendment is recommended to clarify this issue (as it is desirable for the CCO to be able to revise curtailment directives for both greater and lesser curtailment, depending on the circumstances). A similar amendment is recommended to allow retailers to reflect partial curtailment directives.

4.2 Deferred curtailment

"Deferred curtailment" is a new definition recommended to encompass ESPs and MLCs, both existing consumer categories in the CCM Regulations; as well as the recommended new categories of CCPs and ESSPs. All of these categories represent classes of consumers who, depending on circumstances, have some priority to gas during a critical contingency. The designation criteria, the designation process, and the operation of these categories all drew a significant amount of feedback from stakeholders.

Essential Service Providers and Critical Care Providers

The ESP category exists in the CCM Regulations to identify gas consumers whose curtailment would impose significant social costs. Instead of residing in a band according to annual gas consumption, those consumers are designated to belong in Band 5, which would be directed to curtail less often, and later, than Bands 0-4. Stakeholder feedback after the Maui outage suggested that the criteria used to determine ESPs are too broad; further, some ESPs are more important than others and deserve a higher priority than Band 5. The size of Band 5 is also a concern; the larger the volume of gas represented in Band 5, the more situations in which the CCO will need to curtail it – as happened during the Maui outage.

As a result, Gas Industry Co is recommending the creation of a new Band 7, which will be reserved for Critical Care Providers; that is, for hospitals, hospices, residential care providers, prisons, and specialised medical services and laundry services to critical care facilities. That is, Band 7 will contain those gas consumers who require gas for medical treatment, for the housing of vulnerable populations, and for consumers who provide critical supplies to those facilities.

At the same time, the criteria for ESPs are recommended to be narrowed to include emergency services, treatment of biohazards, and processing of municipal drinking water. Previously, large food manufacturers and milk processing plants have been designated ESPs under the existing criteria, for reasons of food security and preventing harm to the environment, respectively (since the disposal of raw milk, done improperly, can degrade waterways). The recommended revised criteria would exclude these users. There was general support for this change, although not from the gas consumers who would no longer be eligible for the ESP designation.

The recommended criteria limit access to priority gas to those gas consumers whose cessation of gas would have immediate public health and safety implications. Food security, while important, is not included in the criteria because, in the usual timeframe of a critical contingency, it is unlikely to be a crucial issue; only a limited amount of food requires gas for processing; there are options for importing food from unaffected areas of New Zealand or abroad if necessary; and finally, if the food supply issue becomes critical, there is the ability for the Ministry of Civil Defence and Emergency Management to declare a civil emergency and re-prioritise available gas supplies. The issue of risk to the environment from raw milk disposal is more appropriately managed by making sure that dairy farmers and milk processors have plans in place to manage any situation in which milk cannot be processed, as the volumes of gas needed to avoid these problems can never be guaranteed.[7]

Minimal Load Consumers

MLCs are those for whom an immediate shutdown of plant would cause serious damage to plant or the environment. Consumers with this designation follow an approved shutdown schedule while undertaking an orderly shutdown in the shortest time possible. In recognition that many industrial consumers who previously had an ESP designation would no longer be eligible, Gas Industry Co proposed in the SoP that the threshold for MLC designation be broadened from an annual consumption of 10TJ per year to 2TJ per year. The criteria are recommended to be expanded to include situations where an immediate shutdown would necessitate extensive operations before the plant could resume operation; and to prevent inhumane treatment to animals at an abattoir. These changes were well supported by submitters.

Electricity System Security Providers

An issue that arose during the review was how to cater for electricity generation plant that could support the electricity system without gas but that might need gas to start up. The two current examples of such plant are the units at Huntly that can run on either coal or gas and the alternator unit at Southdown which is also able to run as a synchronous condenser and provide voltage support.

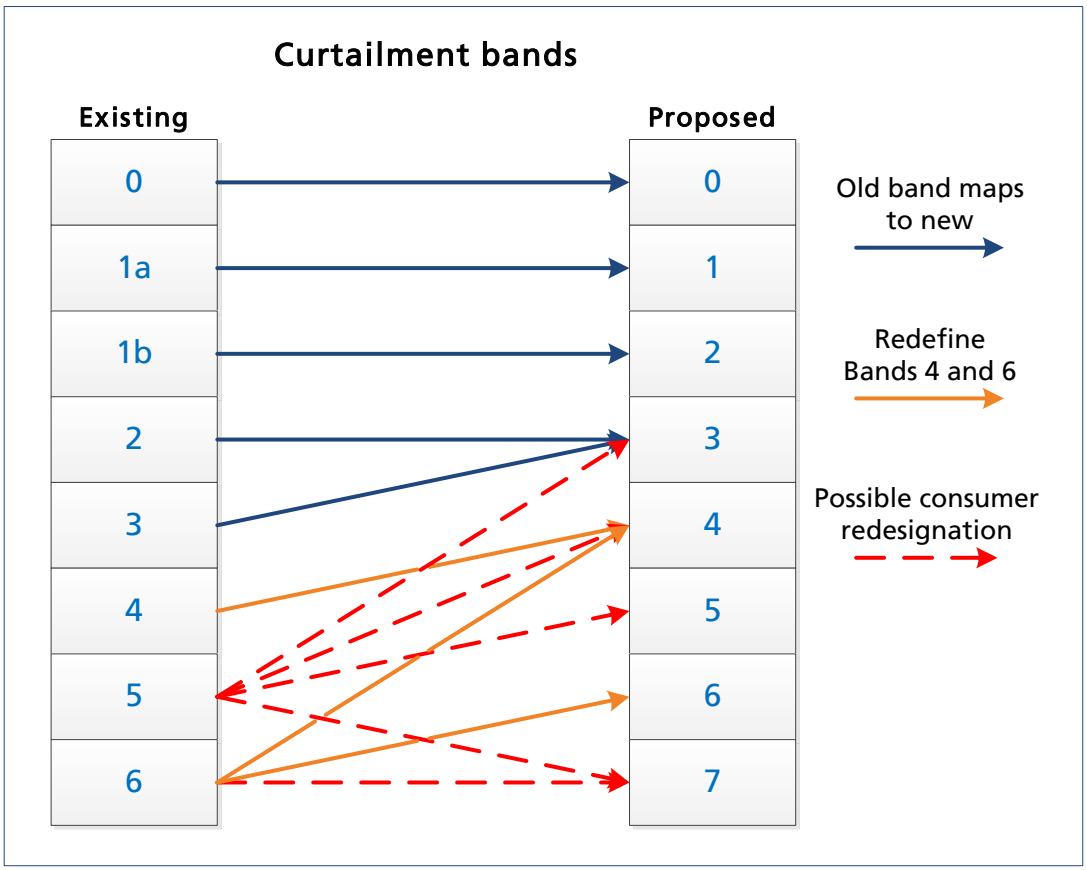
The recommendation is to create a new Electricity System Security Provider (ESSP) designation for such gas consumers. The ESSP designation would provide for a small amount of gas either for starting up a generation unit that can then switch completely to an alternative fuel or to spin-up a unit to

[7] For a more complete discussion of these issues, please see section 6.2 of the SoP.

synchronise with the grid and, once motoring, provide voltage support. In either case, there will be a requirement for the CCO to confirm that the electricity System Operator requires the ESSP to operate for grid security and the CCO will need to determine whether the additional gas use can be accommodated without unnecessary risk to the gas system.

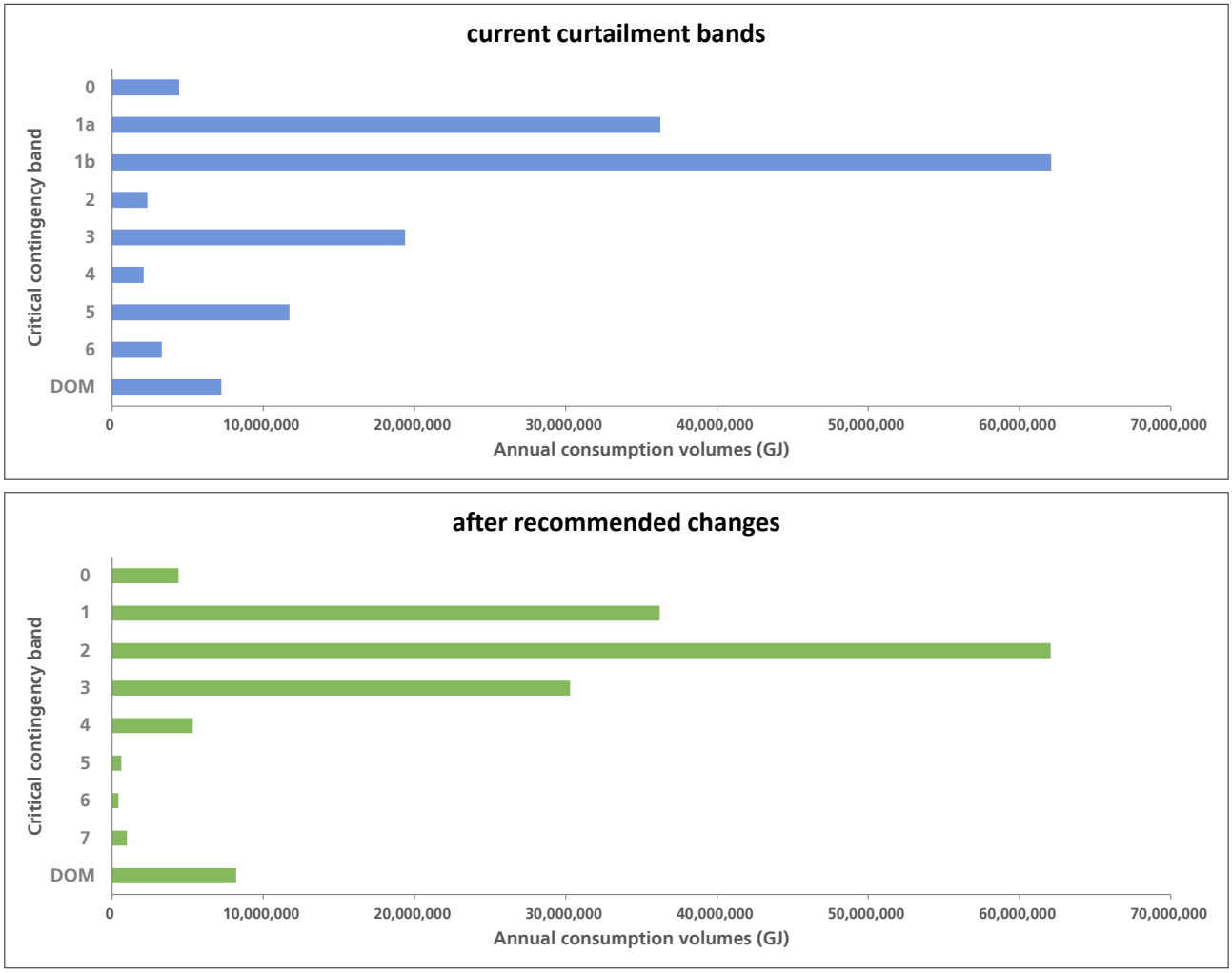
The figure below depicts the effects of the changes from sections 4.1 and 4.2.

Figure 1 How existing curtailment bands map to recommended bands



As explained above, Bands 2 and 3 are to be combined; and 1a and 1b renumbered 1 and 2, respectively. The redefinition of Bands 4 and 6 means that some consumers will move from Band 6 to Band 4. The narrowing of Band 5 criteria means that some consumers currently designated as Band 5 will revert back to curtailment bands according to their annual consumption, most likely to Bands 3 and 4, though some will remain ESPs and some will become Band 7 CCPs. The lack of a lower threshold for CCPs means that some Band 6 consumers who were ineligible under the old ESP criteria will qualify for inclusion in Band 7.

Chart 3 Current and recommended curtailment band volumes



The charts above illustrate how the volumes in the curtailment bands are likely to change.

- The first three bands remain the same in volume, though renumbered from 0, 1a, and 1b to 0, 1, and 2.
- Band 3 encompasses the former Bands 2 and 3 and includes some large gas consumers that formerly were designated as Band 5 ESPs.
- Band 4 similarly receives reclassified Band 5 consumers; it also becomes larger due to the changed threshold between Bands 4 and 6.
- Band 5 becomes much smaller, due to the narrower criteria for designation. This smallness will allow the CCO to keep the essential services provided by Band 5 consumers operational in a much wider set of circumstances.
- Band 6 has become smaller, due to the change in threshold between Bands 4 and 6.

- Band 7, with CCPs, is accorded the highest priority.

Process for designating deferred curtailment customers

The SoP proposed that the responsibility for designating deferred curtailment customers be transferred from retailers to the industry body, and there was widespread support for this proposal. This arrangement will ensure that designations are made by an independent body; and the fact that all designations are made by a single body will promote consistency in making those determinations. The proposals also included changing the designation process so that it only covers the gas used for the function being given the deferred curtailment designation. That is, for an ESP, CCP, MLC, or ESSP designation, only the gas used in the provision of the essential or critical care services, or for the approved profile in the latter two cases, would be designated (and put into Band 5 or 7); nonessential gas usage would have to be curtailed as per the band the consumer would belong to according to its annual consumption. All of these changes were well-supported by submitters and are included in this recommendation.

4.3 Improving communications

Many stakeholders reported concerns about how communications were managed over the duration of the October 2011 critical contingency. The SoP suggested that improvements are required in order to promote awareness of the onset of a critical contingency and the need for gas users to respond promptly to directions to curtail demand, to keep all stakeholders well informed during a critical contingency, and to assign clear responsibilities to industry participants who are best-placed to provide communications.

The SoP therefore proposed amending the CCM Regulations to establish a set of "backstop" communications arrangements requiring early public notification by the CCO and failed asset[8] owners following declaration of a critical contingency, and the provision of regular updates. The proposal was supported by most submitters, although the TSOs were opposed, saying either that a non-regulatory approach was preferred or that Gas Industry Co should take responsibility for communications.

To the suggestion that a non-regulatory solution might be workable, Gas Industry Co notes that voluntary arrangements did not appear sufficient during the Maui outage in October 2011, when it took two days for information to be publicly available about the cause of the outage and likely repair times. Subsequent efforts to develop an industry communications protocol were unsuccessful. Gas Industry Co considers it essential that basic information be made publicly available about critical contingencies during which non-industry participants are curtailed. Most critical contingencies can be managed by curtailing only storage, thermal electricity generation, and petrochemical production. Since these events are relatively confined, there is generally no need for immediate wider public communication about them. It is only when Band 3 and higher bands are curtailed that there is a need for public information.

[8] In this Recommendation the term "failed asset" is used to indicate an asset that has ceased to function or has been damaged and that failure has caused or contributed to the critical contingency.

This recommendation is not intended to mandate a media spokesperson, the requirements for which will vary in a range of circumstances, but rather to ensure that the minimum required information is made publicly available so that it can be accessed by interested and affected parties. With the regulatory backstop in place, there remains scope for an industry protocol to provide communications that meet or exceed the regulatory requirements.

Regarding the suggestion that Gas Industry Co should be responsible for overall communications during a critical contingency, Gas Industry Co, as the industry co-regulator under Part 4A of the Gas Act, is not well placed to provide overall communications although, as demonstrated during the Maui outage, it may be a contributor. Communications should be timely and accurate, and responsibility for providing information should be placed with those parties who have the best and most up-to-date information and understanding of the issues that need to be communicated. This involves both the CCO and the owner(s) of the failed asset(s) providing information and updating it regularly, allowing it to be accessed directly by affected parties and distributed more widely by others.

Therefore, the recommended amendments to the CCM Regulations include minimum communication requirements for asset owners and the CCO, including content and timing of public statements. The CCO will be required to publish information following determination of a critical contingency and then updates three times a day on such issues as pipeline conditions, geographical areas affected, and actions being taken to stabilise pipeline pressures. Asset owners will need to publish such information as the nature of the asset failure and the estimated time to repair and to update those at regular intervals.

4.4 Role of the CCO

The review of the CCM Regulations highlighted a number of aspects of the CCO's role that need to be clarified or amended to better achieve the purpose of the CCM Regulations.

Declaration of regional/non-regional status of a critical contingency

A non-regional contingency is one that affects the entire transmission system, such as when a production station unexpectedly fails. In such a situation, it is beneficial for the system if other production stations produce gas, even if they do not have an explicit contract to do so; and for consumers to curtail their use of gas, even if they have not been directed to do so by the CCO. In this way, additional gas becomes available to stabilise pipeline pressures and mitigate the potential severity of the contingency. The CCM Regulations provide an incentive for gas producers and consumers to act in this way, because they will be paid a premium contingency price for their "spare" gas by the retailers of the consumers who used it.

A regional contingency, on the other hand, occurs when there is a fault on the pipelines themselves: there is plenty of gas available, but it is not able to be transported into the affected region because of a pipeline break or other incident. In this case, additional gas production cannot help the situation;

the CCO must manage the contingency with whatever linepack remains in the affected pipe. Therefore, contingency prices do not apply to regional critical contingencies.

This distinction was reviewed by Gas Industry Co, and the majority of submitters agreed that the distinction should remain.

One issue that did arise is that the CCM Regulations are unclear as to who determines the status of a critical contingency and when that determination should occur. The recommendation is that the CCO makes the determination as soon as possible after determining that there is a critical contingency, having regard to guidelines consulted on and published by the industry body. In this way, the determination is done by the person with the best knowledge of the situation, and in a timeframe that allows gas industry participants to consider their actions in light of the status of the critical contingency. This proposal had wide support from industry.

Ability to reconfigure networks

Network reconfiguration was employed during the October 2011 contingency to allow gas in the Kapuni-Rotowaro pipeline to flow north. While this came at a cost of partially curtailing load in areas served by the Vector Bay of Plenty pipeline, it meant that the CCO was able to direct restoration of load to selected customers north of the Maui pipeline failure. It is recommended that the CCM Regulations be amended to explicitly allow the CCO to direct reconfiguration of part of the transmission system during a critical contingency if such reconfiguration would, in the opinion of the CCO, be likely to better meet the purpose of the CCM Regulations.

Ability to call for public conservation

The curtailment arrangements in the CCM Regulations apply to commercial and industrial users of gas but not to domestic gas consumers. This means that, in the event of a gas critical contingency where curtailment of commercial/industrial load has been insufficient to achieve stabilisation, the only remaining options are:

- for owners of affected gas distribution networks to begin disconnecting customers on the grounds of continuity or safety of the supply and distribution of gas; or
- to make public appeals to remaining gas users to voluntarily stop using gas so as to prevent more serious and protracted loss of gas supply in the local networks.

This matter was raised in both the CCO Performance Report and the Concept Review. Submitters generally agreed that the CCO should be able to call for public savings. The recommendation is to require the CCO, in the event that curtailment of Bands 0 through 6 is insufficient to stabilise the pressure in the affected part or parts of the transmission system, to instruct retailers to commence public appeals for gas conservation.

Production of a performance report

The CCM Regulations require the CCO to prepare and publish a performance report assessing compliance with the CCM Regulations and the overall effectiveness of the critical contingency arrangements. Concerns were expressed during the regulations review that the CCO reporting on itself represents a conflict of interest. Gas Industry Co considered the alternative of having an independent party undertake the performance report but determined that the CCO is best placed to prepare such a report, as it has first-hand knowledge of the events during a critical contingency.

However, to ameliorate concerns about conflicts of interest, several changes are recommended. The first is removing the requirement that the report assess the CCO's and transmission system owner's compliance with the CCM Regulations, which means that the report can focus more fully on the CCO's assessment of the effectiveness of the arrangements and identification of possible improvements. The CCO would remain under the obligation imposed by the Gas Governance (Compliance) Regulations 2008 (Compliance Regulations) that requires the CCO to notify the market administrator of any breach that it believes has occurred, which would include its own breaches and those of the transmission system owners. The other two recommended changes to performance reporting are requiring the CCO to consult on a draft of its performance report and adding the ability for the industry body to audit the content of the performance report. Both of these changes will bring a measure of transparency and oversight to the preparation of the report.

Future proofing the service provider role

As currently drafted, the CCM Regulations do not provide adequately for parties other than the incumbent to be appointed as CCO. Submissions to the SoP agreed that the CCM Regulations should be amended to allow any party to be appointed as CCO. The primary concern in this regard is ensuring that a CCO that is independent of the transmission system operator has the information necessary to carry out the responsibilities of the CCO in an efficient and effective way. It is therefore recommended to expand the types of information that transmission system owners are required to provide to the CCO. The CCO should also have the ability to request information from gas producers and large gas consumers about any expected changes in production or demand, such as would occur from scheduled outages or production increases.

The issue of providing the CCO with more granular data for system modelling was also raised during the review. The recommendation is to amend the CCM Regulations to allow the CCO to request consumption data from the allocation agent, which maintains a comprehensive dataset on gas consumption volumes. Using the allocation agent data is a more efficient way of accessing the data than needing to receive it individually from each retailer.

4.5 Transmission system owners' roles

Role of TSO during a critical contingency

The Performance Report following the Maui outage highlighted the need for TSOs to convey CCO notices to retailers and consumers in a more timely fashion. To some extent, this issue has been addressed by changes to Vector's and MDL's Critical Contingency Management Plans: when the CCO publishes notices on the CCO internet site, the CCO will now issue corresponding notices on behalf of the TSOs. While this arrangement seems satisfactory, Gas Industry Co still considers it prudent to provide a back-stop arrangement to future-proof the CCM Regulations.

Therefore, it is recommended that the CCM Regulations include a requirement for TSOs to relay directions from the CCO to retailers and large consumers within 30 minutes of receiving them from the CCO. This requirement will be met by the existing provisions in the Critical Contingency Management Plans, and it will ensure the timely relaying of notices even if those plans change in the future.

Provision of information to the CCO

As noted above, it is important that the CCO have the information it needs to discharge the responsibilities of the CCO in an efficient and effective manner. To that end, Gas Industry Co recommends amending the CCM Regulations to expand the types of information that TSOs are required to provide to the CCO.

4.6 Retailers' roles

Ensuring customers know of deferred curtailment categories

It was apparent during the Maui outage that many consumers had not contemplated the possibility of load curtailment; many were unaware of their obligations during a critical contingency. The CCM Regulations require retailers to inform their customers about the ability to apply for ESP and MLC designations, but the wording of the sections implies a one-time notification, rather than an ongoing obligation. The SoP proposed to require retailers to notify their industrial and commercial customers annually about the possibility of a critical contingency and the need to curtail usage and the ability to apply for deferred curtailment designation. Feedback from submissions did not agree: many submitters thought that annual notification was too frequent; retailers in particular were concerned that annual notifications would scare customers away from using gas at all.

Gas Industry Co agrees that there is a balance to be struck between promoting awareness of critical contingency arrangements and avoiding unnecessarily alarming gas consumers. It is recommended that the CCM Regulations be amended to require notification at intervals that are determined by the industry body and are neither shorter than annual nor longer than three years. In this way, the notification interval can change over time.

Relaying curtailment instructions to small customers

Stakeholders have expressed concern about the difficulty of contacting hundreds or thousands of retail customers in a short timeframe if it becomes necessary to direct them to curtail. Retailers must give urgent notice to their consumers directing them to curtail, and the CCM Regulations provide that urgent notices may be given orally but should be confirmed in writing by post, fax, or email. These provisions may not be workable for contacting large numbers of consumers, such as would be needed if curtailments went beyond Band 3.

The SoP proposed that SMS messages (text messaging) be permitted as a means of contacting Band 6 customers, and this proposal received wide industry support. The SoP further proposed that retailers should have a best endeavours obligation to contact at least the largest customers in Band 6 regarding curtailment progress, but this proposal received only mixed support. Many submitters considered that "best endeavours" was too high a standard in this situation, since it could potentially be expensive and onerous to comply with. Gas Industry Co has reconsidered this aspect of the proposal and, recognising that small consumers will be able to be contacted via text messaging, recommends an amendment requiring retailers to make "all reasonably practicable" attempts to contact small customers. Finally, the consumers to whom these provisions should apply are all the former Band 6 consumers, who will now be in either Band 4 or Band 6, due to the change of band definition described above (under Redefine Bands 4 and 6).

Therefore, Gas Industry Co recommends that, in the case of the CCO directing curtailment to Bands 4 or 6, retailers can give urgent notice to consumers who consume less than 2 TJ per year by SMS and use all reasonably practical means to give the notice orally.

Gas retailer curtailment plans

The SoP proposed that retailers prepare curtailment plans as a way of ensuring that retailers have the appropriate plans in place to prepare for, and respond to, a critical contingency. The intention was not to impose additional requirements on retailers but rather to ensure that all of the obligations that a retailer has under the CCM Regulations are carefully planned for and carried out in a consistent fashion. The SoP suggested that retailer curtailment plans could be published or submitted for approval, to ensure their currency and completeness.

The idea of requiring retailer curtailment plans received wide industry support, but retailers in particular did not support publishing those plans, citing concerns with publishing commercially sensitive and private information. The reasons for proposing that the plans be published were to facilitate transparency of individual retailer's plans, to invite comparison of the different plans, and to encourage a best-practice planning model to emerge. However, Gas Industry Co accepts that there would be difficulties in protecting commercially sensitive and personal information. Instead, the recommendation is that retailers are required to prepare curtailment plans and submit them to the industry body. This option will ensure that retailers have prepared plans and give comfort to the CCO that retailers are prepared to respond promptly to CCO instructions.

4.7 Compliance matters

During a critical contingency, the CCO issues curtailment directions to TSOs, who relay them to retailers, who relay them to the affected consumers. Consumers are required to comply with those directions.

It is possible that one person's non-compliance could impact upon the CCO's ability to manage a critical contingency event and cause a long-term gas outage. Therefore, it is important that there are processes in place both to incentivise and ensure compliance with the CCM Regulations.

Introduce effective enforcement provisions

At the moment, the Compliance Regulations provide for the monitoring and enforcement of the CCM Regulations. The Compliance Regulations have been designed to apply to 'industry participants' as that term is defined in the Gas Act; so that they unambiguously apply to purchasers of wholesale gas, but their application to retail gas consumers is much less clear-cut. This means that the CCM Regulations lack an effective means to incentivise gas consumers who are not industry participants to comply with curtailment directions. To address this gap, the SoP proposed:

- amending the definition of 'participant' in the Compliance Regulations to remove any reference to consumers who are not also 'industry participants';
- inserting offence provisions in the CCM Regulations to provide a means of enforcing compliance by non-industry participants; and
- moving the interim injunction power from the Compliance Regulations to the CCM Regulations.

Making these changes would clarify that instances of non-compliance by industry participants would be caught under the Compliance Regulations, while non-compliance by consumers who are not industry participants would be dealt with under the new offence provisions of the CCM Regulations. Having the interim injunction power in the CCM Regulations improves visibility and ensures that it can be used against either an industry participant or a consumer. Industry submissions were supportive of these proposals, and they are included in this recommendation.

Health and safety defence

Regulation 47 of the existing CCM Regulations provides that no person is required to comply with obligations during a critical contingency to the extent that compliance would unreasonably endanger the life or safety of that person or any other person. This provision is aimed at addressing workplace health and safety risks associated with gas critical contingencies. In Gas Industry Co's review of the CCM Regulations, this provision was found to be too broad and open ended to ensure that it is only used in exceptional circumstances. Further, the intent of the regulation needs to be interpreted in the context of other legislation that addresses health and safety in employment.

Under the Health and Safety in Employment Act 1992 (HSEA), employers have to take all practicable steps to ensure that their activities do not harm their employees, contractors, or other people. Planning for a critical contingency, so that a user will be able to comply with curtailment directions without endangering people, is such a practicable step. Indeed, the obligation to take 'all practicable steps' requires that proactive steps be taken, and this threshold is a high one. It is important that the CCM Regulations provide incentives that are consistent with these provisions of the HSEA.

Accordingly, it is recommended that the current, broadly worded regulation 47 is replaced by a health and safety defence to breaches of curtailment requirements. It would be a defence to the offence provision recommended above if the defendant proves that failure to comply was necessary to prevent or lessen a serious or imminent threat to the health and safety of any person. The defence would be limited to where such a threat to health or safety could not reasonably have been foreseen and mitigated by the defendant so that the conduct that constituted the offence could have been avoided.

Similar provisions are contained in a range of other legislation, including the Resource Management Act 1991, the Hazardous Substances and New Organisms Act 1996, the Crown Minerals Act 1991, the Building Act 2004, the Historic Places Act 1993 and the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.

An equivalent defence provision for breaches by an 'industry participant' that are alleged under the Compliance Regulations is being progressed through amendments to those regulations.

This recommendation would provide better incentives for industrial and commercial gas consumers to develop resiliency against gas outages and to take the appropriate steps towards addressing, isolating, and mitigating workplace health and safety risks.

Compliance monitoring

For the compliance provisions to be effective, they will need to be accompanied by a provision that allows Gas Industry Co to assess compliance after the event. The SoP proposed that consumption information provided by the allocation agent be used for this purpose, which would be a simple, low-cost means of enabling assessment of compliance with curtailment instructions. This proposal was supported by industry and is included in the recommendation.

4.8 Minor and technical amendments

This document recommends a number of minor and technical amendments to the CCM Regulations that were included in the SoP. They are listed in the table below. Further recommended changes that arose through consultation and as a consequence of other recommendations are included in the attached marked-up CCM Regulations document.

Table 3 Minor and technical amendments

Regulation(s) affected	Proposal
Regulation 2 (and related definitions(s)) relating to commencement of the Regulations	Delete. Provisions dealt with staged introduction of the CCM Regulations but are no longer relevant now that the Regulations are fully in effect.
Definition of 'gas producer'	Delete reference to the 'Crown'
Definition of 'National Gas Outage Contingency Plan' and 'NGOCP'	Delete
22(1)(d)(ii)	The drafting is ambiguous and does not clearly define the time at which an electronic message was received. Will be amended to align with the equivalent wording in the Gas (Switching Arrangements) Rules 2008 at 29.4 and 29.4.2.
Regulation 33(1) – requirement to maintain current contact details in a critical contingency management plan (CCMP)	Make it clear that updating contact details in a CCMP does not constitute a 'change' to the CCMP that would trigger the change process requiring approval by the industry body (and the accompanying process set out in regulations 27 through 30).
Regulation 38(1)(d) – reference to the Gas (Information Disclosure) Regulations 1997.	Update reference to the equivalent under the Commerce Commission's information disclosure arrangements under Part 4 of the Commerce Act.
Regulation 39(2) – retailer data to be updated periodically.	This would be improved by requiring retailers to provide an annual update of the consumer data to the CCO. The current drafting makes it challenging for retailers to identify when they need to provide updates and the CCO has reached an informal arrangement that generates annual updates. This is a straightforward clarification, would be more efficient than the status quo as drafted, and is preferable to implementing the same solution by way of a work-around. This is regarded as a minor and technical change as it reduces the burden on retailers and reflects informal practice.
Regulation 40(2) – updated load data for the CCO from large consumers.	Large consumers have an obligation to provide updates to the CCO whenever their consumption changes by 20%. Changing this to an annual update would ensure that the CCO has accurate information and eliminates the risk that large users might not be aware of their existing obligations under this regulation.

Regulation(s) affected	Proposal
Regulation 51 – parties to be notified of the declaration of a critical contingency.	Add Minister of Health and Director-General of Health to the list of people that must be notified by the CCO when a critical contingency is declared. The Minister of Health can direct hospitals to cease elective surgeries. Provide a mechanism to allow other interested persons to receive notices from the CCO.
Regulation 53(2) – curtailment of subsets of a curtailment band.	Expand this regulation to make it clear that the CCO can use r53(2) in conjunction with r53(1)(d)(ii) to fine tune the curtailment of one or more bands. For example, if directed curtailment of a band had resulted in too great a reduction in load then a revised curtailment instruction could be issued allowing consumer to resume using gas at up to x% of their normal usage. This is already implicit in the existing drafting but it could be improved by making the wording more explicit. This is considered a minor and technical change.
55(2) – Retailers and large consumers to provide regular updates on compliance with retailers' curtailment directives.	At present the CCM Regulations are silent on how often those updates should be provided. Stipulate that updates must be provided in the timeframe requested by the CCO. This is considered to be a minor and technical change as it clarifies the obligations of those parties.
Regulation 56(2)(c) – retailers issuing curtailment instructions to consumers.	Where the CCO is able to direct partial curtailment then sub-clause (i) will need to be amended to allow for that.
Regulation 60(3) – provides for critical contingency to be terminated as long as the CCO is satisfied that the resulting flows will not precipitate another critical contingency event.	There is a limitation that would prevent this clause being triggered earlier than 12 hours following the declaration of a critical contingency. This limitation can unnecessarily extend the period of time for which contingency imbalance arrangements are in effect. It is more efficient to remove it.
Regulation 62 – notification of termination of critical contingency event.	Augment this regulation to match r51 once revised.
Regulation 77 – contingency imbalance information to be provided by TSOs to the industry body	Require the industry body to publish the contingency imbalances (GJ and $) by pipeline so as to provide transparency for all parties to be able to check the calculations.
Regulation 84 – critical contingencies occurring before the 'go-live' date	No longer relevant, delete.

Regulation(s) affected	Proposal
	Move the requirement for the CCO to allege breaches that it becomes aware of (contained in the Compliance Regulations) to the CCM Regulations so as to provide sharper incentives on participants and to allow for the distinction between breaches under the Compliance Regulations and offences under the new offence provision.

5 Evaluation criteria

Section 43L of the Gas Act 1992 (Gas Act) requires that, before making a recommendation for any gas governance regulations, the recommending body must undertake an assessment under section 43N; consult with persons representative of the interests of persons likely to be substantially affected by the proposed regulations; give those persons the opportunity to make submissions; and consider those submissions. Section 43N requires an identification of all reasonably practicable options for achieving the objective of the regulation; and an assessment of those options by considering the benefits and costs, the extent to which the objective would be promoted, and any other matters considered relevant.

Derivation of evaluation criteria

The SoP contained detailed analyses of the issues identified in previous work, possible options for addressing those issues, evaluation of those options, and Gas Industry Co's preferred options. For the evaluation criteria, Gas Industry Co used the following:

- From the Gas Act, the objectives of the industry body in recommending regulations (section 43ZN):

> The objectives of the industry body, in recommending gas governance regulations under section 43F, are as follows:
>
> (a) the principal objective is to ensure that gas is delivered to existing and new customers in a safe, efficient, and reliable manner; and
>
> (b) the other objectives are—
>
> (i) the facilitation and promotion of the ongoing supply of gas to meet New Zealand's energy needs, by providing access to essential infrastructure and competitive market arrangements:
>
> (ii) barriers to competition in the gas industry are minimised:
>
> (iii) incentives for investment in gas processing facilities, transmission, and distribution are maintained or enhanced:
>
> (iv) delivered gas costs and prices are subject to sustained downward pressure:
>
> (v) risks relating to security of supply, including transport arrangements, are properly and efficiently managed by all parties:
>
> (vi) consistency with the Government's gas safety regime is maintained.

- From the Government Policy Statement on Gas Governance (GPS), the Government's objective for the entire gas industry is:

> To ensure that gas is delivered to existing and new customers in a safe, efficient, fair, reliable and environmentally sustainable manner.

The GPS makes clear that Gas Industry Co must have regard to this objective when making recommendations for rules, regulations or non-regulatory arrangements for any part of the gas industry.

In addition, the GPS seeks a number of outcomes for the gas industry and, specifically, for critical contingencies, seeks:

> Sound arrangements for the management of critical gas contingencies.

- From the regulatory objective of the CCM Regulations, at regulation 3 states:

> 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.

That statement encapsulates the notion that the arrangements should ensure that participants have incentives to behave appropriately during critical gas outages and should not have incentives to behave in ways that would contribute to precipitating a critical gas outage.

The second part of the purpose statement is designed to ensure that 'effective management' is not achieved at the expense of increasing the risk of depressurising downstream networks.

Evaluation criteria used in the SoP

Gas Industry Co combined all of the objectives outlined above into a set of criteria that were used in the SoP to evaluate and establish relative rankings for the practicable options. These criteria were as follows:

Risk management: given the limited tools available to manage a critical contingency, chief among which is the ability to ration gas, and the significant downside associated with an uncontrolled drop in pressure, the CCM Regulations should ensure careful risk management.

Security of supply: ensuring that the critical contingency arrangements provide a framework and incentives that foster optimal re-establishment of gas supplies and normal market mechanisms.

Allocative efficiency: implicit in the principal objective under the Gas Act.

Dynamic efficiency: also implicit in the principal objective prescribed by the Gas Act.

Providing appropriate incentives for resilience: as discussed elsewhere in this document, critical contingencies are caused by an interruption in gas supply. Gas consumers need to be aware of the

risks to them of losing supply, and there should be the appropriate incentives in place so that they plan for these outages accordingly.

6 Assessment of costs and benefits and against evaluation criteria

The original statement of proposal that foreshadowed the CCM Regulations contained an assessment of costs and benefits that compared the (then) status quo – a scheme that relied on voluntary cooperation – with a regulated scheme that would give teeth to the directions to curtail demand.

In this case the proposal is to make a series of modifications to various aspects of the existing CCM Regulations. The approach that was taken in the November 2012 SoP was to evaluate each of the changes against a set of criteria that are described in section 5. The context for that approach was that this was being done against a backdrop of a report from NZIER that considered whether the banding approach to curtailment is economically efficient. That report identified that there is a strong inverse correlation between customer size (as measured by annual gas consumption) and value-added per unit of gas consumed. Put another way, as a general rule, less energy-intensive consumers tend to derive more value per unit of gas consumed than more energy-intensive consumers.

The changes that were proposed in the SoP fall into a number of broad categories and the costs and benefits of those categories are outlined below.

6.1 Critical contingency curtailment bands

Recommendations

- Combine Bands 2 and 3 into Band 3; renumber Bands 1a and 1b into Bands 1 and 2
- Lower threshold between Bands 4 and 6 from 2 TJ per year to 250 GJ per year
- Remove ambiguity regarding partial restoration

Analysis

In broad terms, the analysis produced by NZIER supports the construct of the critical contingency bands. Gas consumers are grouped into curtailment bands according to annual gas consumption, and this arrangement is both operationally and economically efficient.

Removing the distinction between Bands 2 and 3 enhances the efficiency further, as it removes a potential disincentive for large gas consumers to install alternative fuel capabilities.

Lowering the threshold between Bands 4 and 6 also enhances the efficiency of the arrangements, as it provides a better distinction between relatively large commercial gas consumers, who collectively account for a significant amount of gas consumption; and relatively small commercial gas consumers, who have a higher economic value attached to their consumption.

Removing the ambiguity regarding partial restoration is regarded as a minor and technical change.

6.2 Deferred curtailment

Recommendations

- Amend criteria for ESPs
- Create Critical Care Provider band
- Amend criteria for MLCs
- Create Electricity System Security Provider designation

Analysis

For some gas users, the social costs associated with curtailment outweigh the benefits of curtailing those loads with their volume peers. For these consumers, it is appropriate to defer curtailment where doing so does not compromise effective management of a critical contingency. This is the reason that the ESP designation exists and the Critical Care Provider band is recommended: to afford a higher priority to such customers as water and wastewater treatment plants; emergency services, hospitals, and hospices. The MLC designation follows similar logic, allowing for a more extended shutdown profile where doing so would avoid large costs or unacceptable consequences. The Electricity System Security Provider designation similarly allows usage of a defined amount of gas for the explicit purpose of stabilising the electricity system, should it be needed and should the gas be available. Again, the rationale for this designation is the benefit to society that such gas consumers can provide.

The ESP and MLC designation categories already exist. Compared to the status quo, the recommendation would narrow the ESP criteria and create a band for Critical Care Providers. The rationale for the new Critical Care Provider band is the recognition that, even amongst gas consumers who provide services valued by society, there are some that are more critical than others. Therefore, the recommendation is to designate Critical Care Providers as Band 7, with the highest priority, while ESPs remain Band 5. The narrower criteria for ESP eligibility will mean that Band 5 represents a much smaller volume of gas than it did previously, which will mean that the CCO will be able to leave Band 5 on the system in a wider range of scenarios. This is one of the major benefits of narrowing the ESP criteria: those highly-valued gas users will be able to remain in operation in more critical contingency scenarios than before. (It is worth remembering that, during the Maui outage in October 2011, Band 5 was so large that the CCO called for its curtailment.)

Recommendation

- Move responsibility for designating deferred curtailment consumers from retailers to the industry body

Analysis

The existing CCM Regulations require that retailers evaluate applications for deferred curtailment. In the SoP it was proposed (and universally supported in submissions) that Gas Industry Co takes on that role. Moving the obligation from retailers to Gas Industry Co is largely cost-neutral: instead of retailers individually incurring the administrative cost of receiving and determining applications, the cost will be borne centrally by Gas Industry Co. In fact, it is likely that there will be some efficiency benefits from having the processing undertaken by one organisation, in terms of both cost and consistency of determinations.

6.3 Improving communications

Recommendation

- require the CCO to publish some basic information on any critical contingency (areas and customer categories affected as well as expected duration where known) and to update that information regularly; and

- require owners of assets that had caused or contributed to the critical contingency to publish and update information that would inform stakeholders of the progress of repairs and likely recovery time.

Analysis

As highlighted above, in October 2011, the communications process was not well handled in the first 24-48 hours: there were no public statements either from the CCO or asset owners; and gas consumers, the public, and Ministers were left without authoritative information on the cause and likely duration of the outage. It is difficult to quantify the costs of the lack of information to gas consumers, but Gas Industry Co has been told by many stakeholders about the uncertainty they felt in trying to manage their own business affairs during the Maui outage.

The recommended amendments will impose minimum communications requirements on the CCO and owners of assets that have caused or contributed to the critical contingency as a backstop. The rationale is that those parties have the timeliest access to information within their organisations and the cost of publication – i.e. posting it on a website – is negligible. Posting this information is expected not to require new systems or personnel; as it would only comprise a subset of the information that industry participants have traditionally provided in similar circumstances. By contrast, the value of that information is regarded as high by end users, especially those who have been curtailed or may be at risk of being so, who are able to make preparations appropriate to the situation.

6.4 Role of the CCO

Recommendation

- require the CCO to determine the "regional" status of a critical contingency;
- enable the CCO to direct reconfiguration of transmission networks where that would extend survival times;
- require the CCO to direct retailers to issue a call for public conservation in the most extreme cases, where the CCO has exhausted all curtailment options;

Analysis

All of these recommendations would facilitate the efficient management of a critical contingency. The requirement to determine the regional status will provide large gas consumers and gas producers with the information needed to make appropriate business decisions on the day; the ability to direct network configuration can lessen the potential severity of a critical contingency event; and, should public conservation be required, it would be efficient for the CCO to direct the retailers to make public appeals.

These recommendations do extend the responsibilities of the CCO, and from that viewpoint, add to the costs of the CCO function. However, the costs of having the CCO perform these additional functions are relatively low, particularly because the CCO has ready access to the information required to make the appropriate decisions, while the value of those additional responsibilities is high to industry participants and end users.

Recommendation

- Delete requirement for performance report to assess CCO's and transmissions system owners' compliance with CCM Regulations
- Require CCO to consult on a draft of performance report
- Add ability for industry body to audit the content of the performance report.

Analysis

As outlined in the previous section, removing the requirement to assess compliance with the CCM Regulations will allow performance reports to focus on the effectiveness of the arrangements and identifying possible improvements. This will allow performance reports to be more timely and more useful in managing future critical contingencies. There is no drawback from this recommendation, as the CCO would remain obligated by the Compliance Regulations to report any breaches of the CCM Regulations that it was aware of.

The requirement to consult and the ability to audit the performance report provide a measure of transparency and rigor to performance reporting. In this way, stakeholders will have an explicit opportunity to provide feedback on the draft report, including any additional information they have on how the critical contingency was managed. The ability of the industry body to audit the performance report is an additional safeguard to ensure that the report is as complete and accurate as possible. There will be costs associated with conducting any audit, but these costs are expected to be outweighed by the value gained from the audit.

Recommendation

- Future proofing the service provider role

Analysis

The CCO must have the information it needs in order to carry out its responsibilities in an efficient and effective manner. To date, the fact that the CCO role has been undertaken by a transmission system owner has provided, to some extent, the CCO to access information on an informal basis from the transmission system owner. In the future, the CCO role will be tendered, and the CCO function may be undertaken by a party that is not a TSO. It is essential, therefore, that the CCM Regulations provide such an independent CCO with the ability to access the information it requires.

6.5 Additional retailer functions

Recommendations:

- require retailers to provide regular notices to their customers about the CCM Regulations, the importance of complying with curtailment directions, and the existence of deferred curtailment categories;
- allow retailers to relay curtailment directions by SMS (text messaging) to customers using less than 2 TJ per year of gas; and
- require retailers to prepare retailer curtailment plans and provide them to Gas Industry Co.

Analysis

The first and third place additional obligations on retailers whilst the second removes a current obligation.

While there are costs associated with retailers preparing and sending a mass mailing to all gas customers, the benefits are significant. First, it increases the likelihood that high levels of compliance will occur when curtailment directions are issued. Secondly, for most customers, knowing that there is a possibility, albeit small, of being directed to stop using gas for a period means that they are able to assess whether making alternative arrangements in advance would be cost-effective for them. Thirdly, mass mailing is the most practical way to inform those customers who would qualify for a deferred

curtailment designation. Given the value to customers, it is expected that the benefits would exceed the costs.

Ensuring that retailers are prepared and ready to relay curtailment instructions to their customers is a key success factor in managing a critical contingency event efficiently. It is therefore expected that most, if not all, retailers will already have prepared a curtailment plan. There is a low cost of supplying that plan to Gas Industry Co, but the requirement to do so will place an onus on retailers to ensure that they all have undertaken the necessary planning.

6.6 Compliance matters

Recommendations:

- amend the definition of 'participant' in the Compliance Regulations to remove any reference to consumers who are not also 'industry participants';
- insert offence provisions in the CCM Regulations to provide a means of enforcing compliance by non-industry participants; and
- move the interim injunction power from the Compliance Regulations to the CCM Regulations.

Analysis

These changes will clarify the operation of the compliance provisions as they pertain to the CCM Regulations, avoiding the confusion that arose after the Maui outage in October 2011. The recommendations will also clearly provide for offences in the case of non-industry participant gas consumers, providing clearer incentives for such consumers to comply with curtailment instructions from the CCO. These changes will make the CCM Regulations more effective.

Recommendation:

- Provide that it is a defence to the offence provision recommended above if the defendant proves that failure to comply with a curtailment instruction was necessary to prevent or lessen a serious or imminent threat to the health and safety of any person, where the threat to health or safety could not reasonably have been foreseen and mitigated.

Analysis

This provision would tighten the existing provision for health and safety so as to make it consistent with employers' obligations under the HSEA. Provided employers are meeting their HSE obligations, the change will be cost neutral.

Recommendation:

- allow the use of allocation agent data to assess compliance with curtailment instructions

- require transmission system owners to relay curtailment instructions within 30 minutes of receiving them

Analysis

The first recommendation above is considered to be the most efficient, lowest-cost way of assessing compliance with curtailment instructions. Previously, assessment has depended on the provision of data from individual retailers. Using the allocation agent database makes sense, since it is a single source for all retailers' data, and it can be easily accessed.

The requirement for transmission system owners to relay directions in 30 minutes represents no marginal cost, as they are already achieving this standard by authorising the CCO to send notices on their behalf. Including the requirement in the regulations provides a backstop, to ensure that notices are relayed quickly, even if the manner of relaying them changes.

6.7 Overall assessment

The recommendations in this document, taken together, will, in Gas Industry Co's opinion, improve the efficiency and the effectiveness of the CCM Regulations.

More effective risk management

The revised definitions for curtailment bands, including narrower criteria for ESPs, will provide the CCO with better tools should demand curtailment be needed. As shown in Chart 3, the changes will mean that nonessential large gas users are reallocated to Bands 3 and 4 from old Bands 5 and 6. This reprioritisation will provide the CCO with the ability to curtail large users earlier in a critical contingency, enabling a faster demand response (since curtailing one large load will enable a faster demand response than curtailing many smaller loads with the equivalent usage).

The fact that curtailment directions will be backed up by more effective enforcement provisions provides a strong incentive for consumers to comply in a timely fashion with CCO curtailment directions. The enhanced requirements for retailers to notify their customers on a regular basis about the CCM Regulations, including consumers' responsibility to comply with curtailment directions, will also help to ensure that consumers are prepared to respond in a timely matter if directed to curtail. Timely curtailments allow the transmission system to come into balance more quickly, mitigating the risk of complete loss of linepack. The communications requirements on the CCO and affected asset owners will help to reinforce consumers' awareness of the arrangements and the need to comply with CCO directions.

At the same time, the revised ESP criteria and the establishment of a CCP band will enable the CCO to keep these consumers on the system in a much wider range of scenarios. Since curtailing the operations of ESPs and CCPs pose risks to public health and safety, it is prudent to manage these risks by ensuring that such consumers can continue to operate in as wide a range of situations as possible.

Another aspect of risk management that the recommendations address is the possible change of CCO. The recommendations include a requirement on TSOs, industry participants, and the allocation agent to provide necessary information to the CCO. These provisions will ensure that the CCO has the information required to discharge its responsibilities in an efficient and effective manner.

Enhanced security of supply

Consistent with its purpose statement, the CCM Regulations include a provision designed to incentivise gas producers and large gas consumers to help the gas supply situation. In a non-regional critical contingency, imbalances will be settled using a critical contingency price, which provides an incentive for gas producers to produce more gas and large gas consumers to curtail gas use. The recommendations in this paper will enhance the operation of this incentive by ensuring that the status of a critical contingency is declared soon after the critical contingency is declared. In this way, industry participants will have the information they need to assess the situation commercially and decide whether to take action that will increase gas availability in the system. These actions can help to lessen the severity and duration of a critical contingency and allow normal market operations to resume more quickly.

Allocative efficiency

Curtailments during a critical contingency impose a cost, which is the foregone value that using the gas would have produced. The value added from a unit of gas can vary widely, depending on the goods or services being produced. In general, the value added from a unit of gas is inversely proportional to the amount of gas consumed: very large gas users have a relatively low value added, while small commercial gas users obtain relatively high value per unit of gas. The NZIER report confirmed that the basic structure of the existing curtailment bands, which provide curtailment for large gas users ahead of smaller gas users, is already allocatively efficient, as it prioritises the high-value uses over the lower-value uses.

However, the existing ESP criteria has led to a situation where Band 5 contains a broad range of gas consumers with a range of values derived per unit of gas. Additionally, the size of Band 5 is such that the CCO called for its curtailment during the Maui outage in October 2011. For such gas consumers as health care providers, which are at the top of the scale in terms of value added, curtailment along with other industrial and commercial gas consumers is not as allocatively efficient as it could be.

The recommendations in this paper address this issue by redefining ESPs and creating the CCP Band 7. Narrowing the ESP criteria to include gas consumers that contribute to public health and safety means that only very high value added users qualify for this designation. The fact that the resulting band will be small in volume terms means that the CCO will be able to keep Band 5 on the system in more situations. The highest priority curtailment band, Band 7, will be reserved for those gas consumers who provide the highest value-added use of gas – healthcare and residential care providers. All of these changes will improve the allocative efficiency of the curtailment arrangements in the CCM Regulations.

Dynamic efficiency

Providing appropriate incentives for resilience

Because demand curtailment imposes costs on curtailed gas consumers, it stands to reason that there will be some gas consumers for whom it makes sense to invest in alternative fuel capability or other resilience measures. That is, there will be some gas consumers for whom the cost of resiliency is outweighed by the benefit of avoiding or mitigating the cost of curtailment. Although gas supply tends to be highly reliable, it is by no means guaranteed; and gas consumers should be aware of the risks they face with non-supply and prepare themselves to cope with such situations.

It is for this reason that the designations for deferred curtailment will require a certificate from the consumer stating that the consumer understands that the deferred curtailment designation is no guarantee of supply and that curtailment may be required in some situations. Similarly, retailers will be required to notify their customers periodically about the CCM Regulations and their responsibilities under those regulations. Both of these arrangements will serve to underscore the risk of non-supply to consumers. In this way, consumers will be encouraged to consider what they would do if called to curtail, including whether resiliency arrangements would be appropriate. Of course, resiliency measures will not make economic sense for every gas consumer; for some, incurring the expense of curtailment when it happens will be the most cost-effective option. But providing the information and the incentives for consumers to consider their resiliency arrangements and to undertake planning on the most cost-effective option for them will enhance the dynamic efficiency of the CCM Regulations.

7 Assessment of risks

There are several potential sources of risk that are of relevance in amending the CCM Regulations.

Risk of unidentified issues

The first is the risk that Gas Industry Co's review of the CCM Regulations did not identify all of the issues that need to be addressed in making the regulations more robust to address the range of critical contingencies that may unfold. This risk has been mitigated to the extent reasonably practicable. The review has been informed by the CCO's Performance Report and the Concept Review; both of those reports, in turn, were informed by input from stakeholders. The Concept Review also evaluated the critical contingency arrangements in comparison to arrangements in overseas gas markets. A report was commissioned from NZIER on the value added associated with gas demand, as a way of assessing the efficiency of the curtailment bands; and Lowe Environmental Impact provided a report on issues related to raw milk disposal.

Gas Industry Co called for public submissions on the Concept Review, and the feedback received, plus the contents of the reports mentioned above, plus information gleaned from Gas Industry Co's own interactions with stakeholders formed the basis of the SoP. Gas Industry Co held a workshop with stakeholders to discuss the SoP and received 19 written submissions on the document.

In short, Gas Industry Co has considered information from a range of sources and has consulted widely in its review of the CCM Regulations. From this, we are reasonably confident that we have captured all of the relevant issues needing to be addressed.

Risk of amendments not addressing identified issues

It is possible that the recommendations contained in this paper are not the best ways to address the issues identified in the course of the review of the CCM Regulations. Gas Industry Co has mitigated this risk by consulting widely on the options. In particular, many of the recommendations contained in this paper have been consulted on formally at least twice: once as part of the Concept Review, and once in the SoP. In addition, many of the options have also been canvassed with stakeholders informally. Gas Industry Co therefore assesses this issue as a low risk.

Operational risks of implementing recommended amendments

As outlined elsewhere in this paper, the CCM Regulations review highlighted the risk with the size and composition of the current ESP Band 5: its large size and mixed composition meant that highly-valued gas-fuelled services, such as those provided by hospitals, were in danger of being curtailed in a critical contingency that required deep cuts in demand (such as happened in the Maui outage in October 2011). This risk has been mitigated by narrower ESP criteria and the introduction of Band 7 for CCPs.

Expanding the criteria for MLCs may pose a slightly higher risk to timely curtailment than the status quo MLC arrangements. However, the MLC category recognises that the cost of curtailment can vary, depending on the manner in which it is done. The fact that some industrial or commercial consumers would incur costly plant damage or environmental damage means that it is appropriate for those consumers to be able to follow an orderly shutdown schedule and avoid those costs. MLCs must curtail fully when the next curtailment band is directed to curtail, which implicitly means that the cost of shutting down is judged to be roughly equal to the costs incurred by the consumers in that next curtailment band of shutting down. The fact that MLCs must curtail fully when the next curtailment band is called also mitigates any risk of the MLCs preventing a timely demand response: while there may be some delays, due to extended shutdown profiles, if the CCO needs faster or greater demand response, he can call upon the next curtailment band.

A risk associated with the revised ESP criteria and the new CCP criteria is the risk that a category of gas consumer has not been included in the criteria but should have been. Again, this risk has been mitigated to the extent possible with wide consultation, but some risk remains. In this case, if it is critical that a certain type of gas consumer continue to operate, but that consumer is ineligible for deferred curtailment designation, then it is open for the Ministry of Civil Defence and Emergency Management to declare a civil defence emergency and to direct gas usage to where it is most needed.

Compliance risk

Compliance by consumers with the CCO's curtailment directions is crucial to the success of managing a critical contingency. The Maui outage highlighted that there is always a risk of noncompliance due to consumers not being aware of their obligations when directed to curtail. The recommendations in this paper will address this risk by ensuring that consumers are periodically informed about the CCM Regulations and their obligations under them. Publicly available information during a critical contingency will also reinforce these messages. The new offence provision in the CCM Regulations should incentivise many consumers to comply with curtailment directions.

Gas Industry Co perceives that there may still be some risk of non-compliance by some large consumers. The Gas Act (at s43T) provides for fines not exceeding $20,000 for noncompliance with regulations made under that Act. This sum of money should be effective in incentivising relatively small consumers to comply with curtailment directions. However, although the reputational risk of being prosecuted may encourage compliance, the financial risk may not be a sufficient deterrent for all large consumers. For example, where a consumer typically uses 10 TJ of gas per day, a fine of

$20,000 represents just a $2/GJ premium on the price of a day's gas consumption – less if the critical contingency extends longer than one day. In such situations, the fine may be seen more as a cost of doing business rather than as a deterrent. It is suggested that, when the Gas Act is next due for review, the Minister direct officials at the Ministry of Business, Innovation, and Employment to consider whether the Government should make amendments to the Gas Act to allow for higher, more effective fines for noncompliance.

Risks in the transition period

The recommendations include a nine month transition period during which existing ESP and MLC designations continue in force. This timeframe allows consumers with those designations the opportunity to reapply for deferred curtailment designation. After nine months, the old designations expire.

Gas Industry Co considers that such a transition period is a sensible way to move from the existing arrangements to the amended ones. The risk is that a critical contingency may occur during the transition period, and the size of Band 5 may mean that highly valued consumers are required to curtail along with the rest of Band 5, as happened during the Maui outage in October 2011. In this situation, Gas Industry Co considers, given nonessential nature of a lot of businesses, that it would be open to CCO to direct a partial curtailment of Band 5 so that healthcare providers and services that enhance public health and safety (CCPs and ESPs under the revised criteria) can remain operational.

Another risk in the transition period is that Gas Industry Co is inundated by applications from consumers wishing a deferred curtailment designation. The recommendations attempt to mitigate this risk by requiring retailers to ensure that consumers have complete applications before submitting them to us. Additionally, the tight wording of the criteria for ESPs and CCPs should mean that little interpretation is needed in determining whether to approve an application. For MLCs, the requirement for a report by an expert advisor will assist Gas Industry Co to make the determination, and the cost of providing the report will help to ensure that only genuine applications are made.

8 Recommendation

Gas Industry Co recommends to the Minister of Energy and Resources, under sections 43F(2)(a)(vi), 43S, and 43T of the Gas Act 1992, amending the Gas Governance (Critical Contingency Management) Regulations as set out in section 4 of this paper.

As a separate matter, Gas Industry Co suggests that, when the Gas Act is next due for review, the Minister direct officials at the Ministry of Business, Innovation, and Employment to consider amendments to the Gas Act providing for more effective fines for noncompliance.

Glossary

Act	The Gas Act 1992.
CCM Regulations	Gas Governance (Critical Contingency Management) Regulations 2008, the regulations governing the gas supply system in times when the market is unable to sustain a balanced supply and demand situation.
CCMP	Critical Contingency Management Plan – under the CCM Regulations, the plan that is required to be prepared by a TSO and approved by Gas Industry Co.
CCO	The Critical Contingency Operator.
CCP	Critical Care Provider – a consumer that has been granted a designation moving them to the highest priority curtailment band.
CDEMA	The Civil Defence Emergency Management Act 2002.
Curtailment	An instruction, originated by the CCO and relayed by TSOs and retailers, to reduce or completely cease the use of gas by end users.
Curtailment band	Curtailment bands generally group gas users by annual consumption and this defines the order of curtailment directed by the CCO. Curtailment bands 5 and 7 differ in that they comprise ESPs and CCPs and may have customers who would otherwise be in different bands.
ESP	Essential Service Provider – a consumer that has been granted a designation moving them to a higher-priority curtailment band
ESSP	Electricity System Security Provider – a consumer that has been provided with a deferred curtailment designation providing for a specified amount of gas usage so as to either provide ancillary services or to start up and/or switch to alternative fuel (when required by the electricity system operator).
Gas Industry Co	The "industry body" as defined in Part 4A of the Gas Act.
GJ	Giga-joule – a measure of energy equivalent to 277.7̇ kWh.
GPS	The Government Policy Statement on Gas Governance dated April 2008.
HSE	Health and Safety in Employment.
HSEA	Health and Safety in Employment Act 1992
MDL	Maui Development Limited – the owner of the Maui pipeline.
MLC	Minimal Load Consumer – a consumer that has been granted a designation allowing them, when directed to curtail, to shut down using an agreed consumption profile so as to mitigate plant or environmental damage or to allow the completion of critical processing.
NGOCP	National Gas Outage Contingency Plan – an arrangement among industry

	participants that was superseded by the CCM Regulations.
NZIER	New Zealand Institute of Economic Research
SMS	Short message service – a text messaging service allowing the exchange of short text messages between mobile or fixed line phone devices.
SoP	Statement of Proposal – document issued in accordance with s43L and s43N of the Act to consult on the amendments proposed by Gas Industry Co.
TJ	Tera-joule – one thousand GJ or approximately 278,000 kWh.
TSO	Transmission system owner.

Appendix A: Draft amended regulations

It should be noted that Cabinet, on the advice of the Minister and MBIE officials, will provide PCO with formal drafting instructions. However, the CCM Regulations are technical in nature and, therefore, the proposed changes do not lend themselves to being defined precisely in prose narrative form. To overcome this, and for the assistance of Parliamentary Counsel Office (PCO) when they draft the amended CCM Regulations, this appendix provides technical drafting suggestions in the form of mark-ups to the existing CCM Regulations.

Because the focus has been on technical precision the mark-ups may not reflect the principles of clear drafting set out in PCO's in-house Drafting Manual. Gas Industry Co is willing to provide any further assistance that PCO may require.

Gas Governance (Critical Contingency Management) Regulations 2008

Anand Satyanand, Governor-General

Order in Council

At Wellington this 4th day of November 2008

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.

Contents

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,—

(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

ANZSIC means the Australian and New Zealand Standard Industrial Classification jointly developed by the Australian Bureau of Statistics and Statistics New Zealand, as amended or replaced from time to time.

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

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 46A 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

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) for which shutdown 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; or

(B) 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,

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 service provider** ~~means~~**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

emergency deferred curtailment designation means a designation as an essential service provider or critical care provider approved under regulation xx.

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

facility owner means the whole or part owner of a gas processing facility

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—

(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-ing~~**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

load shedding category means the code representing the load shedding category that identifies the position of the consumer installation in the hierarchy for emergency curtailment of gas. Load shedding categories and codes are determined and published by the industry body from time to time and must be consistent with the curtailment bands set out in Schedule 2.

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 ~~regu- lation~~**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 Interrup- tion 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 ~~contingency~~**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 ~~intended~~**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

(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

technical expert means a person appointed as a technical expert in accordance with regulation 43C.

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 ~~detailed~~**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 **or replaced** 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 system, 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 contingency operator service provider agreement.~~

~~(7) Any appointment of the critical contingency operator beyond the initial term is at the industry body's sole discretion.~~

~~(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 termin ate the critical contingency operator service provider agree ment in accordance with the terms of that agreement.~~

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

7 Terms of critical contingency operator service provider agreement

~~In addition to any other terms and conditions required by these regulations,~~

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 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 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 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 described in subclause (1), the industry body must consult 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 depicting 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 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.~~(~~2~~) MPOC, VTC, and any other transmission system code must be read subject to these regulations.

(~~3~~2) 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 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.

(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:

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

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 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**.**

(e) in the case of notices sent in accordance with regulation 21(1)(d), if the electronic transmission or other similar method of electronic communication contains a URL where the recipient may view the full 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) Despite regulations 21 and 22, in the case of notices directing curtailment to consumers who consume less than 2 TJ per annum, an urgent notice may also be given by SMS to the nominated electronic address of the addressee where the person issuing a notice considers that the urgency of the situation means the notice should not be given in accordance with regulation 21. 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 those consumers 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.

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 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 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

(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.

(5) When the industry body approves an amended plan under regulation 30 –

(a) the industry body must notify the transmission system owner and critical contingency operator; and then

(b) the critical contingency operator must publish the approved amended plan.

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.

(2) **Subject to clause 3, each transmission system owner is required to provide the following information and arrangements on terms and within timeframes acceptable to the critical contingency operator so that the critical contingency operator has the information it requires to meet its obligations under these regulations.**

a) a real-time alert system to flag, within 15 minutes, any event (using SCADA monitoring or other information sources) that can be measured within the pipeline system and has the potential to create a critical contingency.

b) real-time access to the following data for each of those parts of the transmission system identified in Schedule 1:

(i) current operating pressure

(ii) projected time before the minimum operating pressure specified in the transmission system owners approved critical contingency management plan will be reached based on the current rate of pressure decline

c) A mechanism to allow routine and regular status calls and meetings to review forward plans and risk profiles between the transmission system owner and the critical contingency operator.

d) Prompt notification by the transmission system owner of any pipeline system reconfiguration details (such as non-use of a section of paralleled pipeline normally interconnected) or new transmission pipeline or station within 1 day.

e) Historical data files of pressure and flow information at all points measured by the transmission system owner (using a pre-agreed format) within 7 days (or longer timeframes by mutual agreement), upon request of the critical contingency operator.

f) Either:

(i) access to the transmission system owner's static model; or

(ii) assistance with establishing and calibrating an independent static model of the transmission system (or part(s) thereof).

g) Either:

(i) the transmission system owner's dynamic model; or

(ii) assistance with establishing and calibrating an independent dynamic model of the transmission system (or part(s) thereof).

h) Assistance with ongoing data update and calibration checks of the static and/or dynamic models used by the critical contingency operator on at least an annual basis.

(3). In the event that the critical contingency operator reasonably considers that he requires access to real-time SCADA data each transmission system owner shall provide real-time, read-only access to the transmission system owner's SCADA system pressures and flow data for the purposes of enabling the critical contingency operator to meets its obligations under these regulations.

(4) 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

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

(5) Any reference in this regulation to information or data or model of a transmission system owner includes information or data or model held or controlled by any third party contracted to the transmission system owner

38A Other information to be provided to the critical contingency operator

Each gas producer, transmission system operator and large consumer must provide information on expected timing and duration of scheduled maintenance and any other known plant outages as reasonably requested by the critical contingency operator.

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 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 **of the notice in subclause (1)**, setting out its total annual consumption, **maximum daily consumption,** curtailment band, and minimal load designation (if any) ~~to 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~~

(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 under the Gas (Downstream Reconciliation) Rules 2008 to assist with more detailed 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.

(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~~**39, 40** and ~~40, 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 40**A** 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 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**~~**43 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 that retailer if the retailer has 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 or contains information on where that list can be accessed by the retailer and how that list is kept up to date;

(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 that retailer if that retailer has 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 that retailer:

(i) its process for keeping the plan up to date; and

(ii) staff training details.

(2) The retailer must provide the curtailment plan 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 with consumer installations that qualify for a deferred curtailment designation.

(2) 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.

(3) Any consumer wishing to have its consumer installation considered for a deferred curtailment designation must apply to the industry body in accordance with the guidelines and application form determined under subclause (2). Consumers may seek assistance from their retailers in completing their applications.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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 (10).

(10) The approval becomes effective only after the industry body has provided the consumer with a declaration form and that form has been signed by a director of that consumer's organisation and returned by the consumer.

(11) 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 installation that meets 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).

(12) 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.

(13) A responsible distributor notified under subclause (13) must update the load shedding category information for that consumer installation in the gas registry within 5 business days.

(14) 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 gigajoules;

(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 gigajoules 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 gigajoules per 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 Confidentiality of application information

The industry body must only use information provided in a designation application for the purposes of these Regulations except to the extent the industry body is required to publish that information under these Regulations.

43D Appointment of technical expert to assist industry body

(1) The industry body must appoint a technical expert for assistance in assessment of an application for a minimal load consumer following the process set out in Schedule 5.

(2) The industry body may appoint a technical expert for assistance in assessing 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 a draft of its report to the applicant and the industry body.

(8) The applicant and the industry body have five business days from the date they receive the draft of the report to provide any comments on that draft.

(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.

(10) The applicant must pay to the industry body the costs of the technical expert in preparing the report.

(11) Any information obtained by the technical expert in its role as technical expert must be kept confidential except to only be used for its role of assistance in assessing the merits of the particular application.

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.sapplicants~~ **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 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 **for the services set out in regulation 3(a)**—

(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.

(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~~ **The industry body may not approve an applicant as an essential service provider if the applicant does not meet the criteria in regulation 43(3).**

~~(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~~

44A Designation of consumers as critical care providers

(1) The purpose of this regulation is to identify consumers that are critical care providers.

(~~6) To avoid doubt, a~~**2) Any** consumer ~~notified under subclause (5) remains an essential service provider unless it~~ **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 including any day surgery and community based specialist services;**

(b) ~~receives notice under subclause (4) that the retailer has declined its reapplication.~~**GP clinics, Integrated Family Health Centres and pharmacies;**

(c) hospice care;

(d) residential care services, rest home, retirement village services or residential disability homes;

(e) specialised medical services to critical care facilities including, but not limited to, medical laboratory services, blood supplies, and manufacture of non-shelf stable medical supplies;

(f) prison services;

(g) laundry services to critical care providers.

(4) The industry body may not approve an applicant as a critical care provider if the applicant does not meet the criteria in regulation 44A(3).

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 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 ~~10~~**2** terajoules in any 12-month period within the 2 years before the consumer's application; or

(ii) ~~will~~**is expected to** be greater than ~~10~~**2** 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 (2).

(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~~**an applicant** that its application to be a minimal load consumer has been approved, the ~~retailer and the consumer must agree~~**industry body must determine, after consultation with the applicant,** 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 defined 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 that unit with the electricity system so as to meet its obligations under an ancillary service arrangement; or**

~~(a) fails to reapply within 20 working days of receiving such notice; or~~

(b) ~~receives notice under subclause (4) that the retailer has declined its reapplication.~~ **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 and switch to an alternative fuel; 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 electricity generating unit will only be eligible to be an electricity system security provider if it:

(a) has an installed capacity of 200 MW or greater; and

(b) is capable of running on a fuel other than gas supplied through the gas transmission system; and

(c) has satisfied the industry body that it will only require a defined quantity of gas from the gas transmission system in order to switch to that fuel; or

(d) has an ancillary service agreement with the system operator to provide voltage support.

(3) 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 gigajoules per 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 provide the ancillary service; or

(ii) switch, or start up and switch, to the alternative fuel and cease using gas, in the case of a plant able to use alternative fuel.

(4) 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).

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

46A Transition arrangements for consumers with essential service provider or minimal load consumer designation

(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~~**All consumers with an essential service provider or minimal load consumer 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~~

Note: the intention is to have a nine-month transition period that begins when the amended Regulations come into effect. In this and following regulations [date] and [month] refer to the day and month, respectively, on which the amended regulations come into force.

(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 —~~**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 an essential service provider or minimal load consumer 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 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 classified as having a designation but which is not on the list provided by the consumer's retailer the industry body must—

(a) ~~confirm the retailer's decision; or~~**request the consumer's retailer to confirm whether the consumer installation had its 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) 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 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

The industry body is required to maintain this list.

46B Revocation of deferred curtailment designation

(1) If a consumer who has been approved to have a deferred curtailment designation becomes aware that information provided in its application is no longer accurate it must notify the industry body.

(~~c) approve or decline the application itself in accordance with regulation 44 or 45, as applicable.~~**2) 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.**

(3) To avoid doubt, ~~this regulation does not apply if the industry body has previously referred the application back to the retailer for reconsideration.~~**a consumer notified under subclause (2) 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(9) that the industry body has declined its reapplication.

46C Frequency and form of consumer notifications about these regulations

(1) Commencing with [month] 2013, retailers must, in accordance with 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, 45 and 45A;

(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 ~~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).~~**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 description of 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) Each essential service provider, critical care provider, minimal load consumer, and electricity system security provider designation expires two years after it was approved 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 materially

changed or the initial application was made more than 10 years ago, 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).

46E Offence to provide false, incorrect or misleading information

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.

46F 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 those 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 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 arrange for any other interested persons to be advised of the critical contingency declaration by SMS and/or electronic mail, where:

(a) the person has notified the critical contingency operator, prior to the relevant critical contingency declaration, 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.

(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 46F(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 or~~**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 or changing 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 or is 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)(3); 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 43(1)(b).

(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 –

(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 ~~or 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 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 52A 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**

(c) subsets defined by a percentage of maximum consumer load; and

(d) subsets defined by one or more gas gates; and

(e) 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) a component of the gas supply chain becomes damaged or has failed, and that damage or failure has contributed to the critical contingency by reducing gas deliveries by 5 standard cubic metres per second (a rate equivalent to 720 gigajoules per hour) or more; or

(b) a component of the gas supply chain becomes damaged or has failed , and that damage or failure has caused the critical contingency;

then the owner of any such damaged or failed component or transmission system pipeline must publish information according to the timeframes and content as set out in section 2 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 **at intervals determined by the critical contingency operator and communicated by the transmission system owners to retailers and large consumers,** 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 regulation45(6~~**directions for its default curtailment band in subclause (c**).

57 Consumers to comply with directions

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

57A Approval of emergency deferred curtailment designations during a critical contingency

(1) A consumer may apply for an emergency deferred curtailment designation as an essential service provider or critical care provider during a critical contingency event only where:

(a) the consumer's consumer installation or part of that installation has only recently met the criteria for designation, and there has been inadequate time to prepare and have an application considered; or

(b) a new consumer installation has been established that meets the criteria for designation, and there has been insufficient time to prepare and have an application considered; and

(2) Until the consumer receives notification from the industry body that the application has been approved the consumer must cease using gas in accordance with its retailer's curtailment instructions.

(3) The process for applying for an emergency deferred curtailment designation is as set out in regulation 43A with the following modifications—

(a) the consumer must include in its application the grounds for the emergency deferred curtailment designation, including evidence supporting the eligibility under subclause (1) of this regulation;

(b) on receipt of the application the industry body must

use all reasonable endeavours to make the determination under regulation 43A(10) expeditiously.

(3) An approved emergency deferred curtailment designation takes effect from the time that the industry body receives the signed declaration under regulation 43A(11).

(4) An emergency deferred curtailment designation approved during a critical contingency is rescinded following the termination of that critical contingency.

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

(1) 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**.

(2) The critical contingency operator must also arrange for any other interested persons to be advised 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 statement that the critical contingency has been terminated.

63A Offence to fail to comply with directions

(1) A consumer, who is not an industry participant, 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 the relevant 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 copies of allocation participants' data submissions for consumer installations in allocation 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 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 regulation 68 if the industry body considers that the nominee would be an independent 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 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).

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 ($\mathbf{M_A}$) and the unadjusted positive imbalance ($\mathbf{M_{+ve}}$) in subsubparagraph (A) must be accounted for by transmission system owners 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 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(~~2~~1) and (~~3~~2).

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,~~**42 or regulation 65A,** 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~~Revoked

~~(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.

~~Schedule 1~~ r 25

~~Gas Governance (Critical Contingency Management) Regulations 2008~~

~~r 208/426~~

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*
Maui pipeline				

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

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 (±2.5) bar g	Whangarei WHG07501
For any other gas gate on the Maui or Vector pipeline	6 hours	3 hours	30 (±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.

~~Gas Governance (Critical Contingency Management) Regulations 2008~~

~~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~~7 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.

Curtailment band	Consumption in terajoules (TJ) or gigajoules (GJ)	Description	Deferred curtailment designation actions in response to a curtailment direction
0	N/A	Gas offtaken for injection into storage.	
1~~a~~	More than 15TJ per day	Consumers ~~(excluding essential service providers)~~ supplied directly from the transmission system and that have an alternative fuel capability. ~~If minimal load consumer, then manage wind-down of plant.~~	Minimal load consumers to follow agreed load reduction profile. Essential service providers curtail load down to approved consumption level. Critical care providers curtail load down to approved consumption level.
~~1b~~2	More than 15TJ per day	Consumers ~~(excluding essential service providers)~~ supplied directly from the transmission system that do not have an alternative fuel capability. ~~If minimal load consumer, then manage wind-down of plant.~~	Minimal load consumers to follow agreed load reduction profile. Essential service providers curtail load down to approved consumption level. Critical care providers curtail load down to approved consumption level.
~~2~~	~~More than 10TJ per annum and up to 15TJ per day~~	~~Consumers (excluding essential service providers) with alternative fuel capability. If minimal load consumer, then manage wind-down of plant.~~	
3	More than 10TJ per annum and up to 15TJ per day	~~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	Minimal load consumers to follow agreed load reduction profile. Essential service providers curtail load down to approved consumption level. Critical care providers curtail load down to approved consumption level.
4	More than ~~2TJ~~250GJ per annum and up to 10TJ per annum	~~Consumers, excluding essential service providers. Minimal load~~Medium-sized industrial and commercial consumers ~~in curtailment bands 1a to 3 curtailed in full.~~	Minimal load consumers in curtailment bands 1 to 3 curtailed in full. If band 4 minimal load consumer, manage wind-down of plant. Essential service providers curtail load down to approved consumption level. Critical care providers curtail load down to approved consumption level.
5	More than 2TJ per annum	Essential service providers.	Minimal load consumers in curtailment bands 1 to 3 curtailed in full. If band 4 minimal load consumer, manage wind-down of plant. Critical care providers curtail load down to approved consumption level.
6	~~2TJ~~250GJ or less	~~All remaining~~Small	All gas consumers in bands 1-6 curtailed in full, including

	per annum	**commercial** consumers	**minimal load consumers and essential service providers.** **Critical care providers curtail load down to approved consumption level.**
7	**N/A**	**Critical care providers**	**All non-domestic gas use curtailed in full.**

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.

rr 53, 54A

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 the curtailment of consumers in band 3 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 (b)three times daily by 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 (b) 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 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 the curtailment of consumers in band 3, 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.

r 43

Schedule 4
Retailer curtailment plan certification

I certify that [insert retailer's full legal name] retailer curtailment plan [dated xx/xx/xxxx]:

meets the requirements of regulation 43 of the Gas Governance (Critical Contingency Management) Regulations 2008; and

is complete and accurate in all respects.

r 43D

Schedule 5
Process for appointment of technical expert

1 The industry body advises applicant that it will be appointing a technical expert.
2 Terms of reference for technical expert drafted by the industry body and provide to the applicant.
3 The industry body asks the applicant if it has any recommendations for a technical expert.
4 The industry body decides whether to use applicant's recommendation. The industry body may only use the applicant's recommendation if satisfied that the technical expert is completely independent of the applicant.
5 The industry body provides the prospective industry expert with the terms of reference and requests estimate of fee for services.
6 Fee estimate provided and given to applicant.
7 The industry body decides whether to engage that technical expert. If wishes to consider another technical expert steps 5 -6 repeated.

Note: The applicant is able to withdraw its application at anytime during steps 1-5.

Rebecca Kitteridge,
Clerk of the Executive Council.

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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