



COVERSHEET

Minister	Hon Simeon Brown	Portfolio	Energy
Title of Cabinet paper	Improving the gas critical contingency management regime	Date to be published	1 November 2024

List of documents that have been proactively released

Date	Title	Author
September 2024	Improving the gas critical contingency management regime	Office of the Minister for Energy
18 September 2024	Improving the gas critical contingency management regime ECO-24-MIN-0194 Minute	Cabinet Office
29 August 2024	Regulatory Impact Statement: Amendments to the Gas Governance (Critical Contingency Management) Regulations 2008	MBIE

Information redacted

YES / NO (please select)

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the reasons of Confidential advice to Government.

In Confidence

Office of the Minister for Energy

Chair, Cabinet Economic Policy Committee

Improving the gas critical contingency management regime

Proposal

- 1 This paper informs Cabinet of my intention to accept the Gas Industry Company (GIC)'s recommendation to amend the *Gas Governance (Critical Contingency Management) Regulations 2008 (CCM Regulations)* and seeks Cabinet agreement to amend the CCM Regulations to amend the gas critical contingency management regime.

Relation to government priorities

- 2 This proposal is a routine operational adjustment that requires Cabinet approval. It is focused on improving the existing gas critical contingency management regime that manages the risk to the gas transmission and distribution systems from an unplanned disruption, such as a pipeline rupture. It is not part of the response to the recent tightening of the gas market.

Executive Summary

- 3 On 2 July 2024, the co-regulator of the gas market, the GIC recommended the CCM Regulations be amended to make a range of changes and refinements to improve the gas critical contingency management regime. This regime is in place to manage the risk to the gas transmission and distribution systems from an unplanned disruption, such as a pipeline rupture.
- 4 Under the *Gas Act 1992 (the Gas Act)*, I must either accept or reject GIC's recommended changes by 30 September 2024. I intend to accept GIC's recommendation, subject to Cabinet agreement, to amend the CCM Regulations to improve the gas critical contingency management regime. I am satisfied that:
 - 4.1 GIC has met the statutory requirements to make this recommendation to me, including assessing the practicable options, preparing a statement of proposal and then consulting stakeholders on this proposal.
 - 4.2 GIC's recommended amendments would improve the critical contingency regime overall by better managing the risk of a gas network failure, enabling more efficient curtailment of gas when needed and making the regime more fit-for-purpose.
- 5 Should you agree, I will:
 - 5.1 publish my decision to accept GIC's recommendation.

- 5.2 issue drafting instructions to the Parliamentary Counsel Office to amend the CCM Regulations to give effect to GIC's recommendation.

Background

- 6 The critical contingency management regime, which is governed by the CCM Regulations, manages the risk to the gas transmission and distribution systems from an unplanned disruption, such as a pipeline rupture. Restoring a significant loss of pressure in part of the gas distribution system would require technicians to individually reconnect many users to make sure the supply is restored safely. This occurrence, which this paper refers to as a gas network failure, would likely take months and have significant economic cost.
- 7 A core feature of the regime is that the Critical Contingency Operator, an independent service provider appointed under the CCM Regulations, issues instructions for gas users to curtail gas use in a critical contingency event. This is to help maintain sufficient gas and pressure in the network. Large gas users generally must curtail first, which is more efficient than requiring many smaller users to curtail.
- 8 The critical contingency regime also sets out:
- 8.1 obligations before a critical contingency happens, including the requirement for the Transmission System Owner (**TSO**) to prepare and maintain a critical contingency management plan (**CCM Plan**).
 - 8.2 processes on what happens during a critical contingency, such as when a critical contingency event must be declared, the roles of the Critical Contingency Operator, TSO and the requirement for gas retailers and large users to follow directions.
 - 8.3 obligations after a critical contingency event, such as the Critical Contingency Operator needing to produce a performance report that includes an assessment of the effectiveness of the CCM Plan.
- 9 The CCM Regulations were last significantly amended in 2013. Critical contingency events and annual exercises to prepare for such events since then have highlighted areas where the CCM Regulations could be amended to better prepare for, and respond to, future critical contingency events.
- 10 In its co-regulatory role of the gas market, GIC has been engaging with the gas sector on ways the CCM Regulations could be amended to improve the critical contingency regime since 2020. In March 2024, GIC invited feedback from the gas sector on its proposed amendments to the CCM Regulations.
- 11 Following consideration of submissions from the gas sector, GIC has recommended that I agree to amending the CCM Regulations to better manage critical contingencies in the gas sector. This recommendation set out a range of amendments to improve and refine the regime.
- 12 GIC also recommended that the *Gas Governance (Critical Contingency Management) Amendment Regulations 2024* made in February 2024 be retained. This was a minor

regulatory change to avoid a critical contingency event being declared unnecessarily due to a planned operational change in part of the gas transmission system. I have accepted that recommendation to retain this minor amendment and published my acceptance in the *New Zealand Gazette* in July 2024. This paper focuses on GIC's wider recommendations to improve the gas critical contingency management regime.

Analysis

The Gas Industry Company has recommended a range of changes to the critical contingency management regime

- 13 GIC has recommended a range of amendments to the CCM Regulations to improve the critical contingency management regime. Most of these are routine in nature and all of them have been widely consulted on within the gas sector. The changes include:
 - 13.1 **Redesigning curtailment bands:** The curtailment bands set out which group of gas users need to curtail the use of gas first in a critical contingency event, with large gas users generally having to curtail first. The proposals would mean the initial bands that have to curtail first would have larger gas volumes but fewer gas users, which is intended to allow more efficient and less disruptive curtailment.
 - 13.2 **Critical contingency price setting:** The critical contingency gas price set by an industry expert is intended to encourage gas producers to increase supply and users to decrease demand where possible during critical contingency events. The proposals would remove the current requirement in some cases to only base this price on the wholesale electricity price, which is not always suitable given the increased volatility of the wholesale electricity price in recent years.
 - 13.3 **Curtailment instructions:** During a critical contingency event, the Critical Contingency Operator issues curtailment instructions to the TSO, Firstgas, which subsequently shares these instructions with large users and retailers. The proposals would refine the process, including clarifying a gas user's actual rate of consumption is generally the starting point for curtailment. This is to avoid users increasing their consumption between the critical contingency event occurring and a curtailment instruction being issued.
 - 13.4 **Critical contingency management plans:** The proposals would make a range of refinements to the CCM Plan the TSO is required to prepare and maintain, including requiring the TSO to maintain up-to-date contact details for parties that need to be involved in managing a critical contingency event (eg gas retailers and large gas users), simplifying the process for making minor changes to the plan and enabling the plan to incorporate known upcoming changes (eg future regulatory changes).
 - 13.5 **Essential service and critical care providers:** Some organisations have designations where they are allowed to use gas for longer, including essential services providers (eg mortuary services, wastewater treatment plants) and critical care providers (eg hospitals, residential care, prisons). The GIC has

recommended broadening the organisations that can be considered essential services providers by reducing the consumption criterion.

- 13.6 **Operating pressure thresholds:** The Critical Contingency Operator is required to declare a critical contingency in relation to an event (eg a gas pipeline rupture) if the timeframes for the transmission system to reach certain pressure thresholds are breached. GIC has proposed changes to Schedule 1 of the CCM Regulations that specifies the permissible limits for these timeframes and pressure thresholds across the various gas transmission pipelines. The specific timeframes and pressure thresholds within these permissible limits are set in the CCM Plan.
- 13.7 **Other matters/minor changes:** There are other minor changes to improve the critical contingency management regime, remove ambiguity about obligations and processes and update wording in the CCM Regulations. For example, one change is to amend the definition of ‘retailer’ to remove ambiguity and make sure it does not capture participants not providing gas retail services (eg a platform provider for the gas spot market that does not have gas customers).

I intend to accept the Gas Industry Company’s recommendation to amend the Gas Governance (Critical Contingency Management) Regulations 2008

- 14 Under the Gas Act, I must accept or reject GIC recommendations about most gas governance regulations (including most amendments to the CCM Regulations), within 90 days. If I accept, the amendments are only able to differ in minor ways (eg drafting) to what GIC recommended, which means I must decide whether to accept or reject GIC’s recommendation as a package. I must also publish a notice in the Gazette stating my decision and explaining the reasons for it or where copies of that explanation may be obtained.
- 15 I am satisfied that GIC has met the statutory requirements to make this recommendation to me, including assessing the practicable options, preparing a statement of proposal and then consulting stakeholders on this proposal.
- 16 I am also satisfied that, compared to the alternative of retaining the CCM Regulations as they stand, the amendments would improve the critical contingency management regime overall. The changes would better manage the risk of gas network failure, enable more efficient curtailment of gas and make the regime more fit-for-purpose.
- 17 I therefore intend to accept GIC’s recommendation to amend the CCM Regulations in the Gas Act, subject to Cabinet agreement.

Implementation

- 18 Should you agree, I will publish my decision to accept GIC’s recommendation. Drafting instructions will be issued to the Parliamentary Counsel Office to amend the CCM Regulations to give effect to this proposal. Confidential advice to Government

- 19 Once the CCM Regulations are amended, GIC will oversee implementation of the changes, including communicating and educating the gas sector of the changes.
- 20 As noted above, GIC has recommended changes to the permissible limits for operating pressure thresholds that are set in the TSO's CCM Plan. Before making any changes in its CCM Plan, Firstgas must first consult with gas sector participants, get the change reviewed by an expert advisor and approved by GIC.

Cost-of-living Implications

- 21 This proposal is not expected to have any cost-of-living implications.

Financial Implications

- 22 There are no financial implications for the Crown.

Legislative Implications

- 23 Amendments to the CCM Regulations will be required to implement GIC's recommendation.

Impact Analysis

Regulatory Impact Statement

- 24 A Regulatory Impact Statement (**RIS**) has been prepared and is attached to this Cabinet paper (**Annex One**). The RIS includes a summary of GIC's proposed changes.
- 25 The Ministry of Business, Innovation and Employment's Regulatory Impact Assessment Review Panel has reviewed the Regulatory Impact Statement and considers that it meets the quality assurance criteria. The panel confirms the Regulatory Impact Statement contains sufficient impact analysis to support the Cabinet in making policy decisions.

Climate Implications of Policy Assessment

- 26 The Climate Implications of Policy Assessment (**CIPA**) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

Population Implications

- 27 The proposals in this paper are not expected to have a significant impact on children, seniors, disabled people, women, people who are gender diverse, Māori, Pacific peoples, veterans, ethnic communities, and faith-based communities.

Human Rights

- 28 The proposals in this paper are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Consultation

- 29 The Treasury, the Electricity Authority, the Commerce Commission, WorkSafe New Zealand, the Parliamentary Counsel Office and the Ministry of Regulations were consulted on this paper. The Department of the Prime Minister and Cabinet was informed.

Communications

- 30 As per the requirements under the Gas Act, I will publish my decision to accept GIC's recommendation and rationale for doing so in the *New Zealand Gazette* by 30 September 2024.

Proactive Release

- 31 I propose to proactively release this Cabinet paper subject to any necessary redactions. This would be done within 30 business days following confirmation of Cabinet's decisions.

Recommendations

The Minister for Energy recommends that the Committee:

- 1 **note** that the critical contingency management regime is in place to manage the risk to the gas transmission and distribution systems from an unplanned disruption, such as a pipeline rupture;
- 2 **note** that the *Gas Governance (Critical Contingency Management) Regulations 2008 (CCM Regulations)* that govern this regime were last significantly amended in 2013;
- 3 **note** that the Gas Industry Company (**GIC**) has been engaging with the gas sector on potential amendments to the CCM Regulations to improve the critical contingency management regime;
- 4 **note** that on 2 July 2024 GIC recommended the CCM Regulations be amended to make a range of changes and refinements to improve the critical contingency management regime;
- 5 **note** that I am required to accept or reject GIC's recommendation to amend the CCM Regulations to improve the critical contingency management regime as a package and publish my decision by 30 September 2024;
- 6 **note** that I am satisfied:
 - 6.1 GIC has met the statutory requirements to make this recommendation to me, including assessing the practicable options, preparing a statement of proposal and then consulting stakeholders on this proposal;

- 6.2 the changes would improve the critical contingency management regime overall by better managing the risk of a gas network failure, enabling more efficient curtailment of gas and making the regime more fit-for-purpose;
- 7 **note** that I intend to accept GIC’s recommendation to amend the CCM Regulations to improve the gas critical contingency management regime;
- 8 **agree** to amend the CCM Regulations as per GIC’s recommendation to improve the gas critical contingency management regime;
- 9 **invite** the Minister for Energy to issue drafting instructions to the Parliamentary Counsel Office giving effect to the decisions in this paper;
- 10 **agree** for the Minister for Energy to make decisions, consistent with the proposals in these recommendations, on any issues which arise during the drafting process;
- 11 **Confidential advice to Government**
[Redacted]

Authorised for lodgement.

Hon Simeon Brown
Minister for Energy

**Annex One: Regulatory Impact Statement: Amendments to the Gas
Governance (Critical Contingency Management) Regulations 2008**