

# Regulatory Impact Statement: Information disclosure rules and regulations under the Gas Act 1992

## Coversheet

Purpose of Document	
Decision sought:	Analysis to support Ministerial and Cabinet decisions on information disclosure rules and regulations under the Gas Act 1992.
Advising agencies:	Ministry of Business, Innovation and Employment (MBIE)
Proposing Ministers:	Energy and Resources
Date finalised:	27 May 2022
Problem Definition	
There is an asymmetry of information relating to gas production and storage facility outages in the gas industry. This undermines the efficient production of gas and the allocation of supply to those users who value it the most.	
Executive Summary	
<b>Gas outages in 2018 highlighted the problem of asymmetrical information in the gas market and its widespread impacts</b>	
In 2018, the gas market experienced supply constraints due to two unscheduled curtailments at the Pohokura gas field and a reduction in gas flow from the Kupe field as a result of planned statutory inspections.	
The reduction in gas supply had a range of impacts on the downstream gas sector and related electricity markets. Larger gas consumers brought forward planned outages and voluntarily reduced their gas demand, in some instances costing them lost revenue.	
In the electricity market, where gas is used for hydro firming and peaking and for increased thermal electricity generation during periods of low hydro inflow, the outages contributed to increased prices for many consumers in the spring of 2018. When combined with the lower-than-normal hydro lake storage (due to dry spring conditions toward the end of 2018), wholesale electricity prices were pushed up to around \$300 per megawatt hour (MWh). This was higher than the typical price over similar periods, and much higher than the average wholesale price of around \$80 per MWh experienced in previous years.	
A wide range of stakeholders and sector commentators noted at the time that there was limited information publicly available about gas supply issues. In its initial investigation, Gas Industry Company Limited (GIC), the approved industry body and co-regulator, found that some gas industry participants had greater access to information than others, giving them an information advantage in decisions. This information asymmetry could undermine efficient market behaviour to the detriment of consumers.	

As an immediate response to the information asymmetry, all large gas producers and Flexgas (owner and operator of the Ahuroa Gas Storage Facility) developed the Upstream Gas Outage Information Disclosure Code (the Code) in June 2020.

### **GIC recommended gas outage information disclosure rules and amendments to the gas industry compliance framework**

On 18 February 2022, GIC submitted its recommendations to the Minister on information disclosure rules for gas production and storage facility outages, and related amendments to the Gas Governance (Compliance) Regulations 2008 (Compliance Regulations). The recommendations reflect consultation on the proposals undertaken in 2019, 2020 and 2021.

The proposed rules are largely similar to those in the industry-led Code, and amendments to the Compliance Regulations would make the existing compliance framework applicable to the new rules.

The Minister can accept or reject the GIC's recommendations. For the recommendation made under section 43F (the proposed gas outage information disclosure arrangements), the Minister has 90 days to accept or reject it.

### **We recommend accepting the GIC's recommendations**

To address the problem of asymmetrical information availability in the gas market, we considered three options:

- Non-regulatory
  - i. **Option 1:** Reject GIC's recommendations in favour of the industry-led solution (status quo)
- Regulatory
  - i. **Option 2:** Reject GIC's recommendations on information disclosure rules in favour of new regulations under the Gas Act
  - ii. **Option 3:** Accept both of GIC's recommendations relating to information disclosure rules under the Gas Act and amendments to the existing Compliance Regulations

Options were evaluated based on the following criteria:

- **Effectiveness:** Do the proposals effectively promote the objectives set out in section 43ZN of the Gas Act and the Government Policy Statement for the sector i.e., the efficient functioning of the gas market, and certainty regarding the security of gas supply?
- **Proportionality:** Are the proposals proportionate to the harms identified? Are the costs of complying proportionate to the objectives intended to be achieved?
- **Certainty and predictability:** Are the proposals clear enough to provide certainty and predictability to assist compliance?

We **recommend Option 3**. While the nature of the outage information that must be disclosed is broadly the same as in the industry-led Code (Option 1), the proposed monitoring, compliance and enforcement framework means it would be much better at effectively promoting efficiency in the gas market and certainty regarding the reliability of gas supply for consumers.

Additionally, recommending rules instead of regulations (Option 2) would allow for the technical disclosure requirements to be captured in a sufficiently detailed way to provide regulated parties with greater certainty as to the information required, ensuring consistent compliance. Rules would be drafted by GIC, the expert rule-making body.

Finally, the costs of compliance for Option 3 on regulated parties are considered proportionate to the policy objectives being sought and would not be substantially greater than those under the industry-led Code. A stable information disclosure framework should provide certainty and support energy sector participants' decision-making, which is particularly important in a sector that, with the rest of New Zealand, is transitioning to a low-emissions future.

### Limitations and Constraints on Analysis

On 18 February 2022, the Minister received two recommendations from GIC:

- under sections 43F(2)(e), 43F(2)(f) and 43Q of the Gas Act, the making of new gas governance rules for the disclosure of gas production and storage facility outage information; and
- under section 43G(2)(k) of the Gas Act, amending the Gas Governance (Compliance) Regulations 2008.

The Minister's options in relation to recommendations under section 43F of the Gas Act are constrained by section 43ZP of the same Act, which provides that the Minister may only accept or reject a GIC recommendation in relation to gas governance regulations. Additionally, per section 43J of the Gas Act, the Minister's recommendation to make regulations cannot differ from GIC's recommendations in any material way.

The proposal to recommend new gas outage information disclosure rules relies on GIC's analysis contained in its final recommendation. This analysis includes an assessment which has been carried out in accordance with section 43N of the Act which requires GIC to:

- seek to identify all reasonably practicable options for achieving the objective of the regulation;
- assess those options by considering:
  - the benefits and costs of each option;
  - the extent to which the objective would be promoted or achieved by each option; and
  - any other matters that the industry body considers relevant.
- ensure that the objective of the regulation is unlikely to be satisfactorily achieved by any reasonably practicable means other than the making of the regulation (for example, by education, information, or voluntary compliance); and
- prepare a statement of the proposal for the purpose of consultation under section 43L(1).

GIC's recommendations are supported by a cost benefit analysis conducted by Sapere Research Group (Sapere). The final recommendations also address stakeholder views, which were provided through several rounds of consultation conducted by GIC in 2019, 2020 and 2021.

## Responsible Manager(s)

Catherine Montague  
Acting Manager  
Resource Markets Policy  
Ministry of Business, Innovation and Employment



2 June 2022

## Quality Assurance

Reviewing Agency:	Ministry of Business, Innovation and Employment
Panel Assessment & Comment:	MBIE's Regulatory Impact Analysis Review Panel has reviewed the attached Impact Statement prepared by MBIE. The panel considers that the information and analysis summarised in the Impact Statement meets the criteria necessary for Ministers to make informed decisions on the proposals in this paper.

## Section 1: Diagnosing the policy problem

### What is the context behind the policy problem and how is the status quo expected to develop?

**Natural gas is used in a wide range of sectors, both industrial and residential**

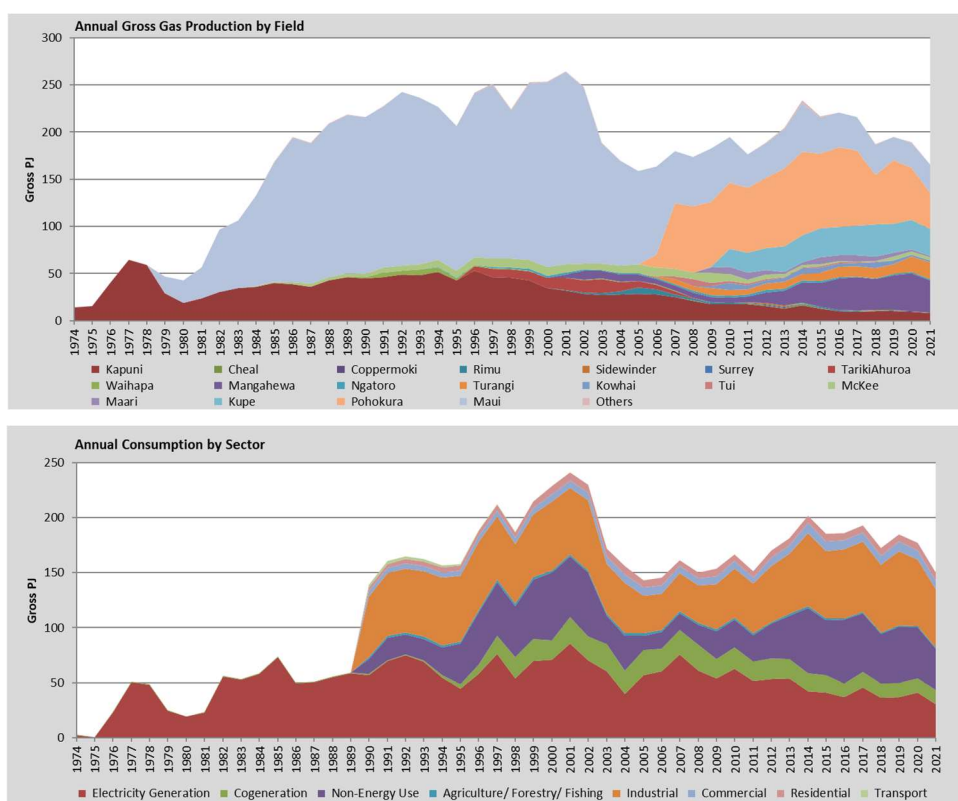
1. Natural gas is used by about 300,000 industrial, commercial and residential customers in New Zealand. In 2020, it accounted for approximately 21 per cent of total primary energy supply and 11 per cent of total residential energy use.<sup>1</sup> It has a wide range of applications, fuelling thermal power generation plants and large industries (including in the key export sectors of meat, dairy, timber processing, and steel manufacturing), and providing the feedstock for petrochemical (methanol and ammonia/urea) production. Gas is also used directly in a wide range of small-to-medium commercial enterprises, and for cooking and heating in households.
2. In 2021, about 16 different fields and wells supplied approximately 150 petajoules (PJ) of gas.<sup>2</sup> Major gas producing fields include Pohokura (which has provided an average of 40 per cent of New Zealand's natural gas supply in the last several years), McKee / Mangahewa, Maui and Kupe. The largest gas users include Methanex (methanol producer), Huntly Power Station and Taranaki Combined Cycle Power Station. Other

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<sup>1</sup> See <https://www.mbie.govt.nz/building-and-energy/energy-and-natural-resources/energy-statistics-and-modelling/energy-statistics/energy-balances/>

<sup>2</sup> Ibid.

large industry users include Ballance (agri-nutrient production), Glenbrook (steel manufacture), Kinleith (timber mill) and Fonterra (dairy processing).



Source: Ministry of Business, Innovation and Employment

3. Consumption of natural gas for industrial purposes and electricity generation dominate demand. Methanex is the largest consumer of natural gas in New Zealand, accounting for close to half of domestic demand when at full capacity and producing a maximum of 2.2 million tonnes of methanol a year, 95 per cent of which it exports.<sup>3</sup> Gas producers rely heavily on Methanex’s willingness to enter into long-term supply contracts (including risk-sharing arrangements) for large volumes of gas to support exploration and production investment decisions. Residential and commercial users combined only make up a small proportion of overall demand.
4. Natural gas is not available in the South Island and all gas production so far has been in Taranaki. However, LPG (liquefied petroleum gas), a mix of propane and butane extracted from natural gas, is available throughout the North and South Islands.

**Since 2004, the gas industry has been co-regulated by an industry body and the Minister of Energy and Resources**

5. In 2004, the Gas Act was substantially amended to introduce a ‘co-regulatory’ model for the gas industry. This approach means that an industry body ‘co-regulates’ the gas industry by recommending gas governance arrangements to the Minister of Energy and Resources (the Minister). Arrangements include rules and regulations and can be made for a variety of purposes as set out in sections 43F, 43G and 43S of the Gas Act.
6. Gas Industry Company Limited (GIC) has been the approved industry body since December 2004. Its role is to:

<sup>3</sup> See <https://www.methanex.com/location/new-zealand/about-methanex-nz#:~:text=New%20Zealand,-Overview&text=Methanex%20is%20New%20Zealand's%20only,million%20tonnes%20of%20methanol%20annually.>

- 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.
7. The following gas governance rules and regulations are currently in force:
- Gas (Downstream Reconciliation) Rules 2008 – sets uniform processes that enable the fair, efficient, and reliable downstream allocation of reconciliation of gas quantities.
  - Gas (Switching Arrangements) Rules 2008 – enable consumers to efficiently switch between competing retailers.
  - Gas Governance (Critical Contingency Management) Regulations 2008 – sets out the process for the industry to manage a gas supply emergency including roles, responsibilities and obligations.
  - Gas Governance (Compliance) Regulations 2008 – enable the above rules and regulations to be monitored and enforced.
  - Gas (Dispute Resolution Scheme Membership) Class Exemption Regulations 2014 – exempt gas retailers from the obligation to be a member of the Electricity and Gas Complaints Commissioner Scheme in relation to the supply of liquified petroleum gas in quantities less than 15 kilograms.
  - Gas (Levy of Industry Participants) Regulations 2021 – part of an annual process to help fund the majority of GIC’s activities.

**Additionally, GIC also oversees other non-regulated arrangements for the downstream gas sector. The Government issued a Policy Statement on Gas Governance in 2008**

8. In 2008, the Government issued the Government Policy Statement on Gas Governance (the GPS),<sup>4</sup> which sets out the objectives and outcomes the Government wants GIC to pursue. This replaced the earlier statement from 2004 when the co-regulatory arrangement commenced.
9. As per the GPS, GIC is required to have regard to the objectives and outcomes in this statement when making recommendations for rules or regulations. The objectives that relate to information disclosure are discussed further below.

### What is the policy problem or opportunity?

**Gas production outages in 2018 had a range of negative impacts on the energy sector**

10. In 2018, the gas market experienced supply constraints due to two unscheduled curtailments at the Pohokura gas field. In November 2018, the Kupe field also reduced its gas flow from 77 terajoules (TJ) per day to around 55 TJ per day while it completed a planned statutory inspection. Together these reduced the supply of gas available to the market.
11. The reduction in gas supply had a range of impacts on the downstream gas sector and related electricity markets. Some larger gas consumers brought forward planned outages and voluntarily reduced their gas demand to help alleviate supply tightness.

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<sup>4</sup> The GPS can be found here: <https://www.mbie.govt.nz/assets/b69297c76e/government-policy-gas-governance-2008.pdf>

The Pohokura production station outage reportedly cost its main customer around \$2 million a day in lost revenue.<sup>5</sup>

12. In the electricity market, where gas is used for hydro firming and peaking and for increased thermal electricity generation during periods of low hydro inflow, the outages contributed to increased prices for many consumers in the spring of 2018. When combined with the lower-than-normal hydro lake storage (due to dry spring conditions toward the end of 2018), wholesale electricity prices were pushed up to around \$300 per megawatt hour (MWh). This was higher than the typical price over similar periods, and much higher than the average wholesale price of around \$80 per MWh experienced in previous years.

### **These planned and unplanned gas outages brought into focus the role of information transparency and asymmetry in the gas sector**

13. Timely and accurate information underpins effective and efficient market behaviour. Without it, market participants may be at a disadvantage when making decisions. At the time of the gas outages, a wide range of stakeholders and sector commentators noted that there was limited information publicly available about gas supply issues.
14. In its initial investigation into the issue, GIC found that some gas industry participants had greater access to information than others, giving them an information advantage in decisions. For example, counterparties to long-term bilateral gas supply agreements had greater access to production and storage outage information relative to the wider gas sector. In related markets, such as the electricity sector, renewables-only generators of electricity noted that they did not have the same access to outage information compared with their competitors whose portfolios include thermal generation. One such generator commented in submissions that if it was aware of planned gas outages, it could reschedule non-urgent plant maintenance to ensure it retained capacity to meet demand. This information asymmetry can undermine efficient market behaviour to the detriment of consumers.
15. Inefficient market behaviour may also impact downstream consumer behaviour, which can in turn impact economic security of supply. By economic security of supply we mean the prices that consumers will be exposed to such as rising energy costs and the cost of goods produced using gas. This is contrary to the objective under the GPS that delivered gas costs and prices are subject to sustained downward pressure.
16. In July 2018, the Minister wrote to GIC asking it to investigate information disclosure requirements and inquired as to GIC's view of whether or not current regulations were adequate. GIC reported back in August 2018 that regulations of this type could not be made under the Gas Act as the regulations contemplated by Part 4A of the Gas Act are limited to a narrow range of matters, for example, disclosure by certain participants of tariff and other charges and disclosure of data and other market information.

### **The industry developed a voluntary information disclosure code in 2020**

17. As an immediate response to the information asymmetry, major gas producers and Flexgas Limited (owner and operator of the Ahuroa Gas Storage Facility) developed the Upstream Gas Outage Information Disclosure Code (the Code) in June 2020.<sup>6</sup> The Code is an industry-led, voluntary framework for the disclosure of gas production and

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<sup>5</sup> New Zealand Herald, "Extended Pohokura gas outage costing Methanex \$2 million a day," 26 June 2018, <https://www.nzherald.co.nz/business/extended-pohokura-gas-outage-costing-methanex-2-million-a-day/D2LKQIIZBI2OPU2OXHA3CYLRVY/>

<sup>6</sup> The Code can be found here: <https://www.energyresources.org.nz/assets/Uploads/Upstream-Gas-Outage-Information-Disclosure-Code-March-2020.pdf>

storage facility outage information. All large gas producers (Beach Energy, Greymouth Petroleum, OMV and Todd Energy) participate in the Code along with Flexgas Limited.

### **The Gas (Information Disclosure and Penalties) Amendment Act 2021 was passed to address the gap in information disclosure**

18. The Government decided to amend the Gas Act to expand the scope of GIC's regulation recommending powers to enable enhanced information disclosure about the gas market.
19. The Gas (Information Disclosure and Penalties) Amendment Act 2021 (Amendment Act) was passed in July 2021. The amendments addressed the limited ability of systematic information disclosure from upstream gas producers. The changes are intended to manage the potential impacts of a lack of information on the wholesale gas market and on decisions by other stakeholders, for example, the national electricity grid operator in its decisions on managing electricity transmission.
20. To inform policy decisions that led to the Amendment Act, MBIE prepared a Regulatory Impact Assessment, which is accessible at <https://www.mbie.govt.nz/dmsdocument/7309-gas-act-1992-information-disclosureand-penalties-regulatory-impact-summary>.

### **In February 2022, GIC recommended that the Minister of Energy and Resources make new information disclosure rules**

21. In 2018, GIC established a workstream to progress issues relating to information availability in the gas sector. It developed and consulted on a problem assessment paper in 2019<sup>7</sup> and advanced this work to a Statement of Proposal (SOP), which was consulted on in 2020 (in draft form)<sup>8</sup> and 2021 (in final form).<sup>9</sup>
22. On 18 February 2022, GIC submitted its final recommendations to the Minister on information disclosure arrangements for gas production and storage facility outages, and related amendments to the Gas Governance (Compliance) Regulations 2008 (Compliance Regulations).

### **If information disclosure arrangements are not made, the voluntary industry-led Code is not considered a suitable solution to address information asymmetry and its impacts**

23. In the absence of information disclosure arrangements (status quo), the only resolution to the problem of asymmetric gas production storage and outage information is the Code developed in 2020 by the industry.
24. While GIC considers that the introduction of the Code has led to a major improvement in both the quantity and quality of production and storage facility outage information shared publicly, it identified the following limitations:
  - Compliance with the Code may be difficult for external parties to monitor and verify because disclosure is based on private information.
  - The structure of the Code, as a multilateral agreement between upstream parties, means that the Code can only be enforceable between those parties. The parties who are most likely to be affected by non-compliance sit outside the Code and

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<sup>7</sup> See <https://www.gasindustry.co.nz/our-work/work-programmes/information-disclosure/#problem-assessment-october-2019>

<sup>8</sup> See <https://www.gasindustry.co.nz/our-work/work-programmes/information-disclosure/#draft-statement-of-proposal-for-production-and-storage-facility-outage-information>

<sup>9</sup> See <https://www.gasindustry.co.nz/our-work/work-programmes/information-disclosure/#final-statement-of-proposal-for-production-and-storage-facility-outage-information>



have limited ability to effect change in the Code or enforce its reporting obligations. In contrast, the signatories to the Code are not directly impacted by non-compliance and have limited incentives to enforce its rules.

- When considered in conjunction with the absence of an effective compliance and enforcement regime, the broad liability exclusion in the Code reduces the incentives for parties to the Code to comply with its requirements.
- GIC considers that it is unlikely that upstream parties would amend the Code to include appropriate mechanisms for compensating parties affected by non-compliance and incentivising compliance.

### What objectives are sought in relation to the policy problem?

25. Section 43ZN of the Gas Act sets out the objectives of the industry body in recommending regulations under section 43F of the same Act. The principal objective in section 43ZN(a) is “to ensure that gas is delivered to existing and new customers in a safe, efficient, and reliable manner”.
26. In addition to this broad objective, there are a number of other objectives in section 43ZN(b) of the Gas Act:
  - 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.
  - Barriers to competition in the gas industry are minimised.
  - Incentives for investment in gas processing facilities, transmission, and distribution are maintained or enhanced.
  - Delivered gas costs and prices are subject to sustained downward pressure.
  - Risks relating to security of supply, including transport arrangements, are properly and efficiently managed by all parties.
  - Consistency with the Government’s gas safety regime is maintained.
27. If GIC recommends regulations, it must also have regard to the objectives and outcomes set by the Government in the GPS (see section 43ZO(4)).
28. The GPS adds to the principal objective set in the Gas Act and requires that the industry body takes account of fairness and environmental sustainability in all its recommendations. The Government’s objective for the entire gas industry, as articulated in the GPS, is “to ensure that gas is delivered to existing and new customers in a safe, efficient, fair, reliable and environmentally sustainable manner.” The GPS sets the expectation that this objective is what GIC must have regard to when making recommendations for rules, regulations or non-regulatory arrangements for any part of the gas industry.
29. The GPS also adds to the other objectives in section 43ZN(b) of the Gas Act, with the same expectation as to its application:
  - Energy and other resources used to deliver gas to consumers are used efficiently.
  - Competition is facilitated in upstream and downstream gas markets by minimising barriers to access to essential infrastructure to the long-term benefit of end users.
  - The full costs of producing and transporting gas are signalled to consumers.

- The quality of gas services where those services include a trade-off between quality and price, as far as possible, reflect customers' preferences.
  - The gas sector contributes to achieving the Government's climate change objectives as set out in the New Zealand Energy Strategy, or any other document the Minister may specify from time to time, by minimising gas losses and promoting demand-side management and energy efficiency.
30. In its final Statement of Proposal and recommendation to the Minister, GIC identified the following regulatory objective to be met by proposed gas production and outage information disclosure arrangements:
- Arrangements are in place that ensure the effective and timely availability of material gas production and storage outage information for all gas and related market participants.

## Section 2: Deciding upon an option to address the policy problem

### What criteria will be used to compare options to the status quo?

31. Options are assessed against the following criteria:
- **Effectiveness:** Do the proposals effectively promote the objectives described above i.e., the efficient functioning of the gas market, and certainty regarding the security of gas supply?
  - **Proportionality:** Are the proposals proportionate to the harms identified? Are the costs of complying proportionate to the objectives intended to be achieved?
  - **Certainty and predictability:** Are the proposals clear enough to provide certainty and predictability to assist compliance?

### What scope will options be considered within?

#### Options are constrained by the regulation or rule-making powers and requirements in the Gas Act

32. Section 43F(2) of the Gas Act provides for the Governor-General to make regulations (by Order in Council and on the recommendation of the Minister) relating to the following purposes:

##### **Arrangements relating to outages and other security of supply risks**

*(e) providing, in relation to wholesale or any other markets for gas, for arrangements relating to outages and other security of supply risks, including imposing requirements in connection with those matters on any industry participant or consumer (other than a domestic consumer):*

##### **Information disclosure for whole gas industry**

*(f) providing for the provision and disclosure of data and information by any industry participant or consumer (other than a domestic consumer).*

33. Section 43G(2) of the Gas Act provides for the the Governor-General to make regulations (by Order in Council and on the recommendation of the Minister) relating to the following purposes:

##### **Enforcement of gas governance regulations**

*(k) providing for compliance with gas governance regulations and rules to be monitored and enforced by the industry body or the Commission or any other person or court, and the powers and procedures of that person or court.*

34. The regulations must be made in accordance with sections 43I to 43P of the Gas Act. Section 43J sets out what gas governance regulations can be made when there is an industry body but no Commission (i.e., the current situation). Per section 43J(1)(b) of the Gas Act, the Minister may only recommend regulations under section 43F if they implement the effect of a recommendation of the industry body, and do not differ from that recommendation in any material way. This requirement does not apply to regulations under section 43G.
35. For GIC recommendations made under section 43F (the proposed gas outage information disclosure arrangements), the Minister must decide to either accept or reject it within 90 days of receiving the recommendation. This requirement does not

apply to GIC's recommendation under section 43G (the proposed amendments to the Compliance Regulations).

36. Under section 43Q of the Gas Act, the Minister could also make a rule for all or any of the purposes for which a gas governance regulation may be made. When deciding whether to make a rule, the Minister must only have regard to:
- the importance of the rule, including whether the rule has a material effect on the rights and interests of individuals;
  - the subject matter of the rule, including whether the rule contains detailed or technical matters rather than matters of general principle;
  - the application of the rule, including whether the rule applies principally to a particular group (e.g., industry participants) rather than the general public; and
  - the expertise and rule-making procedures of the recommending body.

### **Options have been informed by consultation and assessments as required by the Gas Act**

37. Before recommending gas governance regulations to the Minister, section 43L(1) of the Gas Act requires the industry body to undertake an assessment of the options (in accordance with section 43N) and consult with persons likely to be substantially affected by the proposed regulations.
38. GIC instructed Sapere Research Group (Sapere) to conduct a cost benefit analysis of the regulatory options it identified. GIC also consulted on draft recommendations in 2019, 2020 and 2021. Its final recommendations to the Minister in February 2022 reflect the conclusions of the cost benefit analysis and submissions received during consultation.

### **Options are constrained by GIC's recommendations**

39. GIC, as the industry body, has made two separate recommendations:
- first, to make new gas governance rules for the disclosure of gas production and storage facility outage information under sections 43F(2)(e), 43F(2)(f) and 43Q of the Gas Act. Its recommendation sets out the detail for such rules; and
  - second, to amend the Compliance Regulations under section 43G(2)(k) to refer to the proposed rules above.

### **What options are being considered?**

40. The options considered include regulatory and non-regulatory approaches:
- Non-regulatory:
    - i. **Option 1:** Reject GIC's recommendations in favour of the industry-led solution (status quo).
  - Regulatory:
    - i. **Option 2:** Reject GIC's recommendations on information disclosure rules in favour of new regulations under the Gas Act
    - ii. **Option 3:** Accept both GIC's recommendations relating to information disclosure rules under the Gas Act and amendments to the existing Compliance Regulations

### **Option 1: Reject GIC's recommendation in favour of the industry-led solution (status quo)**

41. Option 1 is to use the industry-led Code as a permanent solution to address information asymmetry in the gas market. The Code was developed through a process of consensus among gas producers “to establish the expectations of Producers in terms of information disclosure in relation to both planned and unplanned gas outages.”<sup>10</sup>
42. The Code sets out requirements for the disclosure of any unplanned or planned outage as follows:
- **Unplanned outage:** A gas producer or storage owner must disclose the following for any unplanned outage that leads to a reduction of gas supply or withdrawal capacity exceeding 20 TJ/day:
    - *Initial notification* – As soon as practicable and no later than 12 hours after its occurrence: the name of the facility affected, the name of the outage, the date of the outage, and the threshold met or likely to be met in terms of the definition of an unplanned outage.
    - *Daily update* – If the outage continues beyond a gas day: confirmation of the continuation of the outage or its cessation, a brief description of the nature and cause of the outage (if known), the estimated duration of the outage (if known), the threshold met in terms of the definition of an unplanned outage, and the estimated quantity per gas day of the reduction in gas supply due to the outage. The daily update is expected within a further 24 hours of the initial notification and daily until cessation of the outage.
    - *Weekly update* – If the outage has continued for 14 gas days: confirmation of the continuation of the outage or its cessation, the estimated date range for the outage, a brief description of progress in formulating the plan for return to normal operations, and the estimated quantity per gas day of the reduction in gas supply due to the outage. The weekly update is expected within 7 gas days of the last initial and daily update, and at 7 day intervals until the outage has ceased and normal operations have resumed.
    - *Cessation disclosure* – On cessation of the outage: confirmation of the resumption of normal operations or final status of the relevant facility following completion of work in response to the outage.
    - *Any other update disclosure* – A gas producer may at any time provide such other update disclosures as it considers necessary and desirable.
  - **Planned outage:** A gas producer or storage owner must make rolling 12-month forecast disclosures in relation to any planned outage that leads to a reduction of gas supply or withdrawal capacity exceeding 20 TJ/day as follows:
    - *Regular notifications* – Within 10 working days of 10 January, 1 April, 1 July and 1 October (the first day of every quarter) and on the date of commencement of this Code: disclosure of planned outages and the name of the facility affected, name of the outage, brief description of the nature and

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<sup>10</sup> Upstream Gas Outage Information Disclosure Code 2020, available at <https://www.energyresources.org.nz/assets/Uploads/Upstream-Gas-Outage-Information-Disclosure-Code-March-2020.pdf>

purpose of the outage, the estimated quantity of the reduction in gas supply due to the outage and the expected duration of the outage.

- *Updates* – Once the first disclosure has been made in relation to a planned outage, subsequent disclosures are by way of updates only. If within the rolling 12-month period, the producer becomes aware of any material change to information disclosed, disclosure of the change must be made within a defined time period. Once a planned outage is underway, the gas producer must disclose a brief description of any material change to previously disclosed information and confirmation of the plan to return to normal operations or other final status following completion of work.
- *Final disclosure* – Confirmation of cessation and resumption of normal operations.

43. **Annex One** lists the key information disclosure clauses from the Code.

44. Clause 5.3 of the Code indicates that the operation of the Code is to be reviewed no later than 12 months after it comes into force, and every two years after that.

### **Option 2: Reject GIC's recommendations on information disclosure rules in favour of new regulations under the Gas Act**

45. Under Option 2, the Minister would reject GIC's recommendation for the introduction of outage information disclosure requirements as rules and instead seek a new recommendation from GIC for information disclosure regulations. The substance of the regulations may be exactly the same as currently proposed by GIC, but a preference for setting them out in regulations (rather than rules) means the Minister must reject GIC's recommendation in order to comply with section 43J(1)(b), under which the Minister's recommendation must not differ from GIC's recommendation in any material way.
46. As a consequence of rejecting the recommendation on information disclosure rules, the associated recommendation to apply the Compliance Regulations to the new rules would not be able to be implemented. It would need to be amended to align with any new recommendations from GIC.

### **Option 3: Accept both GIC's recommendations relating to information disclosure rules under the Gas Act and amendments to the existing Compliance Regulations**

47. Option 3 builds on the information disclosure requirements in the Code discussed in Option 1 above.
48. GIC recommends that proposed information requirements apply to the following facilities:
- gas production facilities that have produced a minimum of 20 TJ/day; and
  - gas storage facilities that have a maximum withdrawal rate of at least 20 TJ/day.
49. The proposed requirements would apply to both planned and unplanned gas production and storage facilities outages. For a gas production facility, a planned or unplanned outage would be a reduction in gas production in a quantity greater than or equal to 20 TJ/gas day. For a storage facility, a planned or unplanned outage would be a reduction in the withdrawal capacity in a quantity greater than or equal to 20 TJ/gas day.
50. In relation to the actual information that must be disclosed, GIC recommends adopting aspects of the Code where they consider there is merit, and amending or replacing other aspects to address limitations and/or to make the requirements workable as

rules. **Annex Two** contains a detailed list of the proposed information that should be disclosed and requirements for the timing of disclosures.

51. The main difference between Option 3 and Option 1 is the monitoring, compliance and enforcement framework. In this option, gas production facility owners are required to provide GIC with information on planned and actual production volumes. Similarly, storage facility owners are required to provide information on storage withdrawal volumes. There are also obligations to ensure the quality of the information disclosed. Together, these should enable GIC to monitor parties' compliance with the disclosure requirements.
52. In addition, GIC recommends that the disclosure of outage information is subject to the compliance framework in the Compliance Regulations. This means that any breaches of outage information disclosure requirements would be processed and determined in the same way as other breaches within the scope of the Compliance Regulations.<sup>11</sup>

### How do the options compare to the status quo/counterfactual?

	Option 1 – Industry-led solution (status quo)	Option 2 – Reject GIC recommendation on information disclosure rules in favour of regulations	Option 3 – Recommend information disclosure rules and amend Compliance Regulations
<b>Effectiveness</b>	0	++	++
<b>Proportionality</b>	0	+	+
<b>Certainty and predictability</b>	0	+	++
	0	4	5
<b>Key</b>			
++	much better than doing nothing/the status quo/counterfactual		
+	better than doing nothing/the status quo/counterfactual		
0	about the same as doing nothing/the status quo/counterfactual		
-	worse than doing nothing/the status quo/counterfactual		
--	much worse than doing nothing/the status quo/counterfactual		

### What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

53. **Option 3 is the recommended option.** Compared with Option 1, Option 3 is much better at effectively meeting the policy objectives as outlined in the Gas Act and the GPS. While the nature of the proposed outage information that must be disclosed is broadly the same as in the industry-led Code (Option 1), it is the proposed monitoring, compliance and enforcement framework for the disclosure of this information that would make Option 3 more effective at promoting efficiency in the gas market, and

<sup>11</sup> Currently, the Compliance Regulations apply to the following rules and regulations: the Gas (Switching Arrangements) Rules 2008; the Gas (Processing Facilities Information Disclosure) Rules 2008; the Gas (Downstream Reconciliation) Rules 2008; and the Gas Governance (Critical Contingency Management) Regulations 2008.

ensure certainty regarding the reliability of gas supply. It would also ensure that compliance and enforcement of outage information disclosure is consistent with the approach used for other gas rules and regulations.

54. GIC, in its recommendations, noted that compliance with the Code may be difficult for external parties (such as those in the downstream gas market) to monitor because the triggers for disclosure involve information that is private to the upstream parties to the Code. The ability of downstream parties to verify the accuracy of the information disclosed is also limited. GIC noted a recent example where a party to the Code had made a planned facility outage disclosure that did not comply with the Code's rules. GIC has also had to contact at least one party to correct issues with the content of a disclosure.
55. GIC also noted deficiencies with how compliance with the Code would be enforced. The Code is currently a multilateral agreement between those in the upstream gas market. However, those affected by non-compliance are in the downstream market and have limited ability to enforce the Code or affect change through it. Finally, enforcement action is largely confined to removal of a party from the Code, which would defeat its purpose of encouraging more disclosure of information.
56. GIC considered how Option 1, the industry-led Code, might be amended to address its deficiencies. It concluded that any amendments would fall short because making every potential impacted party accede to the Code is unlikely to be achievable, and it is unlikely that current parties to the Code could develop an appropriate mechanism for compensating impacted parties and incentivising compliance.
57. Option 3 is also considered better than Option 2. This is because we consider information disclosure rules instead of regulations would meet the requirements under section 43Q(2) of the Gas Act as follows:
  - the proposed rules would have a similar effect on the rights and interests of gas production and storage facility owners as the industry-led Code, which is currently in force;
  - the proposed outage information disclosure rules contain detailed and technical matters rather than matters of general principle;
  - the proposed rules apply specifically to gas production and storage facility owners, rather than the general public; and
  - GIC, as the recommending body, has the relevant expertise and rule-making procedures necessary to give effect to the Minister's recommendation.
58. Recommending rules rather than regulations would allow for these detailed and technical disclosure requirements to be drafted by GIC as the expert rule making body. This will ensure the rules are sufficiently detailed and captured in a way that provides regulated parties with greater certainty as to the detail of the information required. This should ensure consistent compliance.
59. Implementing the information requirements as rules would also be consistent with previous information disclosure requirements applicable to the gas industry, such as the now expired Gas (Processing Facilities Information Disclosure) Rules 2008.
60. Overall, we consider that Option 3, with clear requirements and a compliance framework, will ensure that information disclosure arrangements are more efficient and durable. We consider that the costs of compliance are proportionate to the policy objectives being sought and would not be substantially greater than those under the industry-led Code. A stable information disclosure framework should provide certainty and support energy sector participants' decision-making, which is particularly important in a sector that, with the rest of New Zealand, is transitioning to a low-emissions future..



## What are the marginal costs and benefits of the option?

<b>Affected groups</b> <i>(identify)</i>	<b>Comment</b> <i>nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.</i>	<b>Impact</b> <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i>	<b>Evidence Certainty</b> <i>High, medium, or low, and explain reasoning in comment column.</i>
<b>Additional costs of the preferred option compared to taking no action</b>			
Regulated groups	Ongoing for operators of gas production and storage facilities	Low <i>See further information below.</i>	High
Regulators	Ongoing for the GIC	Low <i>See further information below.</i>	High
Others	Ongoing for gas consumers and other downstream participants in gas market	Low <i>See further information below</i>	High
<b>Total monetised costs</b>		n/a	n/a
<b>Non-monetised costs</b>		Low	High
<b>Additional benefits of the preferred option compared to taking no action</b>			
Regulated groups	Ongoing for operators of gas production and storage facilities	High	High
Regulators	Ongoing for the GIC	High	High
Others	Ongoing for gas consumers, electricity consumers, other downstream participants in gas market	High Better security of supply outcomes in gas and electricity markets; lower price volatility; reliability of information disclosed; encourage new market participants	High
<b>Total monetised benefits</b>		n/a	n/a
<b>Non-monetised benefits</b>		High	High

### GIC costs and levy funding

61. GIC is principally reliant on annual levies to deliver its work programme in order to perform its role as approved industry body and provide effective governance of the gas

sector. Other sources of funding are market fees<sup>12</sup> and an annual fee of \$2,000 (excl. GST) per GIC shareholder.

62. As set out in the Gas Act, GIC is able to recommend to the Minister of Energy and Resources that regulations be made to set levy rates that require gas industry participants to pay a levy to GIC.<sup>13</sup> Levy regulations can only apply to the financial year in which they are made, therefore, new recommendations are made each year.<sup>14</sup>
63. The recommended levy on industry participants for 2022/23, considered by Cabinet in May 2022, will fund GIC’s information disclosure workstream, among other work. The overall recommended levy funding requirement for 2022/23 is \$4,579,373 (an increase from 2021/22 levels) and a proportion of it (\$1,130,051) is allocated towards funding GIC’s workstream on facilitating industry systems and processes. This includes its work on implementing a regulatory solution for the disclosure of gas production and storage facility outage information, but also the gas transmission pipeline access.
64. The estimated impact of the total 2022/23 levy on gas industry participants is as follows:

Figures GST exclusive where applicable	Typical Residential consumer	Typical Commercial consumer	Typical Industrial consumer
Annual gas usage	25 gigajoules	1000 gigajoules	50,000 gigajoules
Estimated annual gas bill	\$1,000.50	\$17,880	\$442,500
<b>Estimated total annual levy</b>	<b>\$6.98</b>	<b>\$20.63</b>	<b>\$706.48</b>
<b>Estimated proportion total gas bill</b>	0.70 per cent	0.12 per cent	0.16 per cent

### Cost benefit analysis

65. Section 43(N)(1) of the Gas Act requires that before making recommendations to the Minister, GIC must assess options by considering the benefits and costs of each option. GIC engaged Sapere to conduct a cost benefit analysis of two options:
- A voluntary option with disclosure of gas production and storage facility outage information under the industry-led Code; OR
  - A regulated option with rules or regulations under the Gas Act for the disclosure of gas production and storage facility outage information.

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<sup>12</sup> Market fees are payable in accordance with certain gas governance rules and regulations to recover actual expenses directly required to meet GIC’s obligations under those arrangements. These cover the contractually agreed costs of any service providers and any other expected direct costs related to the monitoring of those arrangements.

<sup>13</sup> Section 43ZZB of the Gas Act.

<sup>14</sup> Section 43ZZE(3) of the Gas Act.

- 66. Sapere’s assessment<sup>15</sup> is qualitative in nature as quantitative data is limited. It relied on literature around information disclosure in markets, interviews with market participants, and feedback on the functioning of the Code to inform its assessment.
- 67. Overall, it found that gas and electricity markets gained a net benefit from a regulatory approach compared to the industry-led Code as follows:

<b>Costs</b>	<b>Benefits</b>
<ul style="list-style-type: none"> <li>• As parties are already complying with the industry-led Code, the additional costs of compliance with a regulated approach are considered small.</li> <li>• The regulator will incur some costs (considered insignificant) to develop and operate the regulated option.</li> <li>• The regulated approach is unlikely to reduce innovation incentives or facilitate collusion in the market.</li> </ul>	<ul style="list-style-type: none"> <li>• Better security of supply outcomes in both the gas and electricity markets through better co-ordination of gas production, electricity generation, gas transmission, electricity transmission and major plant outages.</li> <li>• The regulated option would lead to more efficient wholesale gas, wholesale electricity, and bilateral contract prices. Wholesale prices would be lower than otherwise, as would risk premiums in fixed price contracts.</li> <li>• The regulated option would be more effective than the voluntary industry-led Code as gas and electricity market participants can rely on the quality of the information disclosed.</li> <li>• A more reliable gas outage regime would encourage rather than discourage new participants in both the gas and electricity markets.</li> </ul>

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<sup>15</sup> See initial assessment from 2020 here: <https://www.gasindustry.co.nz/our-work/work-programmes/information-disclosure/#draft-statement-of-proposal-for-production-and-storage-facility-outage-information> and revised assessment from 2021 here: <https://www.gasindustry.co.nz/our-work/work-programmes/information-disclosure/#final-statement-of-proposal-for-production-and-storage-facility-outage-information>

## Section 3: Delivering an option

### How will the new arrangements be implemented?

68. GIC will be responsible for monitoring and enforcing the new information disclosure arrangements.
69. GIC will also be responsible for drafting the rules, while the Parliamentary Counsel Office will be responsible for drafting the amendments to the Compliance Regulations.
70. The new rules and amended regulations are expected to come into effect by November 2022. We consider that this would be sufficient time for regulated parties to prepare to comply, especially considering the Code, which is substantively the same as the proposed rules, is already in effect.
71. GIC will notify stakeholders of the development of the new arrangements and provide assistance to help them comply.
72. The GIC levy on industry participants funds the information disclosure work stream. Current work is funded by the 2021/22 regulations as part of facilitating industry systems and processes. Recommendations for the 2022/23 levy have been considered by Cabinet in May 2022 and is calculated to fund the implementation of a regulatory solution for the disclosure of gas production and storage facility outage information.

### How will the new arrangements be monitored, evaluated, and reviewed?

73. GIC will be responsible for monitoring and enforcing the new arrangements and stakeholders will be able to provide feedback directly to GIC, MBIE or ministers. GIC may decide, or the Minister may request, that the arrangements be reviewed by GIC as a result of concerns either identified through monitoring activities or raised by stakeholders.

## Annex One: Key information disclosure clauses in the Code

### 15 Disclosure in relation to unplanned outage

15.1 A gas producer must disclose the following information in relation to any unplanned outage that has occurred at a gas production facility or storage facility wholly or partially owned by it or a related company:

(a) Initial notification: as soon as reasonably practicable after its occurrence and in any event expected to be not later than 12 hours after its occurrence:

- (i) the name of the production facility or storage facility affected;
- (ii) the name of the outage;
- (iii) the date of the outage;
- (iv) the threshold met or likely to be met in terms of the definition of an unplanned outage;

(b) Daily update: if the outage continues beyond the gas day of its occurrence, within a further 24 hours of the disclosure under paragraph (a) and again daily after the last disclosure under this paragraph (b) (until such time as disclosure is required under paragraph (d) in respect of an outage of longer duration):

- (i) confirmation of the continuation of the outage, or its cessation;
- (ii) a brief description of the nature and cause of the outage (if known);
- (iii) the estimated duration of the outage, if known;
- (iv) the threshold met in terms of the definition of an unplanned outage;
- (v) the estimated quantity per gas day of the reduction in gas supply due to the outage;

(c) Weekly update: once the outage has continued for 14 gas days, within 7 gas days of the last disclosure under paragraphs (a) and (b) and again at 7 day intervals after the last disclosure under this paragraph (c) until the outage has ceased and normal operations at the relevant facility have resumed:

- (i) confirmation of the continuation of the outage, or its cessation;
- (ii) the estimated date range for the outage;
- (iii) a brief description of progress made in formulating the plan for return to normal operations;
- (iv) a further update on the estimated quantity per gas day of the reduction in gas supply; and

(d) Cessation disclosure: upon cessation of the outage at any of the stages provided for in paragraphs (a) to (c), confirmation of resumption of normal operations or other disclosure as to the final status of the relevant facility following completion of work in response to the outage, in each case in the form prescribed in Parts 1 to 3 or 5 of Schedule 2 or, in the case of an outage's cessation, by way of inclusion in the relevant outage notification itself.

- 15.2 A gas producer may at any time provide such other update disclosures as it considers necessary or desirable to ensure the information then disclosed is as up to date as is reasonably practicable for it to so disclose. Nothing in this clause 15, however, is intended to expand the disclosure requirements of this Code.
- 15.3 In the event that a gas producer is making disclosures pursuant to clause 15.1 in respect of an unplanned outage at a production facility or storage facility, the occurrence of another, separate set of events or circumstances that in their own right may have constituted an unplanned outage will constitute a separately disclosable outage. The details required under clause 15.1 for this outage must be separately provided until 7 days after the date of occurrence of the event, at which stage one sole set of disclosures can be made for the purposes of clause 15.1(c) and (d).

## **16 Disclosures in relation to planned outage**

- 16.1 A gas producer must make rolling 12 month forecast disclosures in relation to any planned outage at any production facility or storage facility wholly or partially owned by it or a related party, as follows:
- (a) within 10 working days of 10 January, 1 April, 1 July and 1 October and of the date of commencement of this Code (if this does not coincide with one of the aforementioned dates) (each such date being a disclosure date) in each year, subject to paragraph (b) below, the gas producer must disclose in relation to any such planned outage expected to occur in the immediately succeeding 12 month period:
- (i) the name of the production facility or storage facility affected;
  - (ii) the name of the outage;
  - (iii) a brief description of the nature and purpose of the outage;
  - (iv) the estimated quantity per gas day of the reduction in the supply of gas likely to result from the outage, if it is due to occur within six months of the disclosure date; and
  - (v) the expected duration of the outage including, in the case of an outage expected to occur within six months of the disclosure date, the proposed start and end dates for the outage and, in the case of an outage proposed to start in the period between six and 12 months after that disclosure date, a best estimate of the month or months in which it will occur,
- in the form specified in Part 4 of Schedule 2;
- (b) once the first disclosure has been made in relation to a planned outage, subsequent disclosures are by way of update only, with the information expected to be as accurate as is reasonably possible upon each disclosure;
- (c) where, within the rolling 12 month period referred to in paragraph (a), the gas producer becomes aware of any material change to information disclosed in respect of an outage pursuant to paragraph (a), disclosure of the relevant change must be made:
- (i) as soon as reasonably practicable if it occurs or is to occur within the first six months of that period; and
  - (ii) on the next quarterly disclosure date if it is to occur within the second six months of that period;

(d) once a planned outage at a production facility or storage facility is underway, the gas producer must disclose as soon as reasonably practicable:

(i) a brief description of any material change to the information previously disclosed under paragraphs (a) or (b); and

(ii) confirmation of the plan for return to normal operations or other disclosure as to the final status of the relevant facility following completion of work in response to the outage;

(e) the final disclosure in relation to a planned outage will be confirmation of its cessation and resumption of normal operations, in each case in the form prescribed in Parts 4 or 5 of Schedule 2.

- 16.2 An event or works expected or likely to lead to a reduction in the supply of gas from a production facility or storage facility may be proposed such that the threshold for a planned outage is not expected to be met, but that event or works may develop into a planned outage. In such case, no disclosure is required to be made under clause 16.1 until the threshold for a planned outage is expected to be met.
- 16.3 A planned outage which may or may not affect a particular production facility or storage facility due to the gas producer not being certain when or where it may occur is not disclosable under this clause 16 unless and until it actually becomes a planned outage in respect of that facility.
- 16.4 Disclosure of any unplanned outage that occurs during a planned outage must be included in the current planned outage disclosure pursuant to clause 16.1 unless it is an entirely separate event, in which case it must be disclosed as an unplanned outage under clause 15.

## Annex Two: GIC's Statement of Proposal

### Coverage of arrangements

The arrangements apply to the following facilities:

- Gas production facilities. Production facilities that have produced a minimum of 20 TJ/day.
- Gas storage facilities. Storage facilities that have a maximum withdrawal rate of at least 20 TJ/day.

A gas production facility is defined as a facility at which gas is produced or processed for domestic export or sale and includes any associated gas production or other wells.

A gas storage facility storage is a facility where gas is injected and later made available for withdrawal.

Disclosures under these arrangements may be made on behalf of a production or storage facility owner by the operator (or another nominated person) of the relevant facility.

### Outage definitions

Information disclosed under the arrangements includes reductions in gas production or storage withdrawal associated with a facility outage.

The outage definitions cover both planned and unplanned gas production and storage facility outages:

#### *Planned gas production facility outage.*

- For the following 12-month rolling period, a reduction in the production of gas from a production or processing facility caused by an outage, in a quantity greater than or equal to the Threshold Quantity (for a gas day).
- The planned reduction is measured against the producer's forecast gas production for the 14 gas days preceding the forecast start of the outage.

#### *Unplanned gas production facility outage.*

- A reduction in the production of gas caused by an outage in a quantity greater than or equal to the Threshold Quantity (for a gas day).
- The unplanned reduction is measured against a forecast of week ahead total gas production.

#### *Planned gas storage facility outage.*

- For the following 12-month period, a reduction in the withdrawal capacity from a gas storage facility, caused by an outage, in a quantity greater than or equal to the Threshold Quantity (for a gas day).
- The reduction is measured against the total withdrawal capacity of that facility.

#### *Unplanned gas storage facility outage.*



- A reduction in the withdrawal capacity from a gas storage facility, caused by an outage, in a quantity greater than or equal to the Threshold Quantity (for a gas day).
- The reduction is measured against the total withdrawal capacity of that facility.
- A gas day is a period of 24 consecutive hours, beginning at 0000 hours (New Zealand standard time).

### *Threshold Quantity*

The Threshold Quantity is 20 TJ/day for each outage definition.

### *Definition of gas production from a gas production or processing facility*

For these disclosure arrangements, the definition of gas production from a gas production or processing facility includes all gas exported from a gas processing facility.

## **Timing of disclosures**

### *Planned outages*

- A gas producer or storage owner must make rolling 12-month forecast planned outage disclosures within 10 working days of 10 January, 1 April, 1 July and 1 October in each year.
- If the party becomes aware of any material change in disclosed information in events that are forecast to occur in the first six months, the change must be disclosed as soon as reasonably practical. The party must identify that the updated information supersedes previously reported information.
- If the party becomes aware of any material change in information for outages in the latter six months, the update must be included as part of subsequent quarterly notifications. The party must identify that the updated information supersedes previously reported information.
- Once a planned outage is underway, a gas producer or storage owner must disclose as soon as reasonably practicable a description of any material change to the information previously disclosed. The party must identify that the updated information supersedes previously reported information. This information must include confirmation of the plan for returning to normal operations or other disclosure as to the final status of the facility following completion of work in response to the outage.

### *Unplanned outages*

- *Initial disclosure.* A gas producer or storage owner is required to disclose an initial notification identifying that there is an unplanned outage at a facility as soon as reasonably practicable after it has occurred. The timing of this notification must not be greater than 12 hours after the outage has occurred.
- *Disclosures over the first two weeks of the outage.* If the outage extends beyond the day it occurred, the party is required to disclose daily information for the following two weeks.
- *Disclosures after the first two weeks of the outage.* If the outage extends beyond these two weeks, weekly updates must be provided after this period.

- *Cessation disclosure.* The production or storage facility owner must notify that the facility has resumed normal operation as soon as reasonably practicable after this event has occurred.

### **Information to be disclosed**

The information that is required to be disclosed under these arrangements is listed below, with the information varying by the timing of the disclosure and whether the event is a planned or unplanned outage.

#### *Planned outage – first six months*

- Date and time of disclosure
- Name of operator and name of facility owner(s)
- Name of production/storage facility(ies) affected
- Name of outage
- Brief description of nature/purpose of outage
- Estimated quantity per gas day of likely reduction in gas production (for a production facility) or withdrawal capacity (for a storage facility)
- Expected duration of outage
- Proposed start and completion date
- When an outage is already underway, confirmation of plan for return to normal operations/revised operations (with brief detail)

#### *Planned outage – second six months*

- Date and time of disclosure
- Name of operator and name of facility owner(s)
- Name of production/storage facility(ies) affected
- Name of outage
- Brief description of nature/purpose of outage
- The month(s) that the outage is expected to occur

#### *Planned outage – cessation disclosure*

- Date and time of disclosure
- Name of operator and name of facility owner(s)
- Name of production/storage facility(ies) affected
- Name of outage
- Confirmation of resolution of outage and return to normal operations/revised operations (with completion date and brief detail)

#### *Unplanned outage – initial notification*

- Date and time of disclosure

- Name of operator and name of facility owner(s)
- Name of production/storage facility(ies) affected
- Name of outage
- Date of the outage
- Whether the threshold for disclosure is met or likely to be met

*Unplanned outage – daily disclosures for the first two weeks of the outage*

- Date and time of disclosure
- Name of operator and name of facility owner(s)
- Name of production/storage facility(ies) affected
- Name of outage
- Description of the nature and cause of outage (if known)
- Estimated duration of the outage (if known)
- Estimated end date for the outage (if known)
- Description of progress made in confirming plan for resolution of the outage
- Estimated quantity per gas day of the reduction in gas production (for a production facility) or withdrawal capacity (for a storage facility)

*Unplanned outage – weekly disclosures after the first two weeks of the outage.*

- Date and time of disclosure
- Name of operator and name of facility owner(s)
- Name of production/storage facility(ies) affected
- Name of outage
- Description of the nature and cause of outage (if known)
- Estimated duration of the outage (if known)
- Estimated end date for the outage (if known)
- Description of progress made in confirming plan for resolution of the outage
- Updated estimate of quantity per gas day of the reduction in gas production (for a production facility) or withdrawal capacity (for a storage facility)

*Unplanned outage – cessation disclosure*

- Date and time of disclosure
- Name of operator and name of facility owner(s)
- Name of production/storage facility(ies) affected
- Name of outage

- Confirmation of resolution of outage and return to normal operations/ revised operations (with completion date and brief detail)

A gas producer or storage owner may, at any time, provide other disclosures that it considers are necessary or desirable to ensure the disclosed information for an outage event is as up to date as is reasonably practicable for it to disclose.

A gas producer or storage facility owner is not required to make disclosure information publicly available if the information is insufficiently definite to warrant being made readily available to the public.

Outage information (both planned and unplanned) that is provided to a customer (irrespective of whether this is required under a contractual commitment or a voluntary disclosure) must be disclosed publicly at the same time. This information must include the disclosure information listed above.

### **Additional disclosure**

Nothing prevents a gas producer or storage owner from disclosing more information than the set of information defined in these arrangements.

### **Confidential Information**

The disclosure requirements must be complied with irrespective of whether gas producers or gas storage owners are subject to confidentiality arrangements in their agreements.

### **Information required for monitoring**

A gas production facility owner must provide Gas Industry Co with:

- An estimate of daily production for each field for the upcoming 12 months from 1 April in each year. The information must be provided to Gas Industry Co within 10 working days of this date.
- Actual daily total production for each field for the year immediately preceding 1 April in each year. The information must be provided to Gas Industry Co within 10 working days of this date.

With 10 working days of the commencement of the rules, each gas production facility owner must provide Gas Industry Co with estimated daily production for the period from the commencement of the rules to the following 31 March.

For these purposes, gas production includes all gas exported from a gas processing facility.

A gas storage facility owner must provide Gas Industry Co with:

- Expected changes in a facility's daily aggregate withdrawal capacity for the following year from 1 April in each year. The information must be provided to Gas Industry Co within 10 working days of this date.
- Daily actual aggregate withdrawal information for the year immediately preceding 1 April in each year. The information must be provided to Gas Industry Co within 10 working days of this date.
- Daily aggregate gas withdrawal nominations information for the year immediately preceding 1 April in each year. The information must be provided to Gas Industry Co within 10 working days of this date.

With 10 working days of the commencement of the rules, each gas storage facility owner must provide Gas Industry Co with expected changes in a facility's daily withdrawal capacity for the period from the commencement of the rules to the following 31 March.

Nothing prevents a gas producer or storage facility owner from disclosing information on a more regular basis than the minimum requirements outlined above.

### **Confirmation of information quality**

Gas production facility owners and gas storage facility owners must provide information under the rules to the standard of a reasonable and prudent operator. For these arrangements, a Reasonable and Prudent Operator means, in relation to the performance of obligations by a gas producer or gas storage owner, the application of that degree of diligence, prudence and foresight exercised by experienced gas producers or storage owners under the same or similar circumstances and conditions.

An annual certification by a senior manager of the gas producer or gas storage owner that it has complied with its obligations under the rules over the previous year is required.

### **Compliance and enforcement arrangements**

The rules for the disclosure of information regarding gas production and gas storage facility outages are subject to the compliance framework in the Gas Governance (Compliance) Regulations 2008.

Gas Industry Co is making a separate recommendation to the Minister of Energy and Resources for amendments to the Compliance Regulations.

### **Information Platform**

Parties disclosing information under these arrangements must publish this information using an information platform developed and hosted by Gas Industry Co.