



COVERSHEET

Minister	Hon Simeon Brown	Portfolio	Energy
Title of Cabinet paper	Gas Governance (Critical Contingency Management) Amendment Regulations 2024	Date to be published	25 March 2024

List of documents that have been proactively released

Date	Title	Author
February 2024	Gas Governance (Critical Contingency Management) Amendment Regulations 2024	Office of the Minister for Energy
15 February 2024	Gas Governance (Critical Contingency Management) Amendment Regulations 2024 LEG-24-MIN-0004 Minute	Cabinet Office

Information redacted

NO

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Office of the Minister for Energy

Chair, Cabinet Legislation Committee

Gas Governance (Critical Contingency Management) Amendment Regulations 2024

Proposal

- 1 This paper seeks authorisation to submit to the Executive Council the *Gas Governance (Critical Contingency Management) Amendment Regulations 2024*, which will amend the *Gas Governance (Critical Contingency Management) Regulations 2008*.

Executive summary

- 2 Firstgas is a private company that owns and operates the gas transmission system that carries natural gas to cities and towns across the North Island. It plans to lower the operating pressure in part of the gas transmission system that supplies consumers in the Taupō and Reporoa areas to inject biomethane in mid-March 2024. Under the *Gas Governance (Critical Contingency Management) Regulations 2008* (the **CCM Regulations**), this will require a critical contingency event to be declared.
- 3 The *CCM Regulations* are designed so that a critical contingency event is declared when there is an accidental lowering of pressure (such as a ruptured pipe). A critical contingency event was not intended to be triggered when the network operator intentionally lowers the pressure as part of normal operation of the system.
- 4 This paper seeks authority to submit to the Executive Council the *Gas Governance (Critical Contingency Management) Amendment Regulations 2024*. The amendments will remove the Broadlands and Taupō gas gates from the operating pressure thresholds in the *CCM Regulations*. This will avoid a critical contingency event having to be declared when Firstgas reduces the pressure in this part of the gas transmission system.

Policy

Firstgas plans to inject biomethane in part of the gas transmission system and will reduce pressure under new normal operating conditions

- 5 From mid-March 2024, Firstgas will inject some of the biomethane produced at an organics facility close to Reporoa into the gas transmission system that supplies consumers in the Taupō and Reporoa areas. This part of the gas transmission system is shown in a diagram in **Appendix A**.
- 6 Natural gas largely consists of methane found in either natural gas fields or oil well fields. Biomethane is methane renewably produced through biologically digesting organic waste materials and upgrading the gas produced by removing impurities. Although biomethane is chemically identical to natural gas, it has lower emissions. Firstgas estimates that the organics facility can produce

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biomethane equivalent to supplying 7,200 homes and avoid 11,000 tonnes of carbon dioxide emissions per year.

- 7 Firstgas plans to reduce network pressure close to the biomethane injection point to avoid the need for additional compression. This reduced operating pressure will be the new normal operating conditions for this part of the gas transmission system on an ongoing basis. The change will reduce costs but will also lower pressure below the minimum operating pressure thresholds set under the *CCM Regulations*.
- 8 Firstgas has engaged with WorkSafe New Zealand (**WorkSafe**) on the planned changes to reduce operating pressure and inject biomethane. WorkSafe has not identified any significant health and safety implications at this stage as long as Firstgas follows the applicable standards and processes. Firstgas are continuing to engage with WorkSafe to clarify which regulatory requirements apply to their biomethane proposal to ensure that they will continue to supply gas in a way that meets their health and safety obligations.

Under current regulatory settings a critical contingency event will be declared when Firstgas reduces pressure in part of the gas transmission system

- 9 The purpose of the *CCM Regulations* is to achieve effective management of critical gas outages and other security of supply contingencies without compromising the long-term security of supply. A gas disruption event, such as a pipeline rupture, that results in a loss of gas supply can significantly affect gas users and have negative economic impacts.
- 10 A critical contingency operator is an independent service provider appointed under the *CCM Regulations*. A critical contingency operator must declare a critical contingency event if the timeframes to reach certain pressure thresholds in gas transmission pipelines are breached. The breach of a critical contingency threshold limit signals that there is an event that may impact supply and authorises the critical contingency operator to issue instructions to reduce gas use to avoid loss of gas supply. The instructions are given to large gas users first, such as large industrial users.
- 11 Without a change to the *CCM Regulations*, the critical contingency operator will have to declare a critical contingency event when Firstgas reduces the operating pressure to inject biomethane. A critical contingency event would involve significant time and resources for both managing the event and for post-event activities, such as incident reports.
- 12 It is also not clear how a critical contingency event would be responded to in this instance. The operating pressure will have been lowered, not by a rupture to a pipe in the gas network or other similar event, but instead deliberately by the network operator as part of a move to new normal operating conditions.

The Gas Industry Company has recommended a regulatory change to avoid a critical contingency event being unnecessarily declared due to planned operating changes

- 13 On 7 December 2023, the Gas Industry Company (**GIC**) recommended removing the Broadlands and Taupō gas gates from the critical contingency threshold limits in the *CCM Regulations*. The proposed amendments would avoid a critical contingency event having to be declared when Firstgas reduces the pressure in this part of the gas transmission system on an ongoing basis.

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- 14 GIC has recommended amending the *CCM Regulations* using the urgent provisions in the *Gas Act 1992* (the **Gas Act**) to ensure the changes are in force by mid-March 2024. These provisions allow GIC to defer the standard cost-benefit analysis and consultation requirements if it is necessary or desirable in the public interest.
- 15 GIC has advised that the proposed amendments to remove the Broadlands and Taupō gas gates from the critical contingency threshold limits do not materially increase risk to maintaining gas supply and ensure that the *CCM Regulations* align with the operation of the gas transmission system.
- 16 GIC also has a broader work programme underway related to the *CCM Regulations* and will consult on further proposed amendments to better manage critical gas outages and other security of supply events. Most of the amendments are changes to existing processes in the *CCM Regulations* identified following previous events or following the annual exercise a critical contingency operator runs to test industry participants' readiness to respond to a critical contingency event.

I have accepted the Gas Industry Company's recommendation to amend the Gas Governance (Critical Contingency Management) Regulations 2008

- 17 Under sections 43J and 43ZP of the *Gas Act*, I must accept or reject recommendations from GIC as the industry body on gas governance regulations within 90 days. 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.
- 18 I am satisfied that GIC's recommended amendments to the *CCM Regulations* meet the statutory requirements under the *Gas Act* that GIC is required to meet for such a recommendation. The amendments will support the critical contingency management process and are in the public interest. It is important to maintain the integrity of the critical contingency management regime by making sure a critical contingency event is only declared when there is an actual gas disruption event.
- 19 I have therefore accepted GIC's recommendation to amend the *CCM Regulations* using the urgency provisions in the *Gas Act*. My decision and reasons for accepting GIC's recommendation will be published following Cabinet approval.
- 20 In December 2023, I instructed the Parliamentary Counsel Office to draft the attached *Gas Governance (Critical Contingency Management) Amendment Regulations 2024* to give effect to GIC's recommendations without reference to Cabinet. This is because the amendments were of a technical nature and no new policy decisions are required, as per section 7.95(d) of the *Cabinet Manual*. I now seek Cabinet's approval to submit them to the Executive Council.

The Gas Industry Company will make a further recommendation to me within six months

- 21 Under the urgency provisions in the *Gas Act*, GIC must consult stakeholders, do a cost-benefit analysis and then recommend to me if the amendments to the *CCM Regulations* should be revoked, replaced, or amended within six months of

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the amendments. Depending on GIC's recommendation, I will submit further amendments to the *CCM Regulations* to the appropriate Cabinet Committee.

Timing and 28-day rule

- 22 I seek a waiver of the 28-day rule for the *Gas Governance (Critical Contingency Management) Amendment Regulations 2024*. I seek this on the grounds that the amendments have little or no effect on the public.

Compliance

- 23 The proposed *Gas Governance (Critical Contingency Management) Amendment Regulations 2024* are not inconsistent with:

- 23.1 the principles of the Treaty of Waitangi;
- 23.2 the rights and freedoms contained in the *New Zealand Bill of Rights Act 1990* or the *Human Rights Act 1993*;
- 23.3 the principles and guidelines set out in the *Privacy Act 2020*;
- 23.4 relevant international standards and obligations; and
- 23.5 the *Legislation Guidelines* (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

- 24 The proposed *Gas Governance (Critical Contingency Management) Amendment Regulations 2024* also meet the criteria contained in section 43J of the *Gas Act*, that is:

- 24.1 the regulations implement the effect of a recommendation of GIC, and
- 24.2 the regulations do not differ from that recommendation in any material way (eg other than style or minor detail).

Regulations Review Committee

- 25 I do not consider there are grounds for the Regulations Review Committee to draw the regulations to the attention of the House of Representatives under Standing Order 327. While GIC has not consulted stakeholders on this proposal, they must do so within six months of amendments being made under the urgency process allowed in the *Gas Act*.

Certification by Parliamentary Counsel

- 26 The proposed *Gas Governance (Critical Contingency Management) Amendment Regulations 2024* have been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

Impact Analysis

- 27 The Treasury's Regulatory Impact Analysis team has determined that this proposal is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities.

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Climate Implications of Policy Assessment

- 28 The Climate Implications of Policy Assessment team has been consulted and confirms that their requirements do not apply to this proposal, as it does not directly affect emissions. This proposal is connected to a project that could reduce emissions by up to 11,000 tonnes of carbon dioxide annually, but this does not meet the threshold to require a Climate Implications of Policy Assessment.

Publicity

- 29 GIC has published its proposed recommendation. I will publish a notice in the *Gazette* stating my decision to accept the recommendation and explaining the reasons for it or where copies of that explanation may be obtained.

Proactive release

- 30 I intend to proactively release this paper with any necessary redactions, within 30 business days of Cabinet approval. The Ministry of Business, Innovation and Employment will publish a copy on its website.

Consultation

- 31 Firstgas consulted stakeholders about amendments to its critical contingency management plan to remove the Broadlands and Taupō gas gates between mid-December 2023 and early February 2024. GIC will consult stakeholders within six months of the *Gas Governance (Critical Contingency Management) Amendment Regulations 2024* being made. This will inform its further recommendation to me on whether the amendments to the *CCM Regulations* should be revoked, replaced, or amended.
- 32 The following agencies were consulted in the development of this paper: the Treasury, WorkSafe New Zealand and the Commerce Commission. The Department of the Prime Minister and Cabinet has been informed.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** that Firstgas plans to inject biomethane in a part of the gas transmission system;
- 2 **note** that Firstgas needs to lower operating pressure in this part of the gas transmission system to inject the biomethane;
- 3 **note** that a critical contingency event would be declared once Firstgas reduces the pressure in part of the gas transmission system under the current thresholds set out in the *Gas Governance (Critical Contingency Management) Regulations 2008*;
- 4 **note** that the Gas Industry Company has recommended the *Gas Governance (Critical Contingency Management) Regulations 2008* be amended to avoid a critical contingency event being declared due to planned operating changes;

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- 5 **note** that the Gas Industry Company has recommended the *Gas Governance (Critical Contingency Management) Regulations 2008* be amended using the urgency process allowed in the *Gas Act 1992* to make sure the change is in force by mid-March 2024;
- 6 **note** that under sections 43J and 43ZP of the *Gas Act 1992*, I must accept or reject the Gas Industry Company's recommendation for changes to gas governance regulations;
- 7 **note** that I have accepted the Gas Industry Company's recommendation to amend the *Gas Governance (Critical Contingency Management) Regulations 2008* using the urgency process in the *Gas Act 1992*;
- 8 **note** that the *Gas Governance (Critical Contingency Management) Amendment Regulations 2024* give effect to the Gas Industry Company's recommendation;
- 9 **note** that in December 2023, I instructed the Parliamentary Counsel Office to draft the *Gas Governance (Critical Contingency Management) Amendment Regulations 2024* to give effect to the Gas Industry Company's recommendation without reference to Cabinet because they were of a technical nature, and no new policy decisions were required;
- 10 **authorise** the submission to the Executive Council of the *Gas Governance (Critical Contingency Management) Amendment Regulations 2024*;
- 11 **note** that the *Gas Governance (Critical Contingency Management) Amendment Regulations 2024* will come into force on 8 March 2024;
- 12 **note** that a waiver of the 28-day rule is sought:
- 12.1 so that the *Gas Governance (Critical Contingency Management) Amendment Regulations 2024* can come into force on 8 March 2024;
- 12.2 on the grounds that the *Gas Governance (Critical Contingency Management) Amendment Regulations 2024* have little or no effect on the public;
- 13 **agree** to waive the 28-day rule so that the *Gas Governance (Critical Contingency Management) Amendment Regulations 2024* can come into force on 8 March 2024;
- 14 **note** the Gas Industry Company will make a further recommendation to me whether the *Gas Governance (Critical Contingency Management) Amendment Regulations 2024* should be revoked, replaced, or amended within six months of the amendments.

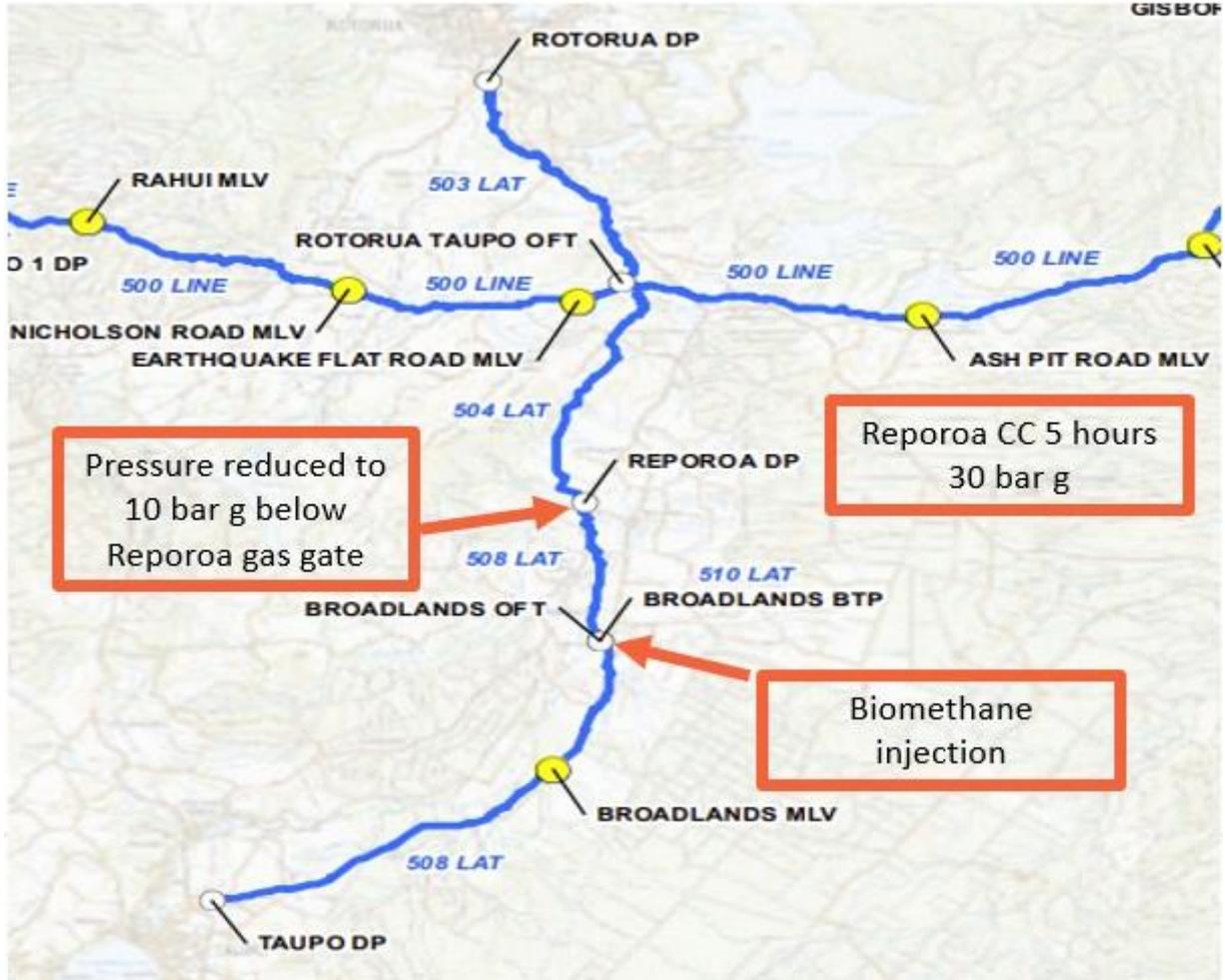
Authorised for lodgement

Hon Simeon Brown

Minister for Energy

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Appendix A: Gas transmission system in central North Island



Key:

DP: Delivery point

MLV: Main line valve

OFT: Offtake point

CC: Critical contingency