



Essential Services and Minimal Load Guidelines

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About Gas Industry Co.

Gas Industry Co was formed to be the co-regulator under the Gas Act.

As such, its role is to:

- recommend arrangements, including rules and regulations where appropriate, which improve:
 - the operation of gas markets;
 - access to infrastructure; and
 - consumer outcomes;
- administer, oversee compliance with, and review such arrangements; and
- report regularly to the Minister of Energy on the performance and present state of the New Zealand gas industry, and the achievement of Government's policy objectives for the gas sector.

Authorship

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Introduction

1.1 Context

The Gas Governance (Critical Contingency Management) Regulations 2008 (the Regulations) require that all gas consumers are classified for the purpose of curtailing groups of similar consumers. The curtailment bands ensure consistency between consumers and improve curtailment efficiency. In addition to simplifying the curtailment instruction process, the CCO can use the band information to predict the quantum and rate of load reduction in response to a curtailment order. Consumers also benefit from being able to use their classification to make business decisions around their own contingency arrangements.

The Regulations recognise that some consumers provide essential services and should not be curtailed unless all other options have been exhausted. The designation of essential service providers is addressed in r44.

The Regulations also recognise that, for some consumers, maintaining a relatively small gas flow to enable an orderly plant shut-down would prevent significant damage to capital plant and/or the environment. Where the potential damage is disproportionate to curtailment objectives, these consumers may be designated as minimal load consumers. The designation of minimal load consumers is addressed in r45.

Approval of a consumer's designation is the responsibility of its retailer except for large consumers (those using more than 15TJ per day). In this case, Gas Industry Co is responsible for approving the designation.

1.2 Arrangements prior to the Regulations

The National Gas Outage and Contingency Plan (NGOCP) provides for a categorisation of consumers based on their gas consumption, ability to operate on alternative fuels, potential for product loss and environmental damage, and whether they are an essential service provider. The categories are summarised in Appendix A.

The meaning of 'essential service provider' is not defined in the NGOCP but has been historically linked to the provisions of the Civil Defence Emergency Management (CDEM) plan.

1.3 Purpose

These Guidelines provide principles and procedures for the relevant retailers and Gas Industry Co to ensure:

- designations support the objectives of the Regulations;
- consistency in making designations; and
- clarity for consumers.

1.4 Scope of guidelines

The Guidelines apply to the designation of consumers as essential service providers and minimal load consumers.

The Guidelines do not cover the allocation of consumers to specific curtailment bands except band five (essential service providers).

Until Parts 3 and 4 of the Regulations come into force, the provisions of the NGOCP including the curtailment bands set out in the NGOCP continue to apply.

1.5 Status of guidelines

These Guidelines are not required under the Regulations. Gas Industry Co intends to use the Guidelines as a means of ensuring a consistent approach to designations in respect of large consumers and in considering designation disputes from consumers generally.

Although the Guidelines do not have any particular status under the Regulations, it is hoped that retailers will perceive value in the Guidelines when processing applications from their customers. In this way, classifications could be expected to be reasonably consistent across retailers.

Please note these Guidelines are not legally binding and need to be read in conjunction with the Regulations. The general approach set out in these Guidelines in no way reduces the requirement upon participants to know and comply with their obligations under the Regulations.

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Glossary

CCO	Critical Contingency Operator as defined in r5 of the Regulations
CDEM	Civil Defence Emergency Management
NGOCP	National Gas Outage Contingency Plan – voluntary contingency plan created and administered by a GANZ sub-committee
Regulations	Gas Governance (Critical Contingency Management) Regulations 2008
RPO	Reasonable and Prudent Operator - a standard for performance of obligations equal to or better than good industry operating practice relative to recognised international practice

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Principles

3.1 Essential service provider

Regulation 44(3) states that *"A retailer must approve a consumer's application to be an essential service provider if both of the following criteria are met:*

- (a) the consumer provides services that are necessary to further the emergency response objectives set out in clause 59(4) of the Schedule of the National Civil Defence Emergency Management Plan Order 2005; and*
- (b) the consumer can demonstrate that its annual gas consumption—*
 - (i) was greater than 2 terajoules in any 12-month period within the 2 years before the consumer's application; or*
 - (ii) will be greater than 2 terajoules in the 12-month period after the consumer's application."*

Principles

The emergency response objectives in the Schedule of the CDEM Plan Order include:

- (a) preservation of life; and*
- (b) prevention of escalation of the emergency; and*
- (c) maintenance of law and order; and*
- (d) care of sick, injured, and dependent people (first aid, medical, and evacuation facilities, and welfare); and*
- (e) provision of essential services (lifeline utilities, food, shelter, public information, and media); and*
- (f) preservation of governance (continuity of the machinery of government); and*
- (g) asset protection, including buildings and historic heritage assets (including structures, areas, landscapes, archaeological sites, and wahi tapu); and*
- (h) protection of natural and physical resources (to the extent reasonably possible in the circumstances); and*
- (i) preservation of economic activity.*

These emergency response objectives apply broadly to a variety of emergency situations and must be considered in the context of a gas critical contingency.

In particular, the test under regulation 44(3) requires the consumer to be providing services that are *necessary* to further these emergency response objectives. In the context of a gas critical contingency, the relevant objectives that must be considered will be those that would be affected by the curtailment of the relevant consumer’s gas supply.

These Guidelines have been developed on the basis of a gas critical contingency lasting up to three days. It is expected to be extremely rare for a gas critical contingency to last beyond three days, and in the past the majority of contingency events have lasted less than 24 hours. The Guidelines also operate on the assumption of a gas-only contingency rather than, for instance, a gas outage that gives rise to an electricity shortage.

If the essential service provider designations were assessed in the context of a wide-ranging emergency of an extended duration, it would lead to excessive designations in this band, which would reduce the effectiveness of curtailments to manage a gas-only contingency – contrary to the purpose of the Regulations. In the event that a Civil Defence Emergency is declared, instructions issued pursuant to the Civil Defence Emergency Management Act 2002 take precedence over curtailment instructions issued by the CCO (refer to r14 of the Regulations).

These Guidelines also assume that the essential service provider designation does not apply to essential service providers that have alternative fuel sources. Consumers with alternative fuel sources are unlikely to be affected by the curtailment of gas such that the services they provide would compromise furthering the emergency response objectives.

Assessment criteria for essential service provider designations – r44(3)

In assessing whether a consumer can demonstrate its annual gas consumption is or will be greater than 2TJ per annum, the decision maker should consider the following criteria:

Standard	Criteria
<i>Consumption > 2TJ p/a</i>	<ul style="list-style-type: none"> • Actual records showing consumption at that ICP for the previous 12 month period exceeded 2TJ. • Actual records showing consumption at that ICP for a period of 12 months exceeded 2TJ, provided that 12-month period occurred in the previous 2 years.
<i>Consumption likely to be > 2TJ p/a</i>	<ul style="list-style-type: none"> • Actual records showing consumption at that ICP for a minimum of three previous months which, when extrapolated to 12 months, would exceed 2TJ p/a. • Where a minimum of three previous months consumption records cannot be provided, the decision maker must be satisfied on the balance of probabilities that the applicant consumer will consume more than 2TJ in the 12 months immediately following the decision.

In assessing whether the applicant consumer provides services that are necessary to further the emergency response objectives, the following objectives are those likely to be affected during a gas critical contingency. The relevant types of consumers listed are generally considered to be those that do or do not qualify as essential service providers:

CDEM Plan Order 2005 – Relevant Objectives in clause 59(4) of Schedule	Types of consumer that qualify	Types of consumer that do not qualify
<i>Preservation of life</i>	Hospitals, doctors' surgeries, hospices, nursing homes, rest homes, sheltered accommodation, maternity hospitals and medical laboratories Any emergency services dependent on gas supply	Manufacturers of medical products
<i>Care of sick, injured, and dependent people</i>	Hospitals, doctors' surgeries, hospices, nursing homes, rest homes, sheltered accommodation, maternity hospitals and medical laboratories Any emergency services dependent on gas supply	Manufacturers of medical products
<i>Provision of essential services - food</i>	Fresh milk processors, bread bakeries	Restaurants, cafes, fast food outlets, supermarkets, food processors other than bread bakeries and fresh milk processors
<i>Provision of essential services - lifelines utilities</i>	CDEM facilities, water supply and treatment, waste water treatment	
<i>Provision of essential services - shelter</i>		Hotels, motels, educational establishments
<i>Preservation of economic activity</i>		Manufacturing facilities, food processors other than bread bakeries and fresh milk processors

3.2 Minimal load use consumer

Regulation 45(5) states that "A retailer must approve a consumer's application to be a minimal load consumer if all of the following criteria are met:

- (a) *the consumer would have no alternative arrangements that are economically feasible if gas supply was curtailed; and*
- (b) *the consumer is operating a major item of capital plant and that plant would sustain serious damage or significant environmental damage would likely be caused if gas supply was curtailed; and*

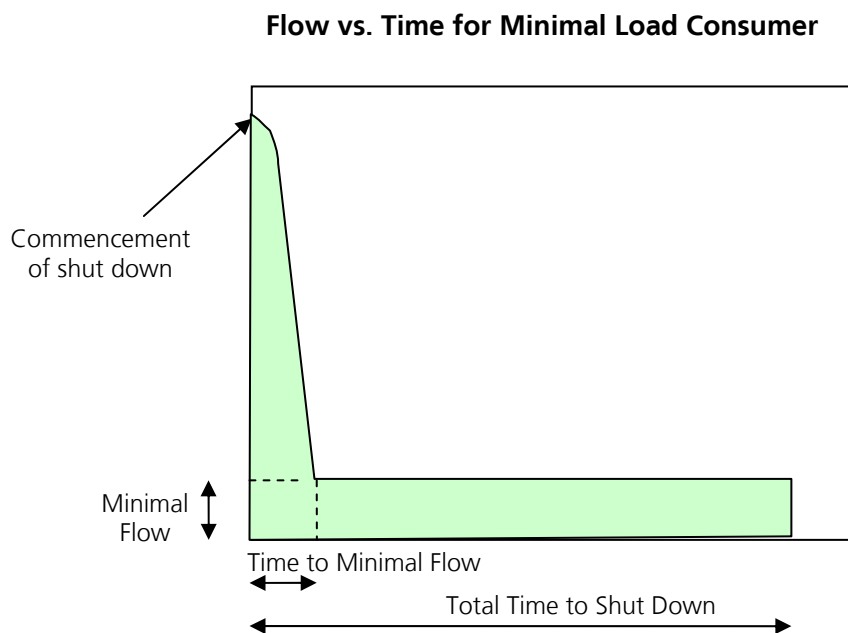
(c) *the consumer can demonstrate that its annual gas consumption—*

(i) was greater than 10 terajoules in any 12-month period within the 2 years before the consumer's application; or

(ii) will be greater than 10 terajoules in the 12-month period after the consumer's application."

Principles

The minimal load use designation is not a curtailment band *per se* but is a conditional status that can apply to consumers in bands 1a to 3 inclusive. If any of these bands are curtailed, all consumers in the relevant band are required to reduce consumption as quickly as possible. However, a minimal load use consumer may maintain a pre-agreed minimum flow for a pre-agreed time period to achieve an orderly shut-down. An illustration of how a minimal load consumer would be expected to respond to a curtailment instruction is shown below:



If band 4 is curtailed, minimal load consumers are required to shut down fully (their entitlement to the "Minimal Flow" in the above diagram ceases).

The term "*minimal load* consumer" reiterates that, to be eligible to receive that designation, the consumer must be able to specify a low level minimal load, ie a consumer claiming a minimal load that is only a small reduction in its typical gas load will not be considered eligible. Accordingly, in agreeing on the load reduction profile, the Guidelines indicate an expected minimal load of approximately 5-15% of a consumer's typical gas load.

The minimal load consumer should, regardless of its designation agreement, respond to a curtailment instruction as quickly as reasonably possible acting as an RPO. Response speed is an important criterion in the load reduction profile to be agreed and the onus is on the applicant consumer to provide sufficient information on how the time taken to reach minimal load is the quickest time possible.

The consumer's load reduction profile shall be sufficiently accurate to enable the CCO to predict the overall effectiveness of curtailment.

Assessment criteria for minimal load consumer designations – r45(5)

In assessing whether an applicant consumer can demonstrate its annual gas consumption is or will be greater than 10TJ per annum, the decision maker should consider the following criteria:

Standard	Criteria
<i>Consumption > 10TJ p/a</i>	<p>Actual records showing consumption at that ICP for the previous 12 months exceeded 10TJ.</p> <p>Actual records showing consumption at that ICP for a period of 12 months exceeded 10TJ, provided that 12 months occurred in the previous two years.</p>
<i>Consumption likely to be > 10TJ p/a</i>	<p>Actual records showing consumption at that ICP for a minimum of three previous months, which when extrapolated to 12 months would exceed 10TJ p/a.</p> <p>Where a minimum of three previous months consumption cannot be provided, the decision maker must be satisfied on the balance of probabilities that the applicant consumer will consume more than 10TJ in the immediately following 12 months.</p>

In assessing the alternative arrangements for the applicant consumer, and the likelihood and degree of plant or environmental damage, the decision maker should consider the following criteria:

Standard	Criteria
<i>No alternative arrangements that are economically feasible</i>	Consumer to demonstrate that it is not economically feasible for it to implement or maintain alternative energy or fuel arrangements to deal with curtailment of gas supply. Relevant factors include cost of alternative arrangements, financial resources of the consumer, business implications in respect of alternative arrangements and any other relevant circumstances.
<i>Avoid serious damage to capital plant</i>	Consumer to demonstrate that damage would be greater than \$100k and cannot be economically mitigated by the owner acting as an RPO.
<i>Avoid environmental damage</i>	Consumer to demonstrate that significant environmental damage would occur and cannot be economically mitigated by the owner acting as an RPO.

Minimum standards for load reduction profile – r45(6)

Where an applicant consumer has been approved as a minimal load consumer, in agreeing on the characteristics of the load reduction profile, the following standards should be followed:

Standard	Criteria
<i>Initial curtailment of the majority of load</i>	Minimal load level of approximately 5-15% of typical gas demand when operating at full load/capacity, unless exceptional circumstances apply.
<i>Minimise total time to shut down</i>	<p>Consumer to demonstrate total time to reach the minimal flow, and to reach zero flow, meets an RPO standard.</p> <p>Consistent with the overall objective in the Regulations, there needs to be consideration of the quantity of gas required to achieve an orderly shut-down compared with the volume of gas which the CCO needs to have available in order to manage the critical contingency. It is clearly contrary to the intent of the Regulations to designate, as minimal load consumers, parties who would deplete line pack to such an extent that prudent management of a critical contingency was rendered unlikely.</p>

4 Procedure

4.1 Application process

Each retailer shall notify their consumers that, if they wish to be classified as either essential service providers or minimal load consumers, they must apply to the retailer in writing. In the case of large consumers with no retailer, Gas Industry Co shall provide this notification.

Notification shall be made as soon as practicable after the commencement date (4 December 2008).

Consumers may apply for these designations at any time. If an application is declined and the consumer wishes to dispute the decision then the consumer may refer the matter to Gas Industry Co for review (discussed later in section 4.3).

The Regulations are silent on the issue of whether a retailer must entertain subsequent applications after an application has been declined. However, re-applications should be considered where the consumer can demonstrate a material change in its circumstances that is relevant to the designation criteria.

An application shall be made in writing and include all the information laid out in the Designation Request form, as shown in Appendix B and summarised below:

Essential service providers

- evidence to demonstrate that their annual consumption has exceeded 2 TJ for any 12 month period in the past 24 months or evidence to show that their consumption is expected to exceed 2 TJ for the 12 month period following the application. Predicted energy consumption may be based on historic growth or company business planning information;
- evidence to show that their business activity is consistent with the principles set out in these Guidelines for an essential service provider; and
- a signed declaration by an authorised signatory that the information provided in the application is true and correct, and that changes to the business operations that would materially affect their designation will be promptly notified to the retailer or industry body, as applicable.

Minimal load consumers

- evidence to demonstrate that their annual consumption has exceeded 10 TJ for any 12 month period in the past 24 months or evidence to show that their consumption is expected to exceed 10 TJ for the 12 month period following the application. Predicted energy consumption may be based on historic growth or company business planning information:
- the minimum gas flow required during the shut down phase;
- the full-load gas flow;
- the time taken to reduce from full-load to minimum-load gas flow and associated supporting information;
- the time taken to reduce from full-load to zero gas flow and associated supporting information;
- evidence to show that they would have no alternative arrangements that are economically feasible if gas supply was curtailed;
- evidence to show that maintenance of a minimum gas flow is required to avoid serious damage, either to capital equipment or the environment;
- evidence that this damage cannot be economically mitigated through use of alternative fuel sources or otherwise mitigated by the owner acting as an RPO; and
- a signed declaration by an authorised signatory that the information provided in the application is true and correct, and that changes to the business operations that would materially affect their designation will be promptly notified to the retailer or industry body, as applicable.

4.2 Determinations

The retailer shall provide its determination to the consumer, either approving or declining the application, within 10 business days. The retailer shall also give notice of the determination to the associated gas distributor (where applicable).

If the retailer declines the application, the notice should include adequate supporting reasons.

If the retailer approves a minimal load application, the retailer and consumer shall, within 10 business days of notifying the determination, agree in writing the minimum gas flow, the time allowed to reduce from full load to minimum gas flow, and the time to shut down completely from the minimum gas flow level. This agreement may be made by the retailer countersigning the application.

If the retailer reasonably considers that a consumer no longer meets the designation criteria, the retailer shall notify that consumer in writing, and advise it of the retailer's reasons for considering the designation to no longer be valid. The retailer shall advise the consumer to reapply for the designation if the consumer believes that the designation is valid, otherwise the designation will lapse 20 business days after the notice is received by the consumer.

In accordance with r39(1)(b) the retailer will provide a notice to the CCO setting out the number of consumers who are designated as minimal load consumers who are supplied through each gas gate and who are in each curtailment band.

4.3 Referral of the designation determination to the industry body

If a consumer disputes a retailer's determination the consumer may, by notice, refer the application to Gas Industry Co for review. The referral process cannot be repeated.

The consumer's notice shall include the original application, the retailer's determination and relevant supporting information.

Gas Industry Co must, within 10 business days of receipt of the notice, review the decision by the retailer and either:

- confirm the retailer's ruling;
- refer the application back to the retailer for reconsideration; or
- may approve or decline the application itself (in accordance with r44 or r45).

In the case of a large consumer with no retailer, Gas Industry Co shall fulfil the role of the retailer.

Appendix A Curtailment Bands

Gas Governance (Critical Contingency Management) Regulations 2008

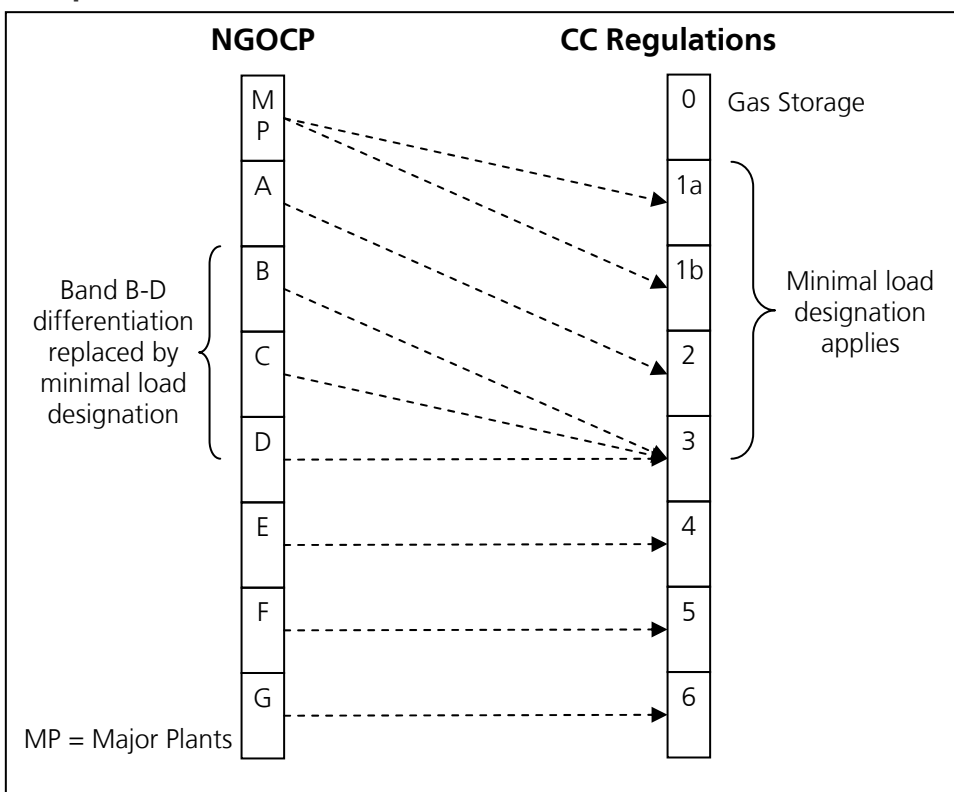
Curtailment band	Consumption (in tera-joules (TJ))	Description
0	N/A	Gas offtaken for injection into gas storage.
1a	More than 15 TJ/day	Consumers (excluding essential service providers) supplied directly from the transmission system and that have an alternative fuel capability. If minimal load consumer, then manage wind-down of plant.
1b	More than 15 TJ/day	Consumers (excluding essential service providers) supplied directly from the transmission system and that do not have an alternative fuel capability. If minimal load consumer, then manage wind-down of plant.
2	More than 10 TJ/annum and up to 15 TJ/day	Consumers (excluding essential service providers) with alternative fuel capability. If minimal load consumer, then manage wind-down of plant.
3	More than 10 TJ/annum and up to 15 TJ/day	Consumers (excluding essential service providers) without alternative fuel capability. If minimal load consumer, then manage wind-down of plant.
4	More than 2 TJ/annum and up to 10 TJ/annum	Consumers, excluding essential service providers. Minimal load consumers in curtailment bands 1a to 3 curtailed in full.
5	More than 2 TJ/annum	Essential service providers.
6	2 TJ/annum or less	All remaining consumers ¹ .

¹ Note that domestic consumers are excluded from the definition of consumer in the Regulations and, therefore, do not appear in the curtailment bands.

NGOCP

Band	Description
A	Industrial and commercial consumers with an annual gas consumption of >10 TJ who are interruptible, eg with alternative fuel facilities.
B.	Industrial and commercial consumers with an annual gas consumption of >10 TJ where curtailment of gas supply will not affect plant or product.
C	Industrial consumers with an annual gas consumption of >10 TJ where curtailment of supply could cause product loss.
D	Industrial consumers with an annual gas consumption of >10 TJ where curtailment of supply could cause plant damage and/or environmental damage as well as product loss.
E	Consumers with an annual consumption of > 2TJ but < 10TJ not in category F.
F	Industrial and Commercial consumers with an annual consumption > 2TJ classed as essential service providers in emergency situations.
G	All Residential consumers irrespective of size, and all other consumers with an annual consumption of < 2TJ.

Comparison of Bands



Appendix B Designation Requests

Designation Request for Essential Service Provider – regulation 44

[Date of Application]

[Consumer Name and Contact Details]

[ICP Number]

[ICP Address]

[Distributor]

Summary of designation request and justification

Information attached

Tick

Evidence to demonstrate >2 TJ/annum consumption.

Supporting evidence to show the business activity at this location provides services that are necessary to further the emergency response objectives during a critical contingency.

Declaration

I, _____, as authorised signatory of _____, confirm that the information provided in this designation request is an accurate and a true representation of the business activities at this address for the purpose of applying for essential service provider designation under Regulation 44 of the Gas Governance (Critical Contingency Management) Regulations 2008. Furthermore, changes to the business operation at this address that would materially affect this designation will be promptly notified to the retailer.

Signed _____ Date _____

Designation Request for Minimal Load Consumer – regulation 45

[Date of Application]

[Consumer Name and Contact Details]

[ICP Number]

[ICP Address]

[Distributor]

Summary of designation request and justification

Information attached

Tick

Evidence to demonstrate >10 TJ/annum consumption.

The full load gas flow.

The minimum gas flow required during the shut down phase and time taken to reach this minimum gas flow.

The time taken to reduce from full load to zero gas flow.

Evidence to show that the consumer would have no alternative arrangements that are economically feasible if gas supply was curtailed.

Evidence to show that maintenance of a minimum gas flow is required to avoid serious damage, either to capital equipment or the environment.

Evidence that this damage cannot be economically mitigated through use of alternative fuel sources or otherwise mitigated by the owner acting as an RPO.

Declaration

I, _____, as authorised signatory of _____, certify that the information provided in this designation request is an accurate and true representation of the business activities at this address for

the purpose of applying for minimal load consumer designation under Regulation 45 of the Gas Governance (Critical Contingency Management) Regulations 2008. I confirm that any changes to the business operation at this address that would materially affect this designation will be promptly notified to the retailer.

Signed _____ Date _____

Retailer agreement of minimum flow and time to shut-down

Signed _____ Date _____

For _____

Appendix C Referral Notice

Referral Notice of Designation Decision

[Date of Referral]

[Consumer Name and Contact Details]

[ICP Number]

[ICP Address]

[Retailer]

[Distributor]

I, _____, give notice that [Consumer company name] disputes the designation determination [reference] pursuant to r46 of the Gas Governance (Critical Contingency Management) Regulations 2008.

Summary of reasons for disputing designation determination

Information attached

Tick

Copy of designation request.

Retailer's determination.

Further supporting evidence.

Signed _____ Date _____

For _____