Proposed Gas Safety Regulations

A Discussion Paper

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New Zealand Government

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Foreword from the Minister

The safe supply and use of gas is critical for residential, commercial and industrial consumers. Given that gas is combustible, there are a range of risks associated with its distribution and use that need to be carefully managed.

These proposed regulations establish basic safety requirements for gas supply and gas appliances.

They emphasise the two core safety principles established in the Act that require the protection of public health and safety and the promotion of the prevention of damage to property in relation to the supply and use of gas.

I particularly welcome the proposed new requirements for major gas distributors to implement and maintain Safety Management Systems (SMS).

The proposed regulations aim to provide increased confidence in the safety of gas within New Zealand and will provide the framework for a future that is safe and secure for everyone.

I look forward to your submissions on the proposals and how they might best contribute to New Zealand gas safety.

Hon Harry Duynhoven
Associate Minister of Energy

Call for Submissions

Submissions on this paper should be sent by **29 February 2008** to:

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Email: gas.safety.regulations@med.govt.nz
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If you require further information please telephone 04 474 2691

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Introduction

1 Natural gas and liquefied petroleum gas (LPG) are important sources of energy for New Zealand consumers. The majority of gas consumed is reticulated supply in the North Island i.e. it is delivered through piped supply networks. LPG is also supplied to consumers in bottled or canister forms, with sizes varying from a few hundred grams to many kilograms. There are also small reticulation networks based around large volume gas cylinder supplies.

2 Although not as prevalent an energy source compared to petrol, diesel and electricity, gas is seen as an essential energy source for many facets of New Zealand's economy and aspects of every day life.

3 The primary consumer of reticulated natural gas is the electricity generation sector. Gas provides approximately a quarter of New Zealand's electricity generation capacity. In the 2006 calendar year electricity generation consumed approximately 56 percent of New Zealand's total gas production. The remaining 44 percent of natural gas production is consumed in the industrial, petrochemical, residential and commercial sectors (the percentages by sector are 20%, 15%, 5% and 4% respectively). Gas is an important energy source for producing hot water and steam, central heating and heating in general and for cooking.

4 Providing secure and affordable supplies and ensuring that gas is supplied and able to be used in a safe manner is seen as crucial to its ongoing viability as an energy source.

5 In 2006, major changes were made to the safety provisions of the Gas Act 1992. Of particular note were:

- The inclusion of two safety related purpose statements in the Act in relation to the supply and use of gas in New Zealand:
    - to protect the health and safety of members of the public in connection with the supply and use of gas; and
    - to promote the prevention of damage to property in connection with the supply and use of gas.
- New requirements for safety management systems to be in place for gas distribution networks;
- New offence provisions and penalties.

6 The amendments to the Gas Act mean that consequential changes to the Gas Regulations are required.

7 This discussion paper proposes that the Gas Regulations 1993 be replaced with new gas safety regulations which take into account the new safety requirements in the Gas Act and are more user-friendly.

8 Wording and definitions used in this discussion paper are intended to indicate the proposed effect of the new regulations, and do not indicate that any particular form of words will or will not be used in the regulations.

9 It is intended that the new gas safety regulations 2008 will incorporate, where they have not otherwise been amended or deleted, the regulatory requirements from the Gas Regulations 1993.

10 The overarching objective of the regulations is to provide for the protection of the health and safety of members of the public in connection with the supply and use of gas and the prevention of damage to property in connection with the supply and use of gas.

11 The following specific objectives of the regulations have been identified –

- To define the rules for the quality and safe supply of gas.
- To define the requirements for safety management systems.
- To define the safety requirements for gas installations, gas appliances and fittings.
- To provide clarity regarding safety requirements for those undertaking work on gas distribution systems and carrying out gasfitting work.
- To define requirements for certification of gasfitting.
- To define requirements for notification and inspection of accidents.
- To enable the Secretary to obtain information and/or documentation to assist with investigations.
- To specify offences for which infringement notices and penalties can be issued.

Principles Underlying the Regulations

12 In developing the proposed regulations, we have been guided by the following principles. These are important to ensure the regulations are consistent with and adhere to core public safety imperatives without introducing extra requirements. The emphasis is on public safety and avoidance of property damage.

The principles of public safety around gas

- Ensure that consumers have access to safe gas supply and appliances that comply with consumers and up-to-date quality, safety and environmental standards.
- Ensure that gas workers, gas regulatory bodies and consumers are clear about their obligations and accountabilities.
- Provide regulations on gas safety standards that are clear, easy to understand,

apply and administer.

- Ensure that gas workers and homeowners can deliver safe outcomes when undertaking gas work.
- Provide a transparent and informed decision-making process where decision-makers and those affected by those decisions are informed of the process.
- Ensure the gas safety regime is compatible with the electrical safety regime as appropriate.
- Provide for regulation when there is benefit to the consumer, the environment or public health and safety.
- Take a conservative approach if a significant amount of uncertainty exists.
- Ensure the regulatory regime must be credible with consumers, industry and international partners.
- Minimise compliance costs where possible and ensure the cost to administer the regulatory regime is reasonable.
- Ensure regulation does not impede innovation and technological updating.
- Ensure regulation is consistent with New Zealand's international commitments and obligations such as those related to trade.
- Ensure regulation is consistent with international best practice.

Gas Supply and Regulatory Setting

13 The supply of natural gas to consumers involves some major infrastructure for extraction, processing, transmission and distribution. Before entering the transmission networks, gas is sourced from wells and processed to ensure that the gas meets the required quality specifications. The gas is then compressed and fed into the transmission system.

14 Transmission involves moving gas through high pressure pipelines (above 2,000 kpa) to gas distribution networks and to high volume consumers, such as electricity generators. High volume consumers have infrastructure and systems to manage the gas pressures involved and to utilise gas in a safe manner. The high pressure pipelines used for the transmission of gas are regulated under the Health and Safety in Employment Act 1992, the Resource Management Act 1991 (RMA) and the Petroleum Act 1937 (through the transitional provisions of the Crown Minerals Act 1991). These are not covered by the proposed gas safety regulations.

15 Before gas enters distribution networks its pressure is reduced. The gas can then be supplied to consumers after passing through a regulator station where the pressure is further reduced to levels suitable for use. Larger volume

consumers, such as industry and hospitals, may have their own substation type arrangements. It is estimated that there are approximately 11,500 kilometres of pipeline in various gas distribution networks throughout the North Island of New Zealand.

16 The Gas Act applies to gas from the point it enters the gas distribution system. In terms of safety, the Gas Act is supported by the Health and Safety in Employment Act and downstream of the distribution system by the Plumbers, Gasfitters and Drainlayers Act 2006. Changes to the safety provisions of the Gas Act in 2006 were complemented by revision of the Plumbers, Gasfitters and Drainlayers Act.

Proposed Gas Safety Regulations Framework

General Safety Requirements

17 The Gas Regulations set out requirements for separate aspects of gas safety. To make the regulations consistent with the new gas safety purpose statements in the Gas Act 2006, the proposal is to add a new section into the regulations setting out the "General Safety Requirements". These general safety requirements will underpin the remainder of the regulations.

Gas supply specifications

18 The specification or quality of gas is an important aspect in managing the overall safety of gas in New Zealand. Pressure, quality and detectability, while treated separately, are intrinsically linked in terms of gas safety.

Pressure

19 Maintaining adequate pressure within the gas supply system is important as low pressure may affect the operation of gas appliances and equipment and can result in adverse events, such as flame failure that allow for gas accumulation.

Quality/specification

20 The primary focus of gas specifications is to ensure that the gas being supplied to consumers is suitable for use in appliances and does not cause damage within the distribution system.

21 The composition of gas is important because contaminants can have adverse effects on infrastructure, appliances and equipment. For example, certain contaminants can cause corrosion in pipework, block or clog equipment and/or adversely affect its combustion in appliances. Improper combustion may result in carbon monoxide (CO) being produced and/or its accumulation.

Gas Detection

22 Natural gas and LPG are odourless and not detectable by individuals. In the event of a gas leak or a flame outage the ability to be able to detect the gas is vital because it may accumulate to levels that become flammable or explosive.

Gas Distribution

23 New Gas Act provisions require that regulations be made to require gas distributors to develop a safety management system (SMS) for their operations. SMSs are a formalisation of many of the procedures that are already undertaken by gas distributors to provide for the safety of people and property in New Zealand. The SMS provisions set out the responsibilities for gas distributors and establish an audit regime to ensure that those requirements are being met.

24 SMS are intended to provide a mechanism for:

- Monitoring
- Identification of problem areas
- Continual improvement
- Clarification of responsibilities
- Placing the onus on industry for safety.

Gas Appliances and Fittings

25 Ensuring the safety of gas fittings and appliances is a crucial component in the protection of people and property from the hazard posed by gas. This is because in the majority of situations, appliances and fittings are closely related to where people live, for example, gas stoves and water heaters, and a failure at this point is more likely to affect people and property. By placing requirements on the design, construction and overall performance of appliances and fittings it is intended to reduce the risks to the public.

Certification of Gasfitting

26 The qualifications required by gasfitters and the scope of work that they can carry out are crucial in terms of gas safety because the work needs to be performed correctly. Gasfitting not performed correctly can pose a range of hazards to people and property both while the work is being carried out and after its commissioning. Gasfitter licensing and competency is regulated under the Plumbers, Gasfitters and Drainlayers Act 2006. To provide consumers with an assurance that gasfitting work has been competently undertaken, gas certificates are required.

Offences and penalties

27 Offence and infringement provisions provide mechanisms to encourage parties acting within the gas industry to meet their responsibilities and take all practicable steps to ensure the safety of people and property around gas. The offence and infringement provisions allow action to be taken against parties that have been negligent in their actions (or inactions). Where offences are identified penalties may be imposed or proceedings may be taken that may result in fines or even imprisonment.

The Proposed Gas Safety Regulations

Interpretation

28 The proposal is to provide, in the gas safety regulations, all the existing definitions with the following amendments and additions. The key new definition proposed is “point of supply”.

The Board [amendment]

29 The Gas Regulations, as they stand, do not make it clear which Board is being cited in several of the regulations. To provide clarity it is proposed that a new definition be added to clarify the enforcement/regulatory body being referred to in the regulations.

30 The proposed definition will read along the lines that the Board is the Plumbers, Gasfitters and Drainlayers Board established under the Plumbers, Gasfitters and Drainlayers Act 2006.

Conformity Assessment Body [new definition]

31 It is proposed that Conformity Assessment Bodies will be used to perform the audit functions for safety management systems and for the certification of gas appliances.

32 A new definition for Conformity Assessment Body (CAB) will be required. This definition is proposed to read along the lines that a CAB is a body (person, company or other entity) that is:

i) accredited by IANZ or JAS-ANZ; or

ii) accredited by an accreditation authority that has entered into a mutual recognition arrangement with IANZ or JAS-ANZ; or

iii) approved pursuant to any agreement between New Zealand and any other country or countries; or

iv) any other equivalent organisation that satisfies the Chief Executive that they can meet the requirements under the regulations.

This new definition has application with respect to the new regulations concerning Safety Management Systems. It is also relevant to the regulations concerning safety of gas appliances and specified fittings.

Point of Supply [new definition]

33 The Gas Amendment Act 2006 provides for the regulations to define the point at which gas is deemed to be supplied to a particular place. This definition effectively sets the point at which gas distribution ends and supply to the consumer begins. The definition of “point of supply” is an important concept when considering some of the other regulatory amendments proposed, as it

defines the downstream boundary for gas distribution and therefore the end of the requirement for safety management systems coverage.

34 The point of supply also defines the point after which (downstream) gasfitters are required to carry out gasfitting work. Point of supply is currently defined through the repealed Plumbers, Gasfitters and Drainlayers Act 1976 which defines that gasfitters responsibilities take effect from the “outlet of the gas measurement system” and/or “the custody transfer point”. The Plumbers, Gasfitters and Drainlayers Act 2006 provides an interim definition for “point of supply” which will remain in force until a definition is included under the Gas Act by the new regulations.

35 While the references in the Plumbers, Gasfitters and Drainlayers Act 1976 have worked well for the majority of consumers, there is some disagreement about where the “custody transfer point” lies in certain circumstances and therefore responsibility can come into question. Consumers, gasfitters and gas distributors need a clear definition of who is responsible for the maintenance and safety of gas equipment and who may carry out work within their respective areas. The proposed definition is intended to provide this clarity and ensure that the regulatory requirements can be identified and met by all parties.

36 It is proposed that there be a new definition for point of supply that reads along the following lines –

point of supply is a single point at which there is exclusive supply of gas to a consumer and which is either:

a) the outlet of the valve that allows isolation of the supply, provided it is after the most downstream of the pressure control equipment or the gas measurement system; or

b) the outlet of the pressure control equipment or gas measurement system (whichever is the most downstream), if that equipment is located between the valve that allows isolation of the supply and the consumer; or

c) the property boundary, if the valve that allows isolation of the supply, the pressure control equipment and gas measurement system are located outside the consumer’s property boundary; or

d) the point at which fittings provide the exclusive supply of gas to the consumer in an area leased or licensed by the consumer; or

e) the outlet of the primary gas measurement system where exclusive supply of gas is provided to the consumer in an area leased, licensed or owned by the consumer.

37 The definition proposed for the point of supply has taken several factors into consideration. These factors are discussed in the following sections.

The Gas Supply Setting

38 The proposed definition of point of supply takes into consideration that there are a number of different supply scenarios. In the typical domestic supply scenario, a consumer will have on their property (in a progressively downstream order) an isolation valve, pressure control equipment and a gas measurement system, refer figure 1. For this situation the point of supply will be the outlet of the gas measurement system supplying that particular consumer.

39 Most supply scenarios can follow this relatively simple setup although they may involve more significant infrastructure. Supply scenarios can, however, get much more complicated. For example, gas supply to a shopping mall may involve more than one point of supply – the first being the pressure control equipment, isolation valve or gas measurement system where gas enters the property and the subsequent points of supply being for the individual tenancies (refer section below).

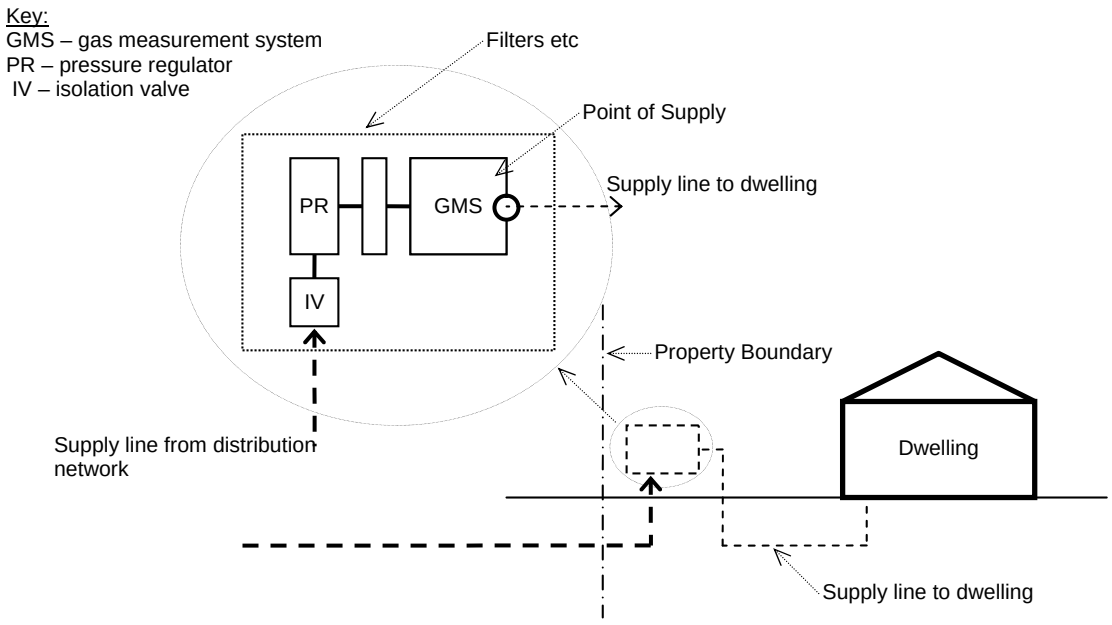

Figure 1: Point of supply in a typical residential gas supply scenario.

Point of Supply and the Property Boundary

40 The isolation and pressure control equipment is generally on the consumer's property or at the boundary to the consumer's property; however, this is not always the case. It is not considered appropriate to have the point of supply outside the property boundary. If it were, it could have the effect of making the consumer responsible for fittings in the road. However, this responsibility should sit with the gas distributor, who will generally have special authority to work in the road reserve.

41 The same rationale applies to service lines that pass through another person's property. It is generally not appropriate or normal practice for consumers to

have responsibility for gas service lines (or other utility lines) that pass through another person's property.

Exclusive Fittings

42 Following on from the above point, in some cases isolation valves, pressure control equipment and/or gas measurement systems on a particular property may be used to supply consumers on other property. Such equipment should be the responsibility of the equipment's owner, i.e. the gas distributor or gas measurement system, as appropriate, rather than the consumer.

Opting Out by Specific Agreement

43 Section 2(3) of the Electricity Act defines the point at which electricity is supplied to a consumer and has been used as a reference point for the proposed definition of point of supply to a gas consumer. The Electricity Act definition provides that there may be a specific agreement between a consumer, a property owner other than the consumer (e.g. a landlord) or a body corporate for a different point of supply to that regulated. It is proposed that such a clause be included in the definition for "point of supply" for gas.

Tenants and Lessees

44 A similar situation may apply with respect to gas supplied to a person who owns or leases part of a property or a building or dwelling on a larger property. That point within the larger property where the tenant or lessee obtains exclusive supply of gas is proposed as the point of supply.

Gas Retailers and the Point of Supply

45 The actual point of supply in the tenant/lessees scenario will depend on the arrangement between the consumer and the gas retailer. In the case of a shopping mall, the mall owner may contract with a retailer for gas supply and then on-sell the gas to mall tenants. (This would effectively make the mall owner a gas retailer). Alternatively, each tenant may have their own supply arrangement with a retailer of their choosing.

46 The contractual arrangement between the consumer and retailer for the supply of gas will ultimately define where the retailer's responsibilities lie.

Gas Distributors and the Point of Supply

47 For gas distributors, the point of supply, in terms of gas supply systems needs to be at the point at which gas is supplied to a property and the distributor's ownership or responsibility of assets ceases. There are some exceptions and finer points around this that are discussed under the proposed regulations for safety management systems section.

48 In the majority of supply scenarios the isolation valve and pressure control equipment are typically owned by a gas distributor with the gas measurement system belonging to either the gas distributor or a different company or, rarely, the consumer.

Questions

1 Has the “point of supply” been adequately addressed?

2 Can you identify any situations (e.g. shopping malls, gated communities, tenancies) that these proposals would not adequately cover?

Significant Property Damage [new definition]

49 The definition of “serious harm” is set out in the Gas Act and relates to harm caused to members of the public. The definition, however, for “significant property damage” is not established in the Act. Significant property damage is an important concept in the assessment of risks posed by gas within the supply system. For this reason it is proposed that a definition for significant property damage be included in the regulations. This definition is consistent with the definition for significant property damage in the Standard for Safety Management Systems (NZS 7901).

50 It is proposed that the definition will read along the following lines:

> **significant property damage** is damage that is greater than superficial, being such that the property is either damaged beyond repair or requires substantial repair or reconstruction in order to restore it to, at a minimum, the condition prior to it being damaged.

Codes of practice references [amendment]

51 It is proposed that the reference to “**GCP 3**” that relates to the *New Zealand Code of Practice for Odorisation of Gas* will be removed and replaced by reference to “**NZS 5263**” (*NZS5263:2003 Gas detection and odorisation*).

Standards References [Amendment]

52 Reference to “NZS 5259” needs to be updated from NZS 5259:1997 to the updated version of the Standard, NZS 5259:2003.

53 Reference to “**Part 1 of NZS 5425**” needs to be updated to *NZS 5425.1:1994 Code of practice for CNG compressor and refuelling stations - On site storage and location of equipment*. This reference update is intended to increase clarity in the Standard referenced.

54 Reference to “**Part 2 of NZS 5425**” needs to be updated to *NZS 5425.2:1996 Code of practice for CNG compressor and refuelling stations – Compressor equipment*. This reference update is intended to increase clarity in the Standard referenced.

55 Reference to “**Part 3 of NZS 5425**” needs to be updated to *NZS 5425.3: Code of practice for CNG compressor and refuelling stations – Metering devices*.

- NZS 5425:3.3:1984 Code of practice for CNG compressor and refuelling stations - Metering devices – Division 3.3 Requirements for type approval of on-line metering devices.

56 Reference to "**Part 4 of NZS 5425**" needs to be updated to *NZS 5425.4:1994 Code of practice for CNG compressor and refuelling stations – CNG trickle fill stations on commercial and industrial premises*.

General Gas Safety Requirements

Proposal

To define the general safety requirements which underpin the regulations.

57 The very nature of natural gas and LPG means that there are some unique hazards posed to human health and to property as compared with other sources of energy. Gas, being a "flammable substance", has the ability to cause harm to both human health and property in the event of uncontrolled combustion or through the build-up of combustion products such as carbon monoxide (CO). Being "heavier than air", LPG has the potential to accumulate in unventilated spaces and may build to concentrations that become combustible or even explosive. Natural gas is lighter than air and is more likely to disperse into the atmosphere, however, in confined spaces the gas may still accumulate to dangerous levels.

58 As noted, the overarching objective of the proposed gas safety regulations is to provide for the protection of the health and safety of members of the public in connection with the supply and use of gas and the prevention of damage to property in connection with the supply and use of gas.

59 To underpin this objective, it is proposed that the new regulations have a general safety requirement stating along the following lines that all gas fittings are required to be designed, constructed, connected, operated, maintained, installed, supplied, assembled, tested, repaired and used in a manner that is safe.

60 It is proposed to define "safe" for the purposes of this regulation along the lines that it means that persons have to take all practicable steps to ensure there is no significant risk of injury or death to any person or domestic animal, or of significant damage to any property.

61 Establishing the general safety requirements for gas in the regulations is intended to set the underpinnings and focus for the remainder of the regulations i.e. the protection of pubic safety and property.

Gas Supply

Quality of Supply – gas specification (current regulation 3)

Proposal

To rework the regulation for gas specification such that:

- it establishes the safety principles related to the quality of gas;
- the retailer is clearly defined as the party responsible for gas quality;
- it establishes where in the supply system gas needs to meet the quality requirements (i.e. the point of supply);
- it provides a mechanism for retailers to contract out of supplying gas to the required specifications in certain situations; and
- it includes references to the current quality standards for natural and liquefied petroleum gases.

62 Regulation 3 of the existing Gas Regulations states that natural gas must comply with NZS 5442, liquefied petroleum gas (LPG) with NZS 5435 and that all other gases supplied for use in installations, appliances or as automotive fuels must be safe for the intended use. The Standards, NZS 5442 and NZS 5435, define an envelope of characteristics and components for each gas type that enables gas equipment to function in a safe manner while using that particular gas type. The natural gas specification is also designed to minimise degradation of pipes and equipment within the transport system (i.e. transmission and distribution networks).

63 The natural gas specification in NZS 5442 reflects available gas compositions in New Zealand. To provide flexibility, the current natural gas specification is focused on limits for contaminants that may adversely affect the operation of gas equipment or lead to degradation of equipment or infrastructure (i.e. pipelines and appliances).

64 While the regulations refer to specific New Zealand Standards for the gas quality requirements, the regulations do not clearly set out their intent. As part of the regulations amendments it is the Ministry's objective to clarify the safety aspects associated with gas quality.

65 For the "quality of supply" regulation it is proposed that general safety principles be established. It is proposed these state the gas supplied to consumers is required to be of a quality that enables it to be used safely for the purpose/application for which it is supplied. To meet this requirement gas must be of the quality set out in the Standards, NZS 5442 and NZS 5435, under which the following elements are included:

- energy rating (per unit volume);
- relative density;
- temperature; and
- contaminants, including solids, liquids and gases.

66 A question that has arisen with respect to existing regulation 3 relates to the point(s) at which gas needs to comply with the relevant Standard and who should be responsible for compliance. The question within this is at what point in the distribution systems does gas need to meet the required safety standard?

67 In general terms of public safety, the composition of natural gas is most crucial when it is supplied to the consumer. On one hand it is becoming advantageous to provide scope to allow a range of gas sources and compositions to be fed into the transmission and distribution systems for a variety of supply scenarios, subject only to the agreement of the pipeline owners. On the other hand, the nature of distribution systems is that they tend to be interconnected and whilst one group of users may be able to deal with out-of-specification gas, domestic and small commercial users cannot, generally, use out-of-specification gas safely.

68 The following sections delve further into the question of where gas is required to be in-specification.

Specification of Gas in the Distribution System

69 The specification of gas within the distribution network is not as critical in terms of public health as there is less variability in the types or equipment it passes through. The specification of gas is important to the extent that impurities or contaminants may harm the pipeline or other infrastructure (e.g. through corrosion) or might affect the gas's ability to flow (e.g. liquids or particles).

70 These matters are likely, however, to be situation dependent in that a particular pipeline may be constructed of materials that make it more or less susceptible to corrosion. Given the potential for variation in infrastructural susceptibility it is considered that, in terms of general safety obligations within the gas distribution systems, this aspect of gas quality is best addressed through the proposed safety management system requirements. Accordingly, it is not proposed that gas quality needs to be regulated for this outcome.

Responsibility for the Specification of Gas Supplied to the Consumer

71 The quality of gas being supplied to the consumer is of primary importance. Consumers contract for supply of gas with their gas retailer. The gas retailer must therefore have the responsibility for the quality of the gas being supplied to the consumer.

72 The special exemption provisions set under regulation 30 are available to allow retailers to enter into arrangements to supply out of specification gas to particular consumers on an ongoing basis. This arrangement would need approval from the Secretary and may have conditions imposed upon it. For example, it is likely that the gas supply would need to be by means of a dedicated pipe so that out-of-specification gas was not accidentally supplied to other users.

Gas Specification During Emergencies

73 There are rare occasions when it may not be possible to keep gas within the required specifications, for example, a major failure in a processing facility that is expected to take a significant period of time to correct.

74 Current regulation 3 has the effect of requiring the gas supply to be stopped when the gas is out-of-specification. This could result in loss of essential services and economic losses to industries reliant on gas for operation. Allowing out-of-specification gas to be fed into the network could result in difficult and expensive purging of the distribution network.

75. In certain circumstances it could be argued that it is justifiable to maintain the gas supply even if out-of-specification. For example, supplying out-of-specification gas to keep essential services, such as hospitals, running may override the short term safety considerations. In some situations equipment can be “tuned” to run safely on gas outside the specification although this ability is often only associated with larger infrastructure, such as boilers and industrial equipment.

76. One possible option is to add provisions into regulation 3 to allow a broader gas specification in emergency situations. The difficulty with setting out regulations for emergency situations is that, by their nature, they become prescriptive. In emergency situations it may be better to provide for greater flexibility. In this regard, regulation 30 allows the Secretary to exempt any person from the requirements of regulation 3, the gas specification. Given the potential variation possible in supply and risk scenarios it may be better to use the provisions of regulation 30 (or widen them) so that consideration can be given to a particular scenario rather than giving an across the board emergency provision.

77. In addressing emergency situations the gas supplier would need to look at how the supply of out-of-specification gas could be stopped for normal consumers (i.e. domestic consumers that cannot adjust their equipment). Where the supply of out-of-specification gas cannot be stopped it would be the gas suppliers’ responsibility to look at and assess the safety implications for those users. This assessment should then form part of the evidence for the regulation 30 exemption process.

78. To enable the rapid use of the Secretary’s exemptions in emergencies, one option would be for gas distributors and retailers to have discussions with the regulator to establish scenarios for the emergency situation that would enable an exemption to be granted quickly. It is noted that emergencies in this sense

are not necessarily matters that would be covered by a civil defence emergency.

Questions

1 Is it appropriate for the retailer to be responsible for the supply quality of gas to the consumer?

2 Are safety management systems the most appropriate mechanism for managing the quality of gas within distribution systems or should there also be specific responsibilities for distributors for the supply of specifications gas?

3 Are the current provisions for supplying out-of-specification gas sufficient and/or workable for industry?

Pressure (Current Regulation 4)

Proposal

To rework the regulatory requirements for gas pressure to:

- Set out the safety principles in relation to gas pressure;
- Specify the pressure, or range thereof, that gas must be supplied at;
- Define that the gas pressure must be within the specified range at the point of supply; and
- Clearly define that the gas retailer is responsible, to the consumer, for supplying gas at the required pressure.

79. In its present form, existing regulation 4 does not specify the minimum gas pressures, or where in the system these pressures apply. Instead the regulation sets out the performance requirements that the gas supply pressure must be able to meet. The performance requirements are that gas pressure should be sufficient to ensure gas can be used safely in properly functioning installations and appliances, and not allow flashback, flame failure or the creation of hazardous levels of carbon monoxide.

80. It is proposed that the regulations continue to include these general supply pressure safety requirements and that they also specify the acceptable supply pressure, or range thereof, to domestic and light industrial. This style would dovetail with the obligation in Part 1 of NZS 5261 (which is cited through existing regulation 12) that the pressure be verified to ensure it is suitable and safe for the appliances and fittings to be installed.

81. It is proposed that, because the consumer has a contractual arrangement for the supply with the retailer, the retailer should carry the responsibility for ensuring that the gas is supplied to them at the correct pressure.

82. For clarity it is proposed that the gas pressure must be within the specified range at the "point of supply" to the end consumer. The "point of supply" has been chosen as it is a clearly defined point for which there should be little confusion.

83. It is noted that in certain circumstances, larger gas consumers (industry, hospitals) may require gas to be supplied at greater pressures than those specified for domestic or small industrial applications. While the regulation 30 provisions would allow for exemptions to be granted this process is likely to become unwieldy because of the number of exemptions that may be sought. To address this it is proposed that the regulations also include provision for gas supply pressures to be set via contractual arrangement between the retailer and the consumer. It is proposed the contracted gas supply pressure provisions could only be used where the consumer is aware of their supply requirements and is not intended to be used for domestic applications.

Questions

1 Is it appropriate for the retailer to be responsible for the pressure of gas supplied to the consumer?

2 Do you agree that gas pressure, or a range thereof, should be specified in the regulations for domestic and light industrial users?

3 Do you support provisions for contracting out of the supply pressure regulatory requirerments?

Gas Detection

Proposal

- To continue requirements regulating gas detection.
- To replace the reference to GCP3 (Gas Code of Practice) for odorisation of gas with NZS 5263:2003 as a means of compliance with gas detection regulatory requirements.
- To ensure the parties responsible for gas odorisation relating to natural gas, LPG and canister gas are clearly defined for each situation (i.e. the distributor for natural gas, the wholesaler for LPG and the importer of filler for canister gas).

84. Current regulation 5 requires gas suppliers to ensure that the gas they supply has a distinctive and unpleasant odour so that its presence is readily

detectable at a concentration equivalent to one fifth of the lower flammability limit of the gas.

85. The underlying objective of this regulation is to enable the detection of gas in the atmosphere before it accumulates to flammable concentrations. Neither natural gas nor LPG have a natural odour of their own that enables individuals to detect gas leaks or the accumulations of gas. Adding an artificial odour is a well established method of making it detectable.

86. Odorisation is not, however, the only way of making gas detectable. Electronic detectors are, for example, an alternative although they are expensive and therefore of limited availability. In some circumstances, such as certain industrial processes, it is preferred that gas is not odorised.

87. It is proposed that the regulation require reticulated natural gas to be odorised when it is in distribution systems and when supplied to consumers. The rationale is that consumers and the general public play an important role in detecting dangerous gas releases and it is considered important, for this reason, that the recognised method of odorisation be maintained unless a very good case is presented otherwise.

88. In providing for industrial applications where odorisation of gas is likely to cause problems (for example, methanol production), an exemption may be sought under regulation 30. Exemptions for odorisation are only likely to be granted in situations where the gas is supplied via a separate/dedicated pipeline and that the pipeline does not run through residential areas. This is because of the safety aspects associated with the detectability of gas.

89. A Standard, NZS 5263:2003 – Gas detection and odorisation has been developed to provide industry with guidance. It is proposed that this Standard should now be cited in the regulations and that the current reference to GCP 3 be removed.

90. A further question is where responsibility should lie for the detectability of reticulated natural gas that is supplied to the consumer. Odorisation normally occurs within the gas production facilities; with the possibility of top-ups occurring within distribution systems to address any fading of the odorant (odorant fading typically occurs through absorption into new pipeline walls and cylinder surfaces and general odorant breakdown). Although retailers play no role in the technical aspects of odorising gas, they are the ones contracted to supply suitable gas to consumers. It is therefore considered that the retailer should hold responsibility for ensuring the gas supplied to consumers is correctly odorised. For the retailer, this means that they will need to enter into contractual arrangements with the distributor to ensure that the gas they sell to consumers is correctly odorised.

91. The next question is whether the distributor should also hold specific responsibility for odorisation. Given that gas is typically distributed through public areas (streets etc) it is proposed that the gas distributor should also carry a responsibility for the odorisation of natural gas in order that gas leaking in public areas can be identified.

92. With respect to LPG, it is proposed that current regulations should continue. In other words, LPG should be odorised before being supplied to refillers and ultimately consumers. It is proposed that wholesalers of LPG should carry the responsibility for the gas to be odorised.

93. The responsibility for the odorisation of gas in canisters is considered to best lie with the party filling the canisters, if filling occurs in New Zealand, or with the importer of pre-filled gas canisters. This is because the party filling or importing the canisters has the ability to control the specification and odorisation of the gas in the canister.

Questions

1 Do you agree that all gas in gas distribution systems, and all gas at the point of supply to consumers, be required to have a distinctive and unpleasant odour so that its presence is readily detectable at a concentration equivalent to one fifth of the lower flammability limit of the gas, and that odorisation in accordance with *NZS 5263:2003 – Gas detection and odorisation* be a means of compliance?

2 Do you think that responsibility for odorisation should lie with the gas retailer and gas distributor, for natural gas, and the wholesaler for LPG and the filler or importer for canister gas?

Safety Management Systems For Gas

Introduction

94. As a result of amendments to the Gas Act in 2006, every person operating a gas supply system is required to have in place a safety management system (SMS). Specifically section 46A of the Gas Act requires that every person that owns or operates a gas supply system must implement and maintain a safety management system in accordance with regulations made under section 54 of the Act (i.e. the proposed gas safety regulations).

95. The concept of safety management systems is relatively broad and can cover a variety of aspects from public safety to environmental safety and worker safety. The Gas Act's requirements are specifically with respect to public safety. The SMS provisions require that all practicable steps be taken to ensure the supply system does not present a significant risk of serious harm to the public or significant damage to property. The discussion of the proposed SMS regulations is thus from this position and aspects such as environmental safety, worker safety and damage to assets within the supply system are not included in the regulations because they fall outside the scope provided for in the Act.

96. This does not prevent a company from having a SMS which addresses more than public safety matters. The SMS will need to satisfy the requirements of the proposed regulations but can also include other matters as considered relevant by the company, for example, with respect to worker safety.

Persons required to implement and maintain safety management systems

97. For the purposes of SMS a "gas supply system" is defined at section 46A of the Act as the distribution systems, gas installations, fittings and gas appliances that form part of a system for conveying gas to consumers, as specifically defined in the regulations.

98. Basically this means that any party that owns or operates any part of a gas supply system must implement and maintain a SMS unless the regulations provide otherwise.

99. It is proposed the gas safety regulations provide that gas supply systems do not require a SMS where the following criteria are met:

- the gas distribution system receives its gas from another gas distributor (or wholesaler for LPG); and
- the distribution system supplies less than 100,000 MJ gas per annum to consumers on that system; and
- all infrastructure (pipelines, installations and fittings) within that distribution system have been fitted and maintained by a licensed and registered gasfitter.

100. This definition is intended to cover all assets owned or operated by the main gas distributors (for example, NGC, NovaGas, Powerco, Vector, Wanganui Gas) from when gas enters a distribution network until it passes through the "point of supply" to the consumer. The proposed "bright line" value of 100,000 MJ of gas per annum is sufficient to supply, approximately, 500 average homes during that year.

101. It also addresses the circumstances when gas may pass through more than one "point of supply" before being supplied to the actual consumer, for example, reticulated gas supply to shopping mall complexes, industrial parks, subdivisions, communes, retirement villages and apartments. In this situation the owner or operator, of the mall or apartment, for example, is operating a gas supply system. However, requiring owners or operators of such small scale supply systems to have a SMS would impose significant costs and not necessarily result in any improvement in public or property safety. It may make the operation of such systems unviable.

102. The "bright line" is also intended to allow tanked LPG to be supplied on closed local area networks to consumers without triggering the SMS requirements and associated costs.

103. Essentially, the proposed definition of gas supply system will provide that if you are a small scale distributor and all the assets within your supply system fall within the definition of gasfitting work and the competency of gasfitters then a SMS is not required.

104. Examples of how different gas supply scenarios lead to the requirement to have, or not have, a SMS are provided in Table 1.

Table 1: Gas supply scenarios and SMS requirements

Gas Supply Scenario	SMS Required	Comments
Network distributors – includes pipes, installations, fittings and appliances used for the conveyance of gas to the point of supply.	Yes	Network distributor is required to develop and maintain the SMS for all assets within their gas supply system up to the point of supply to the consumer.
Privately funded gas supply systems that are: • supplied with less than 100,000MJ of natural gas per annum by another gas distributor; and • the system's infrastructure, up to the point of supply to the actual consumer, is covered under the scope of gasfitting; and • the system is not intended or suitable to be handed over to the network distributor.	No	Because the gas supply system meets the exemption criteria a SMS is not required.
Privately funded gas supply systems that are: • supplied with less than 100,000MJ of LPG per annum by a LPG wholesaler; and • the systems infrastructure, up to the point of supply to the actual consumer, is covered under the scope of gasfitting.	No	Because the gas supply system meets the exemption criteria a SMS is not required.
Privately funded gas supply systems that are: • supplied with less than 100,000MJ of gas per annum by another gas distributor (or	Yes	A SMS will be required to be established by the owner or operator of the gas supply system

wholesaler; but • the systems infrastructure, up to the point of supply to the actual consumer, is outside the scope of gasfitting.		because of the special skills required to install and maintain the system infrastructure.
Privately funded gas supply systems that are: • Planned to be supplied from a wider gas supply system (i.e. this is basically an extension of the original distribution network); and • the assets within the gas supply system are intended to be handed over to the distribution network owner upon connection to that network (e.g. a new subdivision).	Yes	When the assets are handed over the Network distributor is required to develop and maintain the SMS for the assets up until the point of supply to the individual consumers.
Privately funded gas supply systems includes, but is not limited to: • Subdivisions (with both reticulated and tank supplied gas) • Apartments • Retirement Villages • Communes • Commercial Buildings • Commercial Parks		

Questions

1 Is the "bright line" set at an appropriate level?

2 Are the exemption criteria sufficient/workable?

3 Is an application or approval system required for the exemptions?

4 Are gasfitters sufficiently qualified to effectively manage small scale gas supply systems?

Operation of Assets Covered Under and SMS

105. In discussion with industry, issues have been raised regarding assets that are covered by a SMS but are "operated" by a third party. For example, it has been suggested that a gas retailer, to turn on/off the supply of gas to a consumer, would require their own SMS because they would be an operator within the supply system.

106. The term operator in the context of SMS applies to a party that has a legal obligation for the management of the asset(s) in question and is not intended to cover individual actions conducted on those assets.

107. In instances such as a gas retailer turning on/off the supply of gas to a consumer, the retailer does not need to have their own SMS. The retailer would, however, be required to abide by the requirements set by the owner of the gas supply system (and covered by a SMS).

Scope of safety management systems

108. The Act requires the regulations to include some specified elements for public safety and provides scope for the regulations to include other elements, where necessary, to meet the Act's intention.

109. Section 54A requires that the regulations for SMSs **must** provide for requirements relating to:

- Systematic identification of new and existing hazards.
- Taking all practical steps to eliminate, isolate or minimise those hazards.
- Regular assessment of each hazard identified.
- Documentation of the SMS.
- Audit of the SMS.

110. In addition, the Act provides that the SMS regulations may provide for additional requirements, for example, relating to:

- The design, construction, operation, maintenance, and inspection of the system.
- Security and control of access to the gas supply system.
- Skills, knowledge and experience of persons who do, or assist in doing, work on or in connection with the gas supply system.
- Implementation and management of contingency situations that may affect the system.
- Processes for the on-going improvement of safety in connection with the system.
- Investigation of accidents that involve or affect the system.
- Who may conduct audits.
- How often the audits must be conducted.
- Outcomes and objectives of audits.

111. The discretionary items listed above are not restricted and further requirements may be included.

Background to the Proposed SMS Regulations

112. The SMS provisions outlined in this section are based on a risk management approach and rely on the identification, risk assessment and the adequate control of hazards. SMSs that meet the Act's requirements place an obligation

on gas distributors to identify hazards, assess their risks and then take all practicable steps to control each hazard such that the residual risk of serious harm to members of the public or significant damage to property is as low as reasonably practicable.

113. The proposed regulations set the minimum SMS requirements. They will be performance based rather than prescriptive, to enable scope for compliance in, what can be, variable situations.

114. A SMS is intended to provide a systematic process for identifying and managing safety risks. The level of risk for which preventative action is required can vary considerably and the Act requires measures to be taken to prevent any gas supply system to which the Act applies presenting a significant risk of serious harm to members of the public and/or significant property damage.

115. Industry, as a whole, appears to have a number of systems in place to manage aspects of safety. It is the intent of these regulations to formalise critical safety requirements and provide for increased confidence in the identification and assessment of hazards associated with gas and overall public safety in relation to gas distribution in New Zealand.

116. It is intended that only one SMS for public safety and property protection be in place for any particular part of the gas supply system. Multiple SMSs for public safety and property protection are neither desired nor considered to adequately address the public safety requirements because they may lead to conflicting arrangements.

117. The following discussion is presented as a combination of both the regulatory requirements and the essential elements defined in the SMS Standard. This approach as been taken because the two are intrinsically linked and solely setting out the regulatory requirements does not provide a complete picture

Proposed Safety Management System (SMS) Regulations

118. It is proposed that the regulations will provide that every owner or operator of a gas supply system, as defined in the regulations (see paragraphs 97-107 above), will be required to implement and maintain a SMS in the following manner.

1. Description of the System: it is proposed that the owner or operator of a gas supply system will be required to document and describe their supply system including all the assets within the system that they own or are otherwise in control of. The asset description must list the location, physical description (including state of repair), operation and other detail necessary to determine the associated risks and the development of mechanisms for mitigation.

119. The system description will enable identification of what assets are included in the SMS, allow for identification of the associated hazards and enable the risks presented to the public and property to be assessed.

2. Hazard Identification: it is proposed that the owner or operator of a gas supply system will be required to demonstrate that the following processes have been undertaken:

1. systematic identification of all hazards posed by the supply system in relation to public safety and property protection, including hazards arising during commissioning, operation, maintenance, and decommissioning of the supply system;

2. identification of the points at which the hazards occur; and

3. identification of geographic/environmental factors that may affect the magnitude of the hazards.

120. The identification of hazards presented by particular assets, their locations and associated activities is vital in the prevention of "serious harm" to the public and significant damage to property. This is because it defines the areas where risks present themselves, enables their magnitude to be established and allows for the development of measures to mitigate those risks.

121. A particular asset or operation may pose certain hazards; however, the surrounding conditions can affect the level of risk posed. For example a gas leak in a rural area does not present the same level of risk as the same gas leak in a busy a residential area simply because there is a greater number of people within the area that may be affected.

122. The definition of "hazard" is set in the Act as the presence (or absence) of assets, activities or events that may present a significant risk of serious harm to any member of the public or significant damage to property owned by a person other than the owner or operator of the gas supply system.

123. It is noted that the gas industry considers such hazards as being within the "significant hazard" subset of hazards in general. It is intended that an essential part of the SMS process is for gas supply system owners and operators to separate these "significant hazards" from hazards in general by examining the risk associated with each hazard that is identified. Control, appropriate to the circumstances, must then be applied to the "significant hazards" such that the residual risk of serious harm to members of the public or significant damage to property is as low as reasonably practicable.

3. Hazard Assessment: it is proposed that the owner or operator of a gas supply system will be required to demonstrate that the following has been undertaken:

- systematic assessment of the risks of serious harm to members of the public;

- systematic assessment of the risks of significant damage to property.

124. After the hazards have been identified they will be assessed to determine whether they pose significant risks of serious harm or significant property

damage. The definition of “serious harm” is set in the Act and relates to harm caused to members of the public. It is proposed that the definition of “significant property damage” will be along the following lines.

Significant property damage is proposed to be damage that is greater than superficial, being such that the property is either damaged beyond repair or requires substantial repair or reconstruction in order to restore it to, at a minimum, the condition prior to it being damaged.

125. The identification and assessment of hazards will be required to be done to the extent practicable.

Question

Have the requirements for hazard identification and assessment been adequately addressed? If not what areas should be considered?

4. Risk Mitigation:

A) It is proposed that the owner or operator of a gas supply system will be required to demonstrate that they have taken “all practicable steps” to mitigate the associated significant risks to public and property from the identified significant hazards to as low as reasonably practicable. It is noted that the steps required are likely to be different with each case.

B) It is proposed that the owner/operator must demonstrate that systems, processes and documentation are in place to manage the significant risks by either elimination, isolation or minimisation of the hazards to the extent practicable in the circumstances.

126. It is noted that the regulations will require only the significant risks to public safety and property to be addressed. Although the legislation does not require the lesser risks to be addressed in the SMS it may be prudent to do so.

C) To demonstrate that “all practicable steps” have been taken to mitigate the significant risks posed by the gas supply system, It is proposed that the SMS must contain evidence that:

- acceptable processes and procedures have been established and are being maintained;
- monitoring procedures have been established and are being maintained;
- actions that need to be taken in situations where the a processes, procedures or monitoring are not adequate are defined.

D) Evidence of acceptable processes and procedures is proposed to include, but not be limited to:

- establishment of the requirements for persons carrying out work on the system, for example skills, knowledge, competence, supervision requirements and training provisions;

- the setting of standards for the equipment and materials used within the supply system;

- establishment of indicators for reporting on the health, effectiveness and adequacy of the SMS;

- establishment of response plans for remedial actions and emergency situations.

127. It is not proposed to regulate the type of evidence that may be provided for mitigation. The intent of this is to provide flexibility in the options that may be taken to achieve the fundamental safety concepts established in the Act. Referring to industry best practice and standards (New Zealand or international) may meet some of the requirements, however, it is noted that the certification process will ultimately confirm whether the system has adequately identified and assessed the hazards and mitigated the significant risks posed.

Question

Have the steps for mitigation been adequately addressed? If not what areas should be considered?

5. Processes for monitoring the on-going effectiveness of the SMS: it is proposed that the owner or operator of a gas supply system will be required to have in place documentation that sets out procedures for:

- monitoring the effectiveness and health of the SMS, for example, by establishing performance indicators and mechanisms for collection of relevant data;

- identifying and addressing areas of concern, from within their SMS and from industry wide and international experience;

- the investigation of accidents, reporting and utilisation of lessons learned; and

- implementing improvements or updates to the system.

128. It is not proposed that the regulations specify an interval for the regular assessment of the identified hazards and mitigation measures put in place. The assessment process is expected to be somewhat of a continual process. In addition to regular on-going reviews it is expected that assessments will be triggered by certain events, such as accidents involving parts of the supply system.

129. The audit certification process (discussed in detail in paragraphs 145 to 149) will review the effectiveness of the on-going maintenance measures in place for a particular SMS and should identify areas where further attention is required.

6. On-going Maintenance of a SMS: it is proposed that the owner or operator of a gas supply system will be required to regularly update the SMS to incorporate, but not limited to, the following aspects including:

- audit findings; and
- changes to the supply system that may change the nature or scale of hazards; and
- changes to the environment in which the supply system operates; and
- accidents, incidents and other experience from elsewhere in the supply system, from other supply systems, and from anywhere else that might be relevant; and
- the passage of time.

130. It is noted that some hazards for public safety or property may be identified through other processes, for example, hazard identification and risk assessments for worker or environmental safety. Where hazards are identified in these other processes they should be incorporated into the public safety SMS.

Question

Are their further aspects for on-going monitoring and maintenance of an SMS that should be considered?

7. Performance Indicators: it is proposed that at a minimum, the owner or operator of a gas supply system will be required to include the following performance indicators in the processes for monitoring the on-going effectiveness of the SMS:

- Accidents/incidents involving members of the public and damage to property;
- Education programmes undertaken;
- Vandalism incidents;
- Asset entry by the public.

131. Performance indicators are an important aspect in determining the overall effectiveness of a SMS. While it will be up to the individual owner/operator to establish the majority of performance indicators within their SMS, it is

proposed that the above key performance indicators (KPIs) be set in the regulations.

132. These KPIs are intended to provide the basis for demonstrating that the principles of public safety and property protection are being addressed in connection with the supply system.

133. It is not proposed that any minimum or maximum numbers be set around the KPIs. This is because they are only intended to serve as a mechanism for identifying that these important aspects are being monitored and/or addressed.

134. Data on accidents and incidents involving public safety and property is considered important because it allows the owner or operator and auditor to identify areas within the SMS that may require further attention.

135. The undertaking of educational programmes and monitoring incidents of vandalism and public entry to assets is considered important because they can provide a measure of the effectiveness of the actions being taken to increase public awareness and reduce exposure to the hazards posed.

136. It will be the owner or operator's responsibility to instigate programmes and collect data against these indicators, which will in turn form a key part of the independent audit process.

Question

Are there any other performance indicators that should be mandated in the regulations?

8. Contingency plans for unexpected supply outages: it is proposed that the owner or operator of a gas supply system will be required to include, in the SMS, processes for:

- identifying supply outage events that may pose significant risks of serious harm to members of the public or significant damage to property; and
- managing those risks (i.e. though elimination, isolation or minimisation of the hazards to the extent practicable in the circumstances (contingency planning).

137. It is noted that some of these elements may be addressed under other legislative requirements, such as that for Civil Defence emergencies. This information should be included in the SMS where the hazards identified pose significant risks to the public and/or property.

138. It is noted that there will be no requirement to duplicate risk assessment and mitigation work that has been carried out under other legislation.

Documentation of the SMS

139. The documentation requirements for a SMS are vital to ensure it has addressed the necessary elements. Without some sort of formalised documentation requirements auditing of the SMS could not occur.

140. Documentation in this context does not necessarily require the production of a single document with all the elements contained therein. The documentation may be spread over a number of documents that are referenced and can be brought together for the purpose of auditing. This approach is recognised in the proposed SMS regulatory requirements 1 to 8 that set out a number of documentation requirements.

141. The documentation forming an SMS is not limited to policies, processes and procedures. It may also include maps, plans, photographs, electronic images and knowledge of staff. It is a repository of criteria to be met and actions required to maintain public safety and protect property.

142. The SMS documentation must contain records of the essential elements as provided under proposed regulatory requirements 1 to 8 and includes:

- an up to date description of the system including assets, infrastructure and processes involved;
- the hazards identified;
- the risk assessment for the identified hazards;
- mitigation measures (both in-place and proposed);
- records of on-going maintenance of the system (i.e. periodic assessments);
- records of incidents involving the system.

143. It is proposed that the regulations will specify that all documentation associated with a SMS must:

- be written clearly and unambiguously;
- have established sign-off procedures;
- be communicated to all relevant staff;
- be regularly reviewed and updated; and
- be kept and maintained to be available to auditors when undertaking an audit.

144. The auditor, through the audit process, will review the documentation for the SMS as to its adequacy for the supply system described. Detail regarding the audit requirements and processes is discussed below.

Audit Certification of the SMS

145. It is proposed that the regulations will require every SMS to be audited by an independent third party at least every three years. The auditor will be required to certify that an adequate SMS is in place. The adequacy of the SMS will be based on it meeting the general safety requirements and SMS requirements set out in the regulations. Evidence from performance indicators, set in the regulations and those defined by the owner or operator of the gas supply system will also be used to determine the adequacy of a SMS.

146. It is proposed the regulations will provide that audits are conducted on a progressive basis over a period not exceeding three years. The core objective of the audit process is to provide an independent assessment of the adequacy of the SMS in preventing significant risk of:

- serious harm occurring to any member of the public; and
- significant damage occurring to property not owned by the owner or operator of the supply system.

147. Due to the specialised nature of the auditing process, it is proposed that the qualification requirements for auditors be managed under the Joint Accreditation System of Australia and New Zealand (JAS-ANZ). JAS-ANZ will determine the skills necessary to perform the required auditing functions and will establish an accreditation scheme for conformity assessment bodies[1] (CABs). CABs will be required to conduct the independent audit of SMSs.

148. Upon completion of the audit, the CAB will produce an audit report for the owner or operator of the gas supply system. The audit report may indicate areas where further work is required before an audit certificate will be issued or highlight issues that should be addressed before the next audit or within a specified period.

149. Where the CAB considers that the SMS is satisfactory an audit certificate will be issued along with the audit report. The audit report and audit certificate will become part of the SMS “package”. The audit certificate, however, is the document that indicates compliance with the SMS regulations. It is proposed that the audit certificate must be supplied, by the owner/operator, to the regulator as proof of compliance. Any non-compliance will be the responsibility of the owner/operator to remedy.

Implementation and Transition

150. An asset owner will be required to obtain a SMS certificate two years from the promulgation of the regulations. The two year period is intended to provide JAS-ANZ sufficient time to establish the audit process, accredit CABs and for owners or operators of gas supply systems to develop and have their SMSs certified.

Enforcement of SMS Provisions

[1] Refer to the interpretations section for further detail regarding ‘conformity assessment bodies’

151. Section 46B of the Gas Act makes it an offence for an owner or operator of a gas supply system not have a SMS when they are required to do so. For non-compliance, a fine of up to $250,000 may be imposed. An owner or operator does not have an SMS if it does not have an audit certificate.

Regulator's Role

152. The regulator's role in SMS will be minimal. The regulator, under the general provisions of sections 6 and 7 of the Act, will retain their existing ability to audit any aspects to do with gas safety and compliance with the Act.

Means of Compliance

153. To provide more clarity for owners or operators of gas supply systems meeting the SMS requirements, Standards New Zealand has developed the Standard, NZS 7901 *Electricity and Gas Industries – Safety Management Systems for Public Safety*. This Standard has been developed by industry with representation from consumers and the regulator.

154. It is proposed that the SMS Standard (NZS 7901) will be a means of compliance for the SMS requirements set in the regulations; however, they will not be the sole means of compliance. Whether an owner or operator of a gas supply system decides to follow the Standard or an alternative means of compliance the CAB, through the audit process, will ultimately decide whether a SMS meets the obligations and requirements set under the Act.

Gas Safety and Distribution (when a SMS is not required)

Proposal

To maintain regulations similar to existing Gas Regulations 6 and 7, to apply where a distributor is not required to implement and maintain a SMS.

155. The proposed SMS regulations provide that small scale distributors will not be required to implement and maintain a SMS. To ensure that distribution systems not covered by the SMS requirements are designed, constructed, maintained and operated in a manner that, as far as practicable, achieves continuity of supply, safety and satisfactory operation, it is proposed that regulations of the same nature as existing Gas Regulations 6 and 7 should apply.

156. These regulations will also address documentation of small scale distribution systems and the need for work on such systems to be undertaken by competent persons.

Gas Appliance Safety

Proposal

- To change the regulatory requirements so that a manufacturer or supplier of a gas appliance must obtain a certificate from a competent organisation that states the appliance meets essential safety requirements, is operable safely on the New Zealand gas specification, and satisfies New Zealand climatic conditions and seismic requirements.
- To provide that the certificate from a competent organisation must accompany the required declaration to the Energy Safety website.
- To provide that meeting the requirements of NZS 5262 will continue to be cited as a means of compliance for determining the safety of an appliance.

157. Over the last two years, there has been a major review of the gas appliance safety requirements set out in the Gas Regulations. A discussion paper "Review of the New Zealand Gas Appliance Safety Regime" was released in July 2006. The following proposals result from the discussion paper, submissions received on the discussion paper, discussions with industry and also discussions with Australian regulators responsible for gas safety.

158. It is proposed that the regulations applying to gas appliances that are currently set out in regulations 13 to 17 of the Gas Regulations 1993 will be amended along the following lines. The regulation numbers used below are indicative for the purposes of aiding cross referencing.

Safety of gas appliances and specified fittings

159. It is proposed that there will be a new regulation [X] titled 'Safety of gas appliances and specified fittings' to replace current regulation 13 that will set out a general provision that every person who manufactures, imports, sells or offers for sale, hires or leases out, or installs a gas appliance or specified fitting must take all practicable steps to ensure that the gas appliance or specified fitting is safe for use in all reasonably foreseeable circumstances, including New Zealand climatic conditions and seismic activity.

160. For the purposes of this regulation, it is proposed that safe will mean that the appliance or specified fitting:

    1) meets the essential safety requirements as set out in New Zealand's gas appliance safety standard NZS 5262:2003 sections (1) through (6). [An option is to also reference that meeting the essential safety requirements as set out in the "European Council Directive of 29 June 1990 on the approximation of the laws of the Member states relating to appliances burning gaseous fuels (90/396/EEC)" would also suffice]; and

2) meets the requirements of a relevant Compliance Standard or other appropriate industry best practice (if a relevant Compliance Standard is not available); and

3) is able to operate within the New Zealand specification for natural gas or LPG as set out in the regulations (see paragraphs 61-77), as relevant; and

4) has been declared to the New Zealand regime and the declaration is either:

- accompanied by a certificate from a competent organisation that states that the appliance meets the requirements of (1), (2), and (3) above; or

- accompanied by a certificate from a competent organisation that states that the appliance meets the requirements of (1) and (2) above and accompanied by additional test reports from an IANZ or equivalent test laboratory to demonstrate compliance with (3) above; or

- if there are less than eleven of the same appliance, accompanied by a written statement from a competent practitioner that states that the appliance meets the requirements of (1), (2), and (3) above.

161. For the sake of clarity, the regulations will provide that demonstrated compliance with NZS5262 will be deemed to be compliance with (1), (2), and (3) above.

Question

Do you support the above requirements? Do you think meeting the essential safety requirements as set out in the "European Council Directive of 29 June 1990 on the approximation of the laws of the Member States relating to appliances burning gaseous fuels (90/396/EEC) should be included in the regulations or should be requirement be specifically to meeting the essential safety requirements of NZS 5262?

Who is a competent organisation to certify an appliance?

162. It is proposed the regulations will provide that the competent organisation for the purpose of issuing certificates must be either –

(a) An organisation having relevant certification by a third party agency accredited under the treaty negotiated between the Australian and New Zealand governments entitled "Joint Accreditation System – Australia and New Zealand" (JAS-ANZ) or an equivalent entity recognised by JAS-ANZ through the International Accreditation Federation's Multilateral Regional Agreement;

or

(b) Any other laboratory or organisation that satisfies the Chief Executive of the Ministry of Economic Development that it is competent to perform the relevant functions for the purposes of the regulation (relating to the issue of certificates).

163. In essence (a) is a conformance assessment body that has been recognised by JAS-ANZ. Competent organisation definition (b) provides flexibility to the New Zealand Regulator and could be used as a "fall back" position should the certification market change.

Appliance Marking

164. Current regulation 14 sets out the requirements regarding appliance marking. It is proposed to continue to have an equivalent regulation.

Labelling

165. It is proposed there be a new regulation [14A] requiring labelling of appliances to show that they are safe to supply for use and installation.

166. The Australasian Gas Technical Regulators Committee (GTRC) has agreed to pursue a common label for both countries.

167. It is proposed that a new regulation be introduced that only appliances and specified fittings that meet the requirements of regulation [X], are marked as required by current regulation 14, and are labelled as required by regulation [14A] may be supplied on the New Zealand market or installed.

Supplier Declaration

168. It is proposed that the requirements in current regulation 15A continue but in an amended form to require that manufacturers and importers of gas appliances and specified fittings must make a declaration to the Energy Safety website that the appliance or specified fitting meets the requirements of regulation [X] and include a copy of the certificate or reference to the third party certification which confirms this.

169. It is proposed that there will be an exception to meeting these requirements as follows:

170. If there are less than 11 of the same type of the appliance that have been manufactured at any time in the previous 10 years, the manufacturer or importer may notify the Chief Executive in writing that a certificate from a compliance assessment body has not been obtained due to the appliance or fitting being produced as a one-off or in very small numbers. The notification must be accompanied by a detailed written statement outlining where the appliance will be installed and that the appliance or fitting has been assessed by a competent practitioner that it meets the essential safety requirements specified in regulation [X] supported with either a detailed assessment or test reports or similar.

171. It is proposed that a competent practitioner will be a person who has relevant expertise and experience with mechanical safety, gas combustion engineering, New Zealand's gas composition, specification and characteristics, gas flueing technology and the design and operation of safety controls, and is technically capable to assess the particular compliance given its proposed use.

172. It is proposed that the manufacturer or importer will be required to also provide a copy of the notification to the person who is being supplied the appliance or fitting; and keep a record for at least 7 years of the full documentation supporting the written statement to the declaration.

173. With respect to the contents of the supplier declaration, currently set out in regulation 15B, it is proposed that the requirements[2] continue with the following additional information being provided by the supplier –

(u) certification from a competent body that demonstrates that the appliance or specified fitting meets the requirements of NZS 5262;

or

certification from a competent body that demonstrates that the appliance or fitting meets the requirements of the New Zealand Gas Safety Regulations regulation [X] (the "Safety of gas appliances and fittings" regulation) with the exception that the requirements of regulation [X] with respect to climate conditions, seismic activity and New Zealand's gas specification, may be demonstrated by appropriate test reports from an IANZ or equivalent laboratory[3].

(x) the full name and contact details of the competent body that has certified that the appliance or fitting meets the requirements of (u) above; and the full name and contact details of any IANZ or equivalent body that has provided additional information concerning compliance with proposed regulation [X].

(y) evidence of the certification from a competent body in the form of a certificate or an identification number reference or a url link to the certificate online or other similar information that will readily allow identification of the certification.

174. The above requirements are intended to place an obligation on the declarer to ensure that the required third party certification of the appliance or specified fitting takes place or has taken place and also provide the means for the Chief Executive to independently investigate the claim that the certification has occurred and that it adequately supports the declaration.

[2] In summary, manufacturers and importers name and address, type or appliance of fitting covered, standard(s) complied with, testing certificate and general statement that the appliance or fitting meets regulation 13.

[3] Note that the requirement to demonstrate compliance with New Zealand's climate conditions, seismic activity and gas specification does not need to be confirmed by a JAS-ANZ accredited conformance assessment body.

175. These requirements are intended to ensure that when appliances are declared to the Regime the accredited conformance assessment body (CAB) that has certified that the appliance or fitting satisfies the requirements of the regulations is able to be identified and the certification traced for the purposes of post market monitoring. Complementing these additional requirements, an equivalent of regulation 15B(1)(e)(ii) should no longer be required.

Supply of Information to support declaration

176. Existing regulation 15D currently requires that every manufacturer or importer of an appliance or fitting must, within 10 working days of the request being made, supply documentation that demonstrates current regulations 13 and 14 have been met.

177. It is proposed to add to this requirement that such a request may also be made for the provision of documentation that demonstrates the certification of the appliance or specified fitting as meeting the requirements of regulation [X] (the “Safety of gas appliances and fittings” regulation).

Duty on retailers and suppliers

178. It is proposed that the regulation 15F general duty on retailers and suppliers other than the manufacturer or importer to ensure that before selling or supplying a gas appliance or fitting that they check it has been declared to the Energy Safety website will continue, and that the equivalent general duty on installers of gas appliances and fittings will continue.

179. It is proposed to add to this requirement a general duty on retailers, suppliers and installers that they ensure an appliance or specified fitting has been labelled in accordance with the requirements of regulation [14A].

Existing Mandatory Declarations Transitional Provisions

180. Existing declarations to the Energy Safety website do not have a reference to any third party certification.

181. To address the transition to the new regulatory requirements, it is proposed that if an appliance has been previously declared to the Energy Safety website and it continues to be made available for supply in New Zealand by means of on-going manufacture or import to New Zealand, the declaration must be renewed before 15 months after the date of the new regulations coming into effect. This renewal will include the new third party certification component and any other new requirements outlined by the regulations.

182. If an appliance has been declared under existing regulation 15A(2)(b) (when the declaration relates to fewer than 11 appliances or fittings of the same type) and it is proposed to supply another such appliance, it is proposed that the manufacturer or importer will need to make a full notification to the Chief Executive as though this was a new appliance.

Life expectancy of a mandatory declaration

183. Current mandatory declarations have no expiry date. A declaration can theoretically be used to support an appliance in perpetuity provided the appliance is supplied as it was declared to the Regime.

184. Given that technology is continually resulting in improvements to gas appliances and manufacturers are constantly finding new components and ways to manufacture gas appliances there is the potential that a declaration to the Regime can become out of step with the actual appliance being supplied to the New Zealand market.

185. To address this, it is proposed that declarations will expire after three years from the date they are first made. If an appliance supplier wishes to continue to supply an appliance it is proposed that the declaration must be renewed with a new certification of the appliance supplied.

186. Additionally, it is proposed that any certification may not be issued more than twelve months before a declaration is made. The validity of a declaration is reliant on the certification being issued within twelve months prior to the date of the declaration.

Worked examples of how the proposed new Regime would work

NZ manufactured appliance

187. A sample from an appliance range made in New Zealand is sent to an IANZ accredited test facility in Auckland for testing to NZS 5262. An accredited conformance assessment body (CAB) is then asked to provide a certification that the appliance meets NZS 5262. The CAB examines test reports and makes the appropriate considerations and determines the appliance meets NZS 5262. The appliance supplier then declares the appliance to the Energy Safety website using the certification. The supplier ensures that marking and labelling requirements are met. The appliance is then able to be supplied in New Zealand.

Imported Appliance from Italy

188. A local entrepreneur arranges to import 1000 gas appliances from Italy. The appliances are accompanied by a certification from a conformance assessment body that has been accredited by an entity that is recognised by the International Accreditation Forum’s Multi Regional Agreement.

189. The certification is that the appliance complies with the European Directive 90/396/EEC and thus the essential safety requirements of NZS 5262. The appliance supplier obtains IANZ test reports to show the appliances can operate under the New Zealand gas specification and climatic conditions and meets seismic requirements. The supplier then declares the appliance to the Energy Safety website using the certification and test reports as the basis. The supplier ensures that marking and labelling requirements are met. The appliance is then able to be supplied in New Zealand.

Appliance made to a standard referenced in NZS 5262.

190. A domestic outdoor gas barbeque appliance has been manufactured to meet AS 4557/AG 107-201. This is a Compliance Standard recognised in NZS 5262 as fully meeting the essential safety requirements. A certificate from an accredited CAB that has scope to this standard is able to be used as the basis for a declaration to the Energy Safety website.

191. The CAB certificate may cover all the requirements of regulation [13] or additionally the supplier needs to obtain IANZ test reports to show the appliances can operate under the New Zealand gas specification and climatic conditions and meets seismic requirements. The supplier then declares the appliance to the Energy Safety website using the certification and test reports as the basis. The supplier ensures that marking and labelling requirements are met. The appliance is then able to be supplied in New Zealand.

JAS-ANZ approval of certifying bodies.

192. The Chief Executive does not intend to individually approve a CAB itself but rather will recognise JAS-ANZ (or equivalent) accredited CABs with the appropriate scope e.g. a CAB with accreditation to ISO Guide 65 and NZS 5262.

193. It is envisaged that the basis of a certification will come from, at minimum, a single type test (as described more accurately in ISO Guide 65). If a CAB is in a position to undertake, for example, an ongoing programme of quality surveillance, that would be a welcomed additional activity.

194. It is recognised by New Zealand that the two main Australian CABs (AGA and SAI Global) operate in the fashion that they first assess the appliance by the most appropriate standard and where there may be any additional questions related to the safety of the appliance, the CAB may use other means to assess the appliance. This includes reference to other standards, additional testing and the application of the skill and knowledge of the CAB itself.

195. New Zealand acknowledges this and would expect CABs that are certifying to a means of compliance allowed by the gas safety regulations to follow this same approach.

Obligations for Gas Installations

196. Regulation 12(1) requires every person who installs a gas installation to comply with Part 1 of *NZS 5261 Gas installation*. *NZS 5261*, however, does not apply to gas installations for which the supply pressure exceeds 700 kPa.

197. The Ministry considers that the regulatory requirements could be extended to cover high pressure gas installations also. Two options are thus proposed:

Proposal 1

Carry forward the current regulatory requirements of existing regulation 12.

Proposal 2

Amend the obligation in current regulation 12(1) to be more general so that installers and importers of installations are required to meet a set of essential installation safety requirements.

The essential installation safety requirements would embrace the following:

- safety is maintained throughout the construction and commissioning of the installation;
- all practicable steps are taken to ensure the completed installation is safe when used. All practicable steps include, but is not limited to:
  - design;
  - competency; and
  - reference to Standards for compliance, e.g. *NZS 5261*
- safety of the installation addresses, but is not be limited to:
  - the type and specification of gas that might be used in the system;
  - degradation of the installation during use; and
  - instructions to users for use and maintenance of the installations.

Questions

1 Which of the proposals do you consider the most appropriate?

2 Are there other aspects that need to be taken into consideration?

Imported Installations

Proposal

To set a high level safety obligation, accompanied by reference to the Standard "*NZS 5428:2006 LPG installation for non-propulsive purposes in caravans and boats"* as a means of compliance, where appropriate.

198. Current regulation 12 sets out requirements for persons who install gas installations in New Zealand. There is, however, no equivalent obligation that addresses imported gas installations, for example, those in caravans, boats and motor homes. Given that imported installations will be operating on New Zealand's LPG supply there should be some obligation regarding the safety of such installations (including the suitability of appliances in the installation). It is also noted that installations may be imported as prefabricated buildings and these will need to comply with the relevant requirements in New Zealand, which will include certification.

199. Accordingly, it is proposed to set a high level safety obligation, accompanied by reference to the Standard "*NZS 5428:2006 LPG installation for non-propulsive purposes in caravans and boats*" as a means of compliance, where appropriate.

Certification of Gasfitting Work

200. Section 54 of the Gas Act provides for the regulations to establish requirements for the testing, inspection and certification of gasfitting work. The Act also provides for the establishment of prescribed forms and matters for which fees may be payable.

201. At present regulations 24, 24A, 24B, 25, 26 and 38 set out requirements relating to the certification of gasfitting work. It is proposed these be carried forward except as discussed in the following section.

- Regulation 24 defines what work requires certification and who is responsible for that certification.
- Regulation 24A sets out the information that is required for certification and the way in which it must be presented, i.e. on a prescribed form.
- Regulation 24B specifies the parties responsible for the supply and retention of gas certification certificates (gas certificates).
- Regulation 25 specifies that the Plumbers, Gasfitters and Drainlayers Board (PGD Board) are responsible for the design and supply of the form of gas certificates and provides the mechanism for the PGD Board to collect a prescribed fee.
- Regulation 38 and Schedule 3 (subclause 2) specifies the fee that may be collected by the PGD Board for the supply of gas certificates.

Why do we have Certification of Gasfitting

202. Certification of gasfitting work is important in two, albeit interlinked, ways. Firstly, the issue of gas certificates, by the gasfitter carrying out the work, implies an increased level of responsibility, assurance and liability for the work they have carried out i.e. the work has been completed to the required standards. This has a flow-on effect in that the consumer may have greater confidence in the safety of that work. Gas certificates are also important as they are recognised as “energy work certificates” under the Building Act and form part of the code of compliance documentation for building works.

203. Secondly, confidence in the certification process can also be enhanced by controlling access to the certificates, for example, limiting the supply of certificates to qualified, registered gasfitters only. Certificates can also be used to track what work is being carried out and where problems have arisen, say with a particular gasfitter.

204. In terms of their direct effect on public safety and the protection of property for gasfitting, gas certificates are, however, of secondary importance to the requirements for qualified competent persons to carry out the work.

205. Currently, gas certificates are required for a wide range of work. Current regulation 24 states that the following kinds of gasfitting work require the issue of a gas certificate:

- all new installations;
- extensions, additions, and replacements to existing gas installations;
- alterations that result in the repositioning of pipework or changes to the operation of the installation;
- any repairs to gas installations, appliances or fittings following notifiable accidents.

Who Should Receive A Copy Of The Gas Certificate

Proposal

Retain the existing requirement to supply the gas certificate to the consumer and PGD Board.

Remove the requirement for gas certificates to be supplied to the gas retailer.

206. Currently the regulations state that the gas certificate for a particular job needs to be supplied (by the party carrying out the work) to the PGD Board, the consumer and the gas supplier (i.e. the retailer). The gasfitter (the individual or company) who carried out the work is also required to hold a copy of each gas certificate issued for a specified period of time.

207. Gas retailers have indicated that they no longer require or need copies of gas certificates. No safety reason has been identified that suggests gas retailers need to obtain copies of the certificates. If on occasions they did need to check that work had been certified it would be easy to do this by contacting the PGD Board. It is therefore proposed that the requirement for gas certificates to be supplied to gas retailers is not included in the gas safety regulations. Effectively this will mean current regulation 26 will not be carried forward and modification of current regulation 24B.

Offences and Infringements

Introduction

208. Amendments to the Gas Act in 2006 allow for regulations to prescribe infringement notices and infringement offences. The 2006 amendments also changed the level of fines that may be imposed for offences prescribed in regulations.

209. The following proposals for offence and infringement offence provisions are intended to provide more options for enforcement of the Act and regulations.

Offences under the Regulations

210. Amendments to the Act have raised the ceiling on the maximum fines for offences prescribed in regulations, from $10,000 to $50,000. It is proposed that the maximum penalty specified in the regulations be amended to reflect the new provisions.

211. Current regulation 37 defines a range of offences from the failure to keep records to the importation of prohibited gas appliances. It is proposed that this list of offences be revised and expanded to cover, where appropriate, new regulatory requirements and to update the existing offences to take into account identified issues.

Infringement Offences and Notices

212. Infringement offences are intended to deal with low level breaches of the regulatory requirements. Infringement offences typically are for clear, but minor, breaches of the legislation and intended to quickly address behaviours that should be changed to avoid harm from gas whether it be gasfitting work or otherwise. The regulations will prescribe infringement offences and notices.

213. The maximum infringement fee that may be specified is $1,000 for individuals, and $3,000 for corporate bodies.

General Amendments

214. It is proposed that the current requirements under the Gas Regulations that have not been proposed for amendment or deletion or discussed in other sections of this discussion paper are carried forward, with appropriate updating, into the new gas safety regulations 2008. This includes regulations 9–11, 16–19, 19A, 20–21, 23, 27–36 and 38.

Making a Submission

This discussion document has been produced to give an opportunity to interested parties to express their views on the proposals for new gas safety regulations. You are encouraged to make a submission to ensure the policy development process takes account of the widest possible range of views and experiences.

The questions throughout the discussion paper are there to help you think about some of the specific issues. You do not need to comment on all the questions and they should not restrict the topics on which you might want to comment. All views on matters in the discussion paper are welcome.

Please note the publication and Official Information Act 1982 information on page 4.

The closing date for submissions is 29 February 2008.

Your submissions should be sent to:

Brendon Noonan
Ministry of Consumer Affairs
PO Box 1473
Wellington
Email: gas.safety.regulations@med.govt.nz
Fax 04-473 9400

Next Steps

There will be a summary of submissions produced which will present information in an aggregated form. Please indicate whether you would like to receive a copy of the summary as hard copy or email.

Following the consideration of submissions a paper to the Associate Minister of Energy will be prepared setting out proposals for gas safety regulations.