



Proposed Determinations

Gas Market Code

Record keeping, reporting and publishing obligations

15 November 2023

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Executive Summary

The *Competition and Consumer (Gas Market Code) Regulations 2023* (the Code) commenced on 11 July 2023. The Code is made under the *Competition and Consumer Act 2010* (CCA).¹

As stated in the Explanatory Statement², the Code's purpose is to facilitate a well-functioning domestic wholesale gas market with adequate gas supply at reasonable prices and on reasonable terms for both suppliers and buyers.

The Code covers negotiation and agreements for the supply of regulated gas between covered suppliers and buyers in the east coast gas market and contains key requirements including on transparency in relation to record keeping, reporting and publication obligations for suppliers.

The ACCC is able to make determinations in relation to the transparency requirements of the Code and in relation to subsection 23(1) in regards to circumstances in which a covered supplier who has issued a gas EOI, gas initial offer or gas final offer may withdraw or terminate.

This paper sets out the ACCC's initial proposed approach to determinations, namely that the ACCC is intending to:

- **make determinations** in relation to subsections 33(3), 34(3), 34(7) and 35(3) of the Code. Proposed determinations are included in this package for consultation.
- **not make determinations** in relation to subsections 23(1), 35(7), 36(3), 37(2), 38(2), 40(6), 41(3) or 41(8) of the Code at this time.

If the ACCC makes determinations consistent with the proposed determinations, suppliers under the Code will be required to meet the record keeping, reporting and publishing obligations and timelines set out in the determinations.

In setting its proposed approach to record keeping and reporting under the Code, the ACCC has considered the degree of record keeping and reporting it considers will best achieve the Code's intended outcome of increased transparency of information in respect of available gas. The ACCC has also considered the interconnection between its existing practices under its Inquiry function in respect of the gas market and the information it will require in respect of its new role under the Code.

The ACCC acknowledges that information we consider should be recorded for the transparency obligations of the Code will overlap, to some extent, with the information the ACCC may seek to collect or has in the past collected as part of its Inquiry function. Mindful of this, the ACCC has considered how best to:

- minimise the information collecting burden and avoid duplication
- provide ongoing certainty on information that will be collected
- provide ongoing certainty on the timing of information collection

To this end, if the ACCC proceeds with these proposed determinations certain information previously collected under compulsory notices issued in the course of the ACCC's Inquiry function will shift to information collection under the Code.

¹ Section 53L of the CCA provides that regulations may prescribe matters required or permitted by the CCA to be prescribed by a gas market code.

² Explanatory Statement, *Competition and Consumer (Gas Market Code) Regulations 2023*.

The ACCC intends to use information collected under the Code for the purposes of the Code and its Inquiry function. The ACCC anticipates that this will reduce the scope of any notices issued under Part VIIA of the CCA.

Summary of proposed determinations

At this time, the ACCC is consulting on determinations it proposes to make pursuant to sections 33(3), 34(3), 34(7) and 35(3) of the Code.

A high-level summary of the ACCC's proposed determinations under the Code is presented in Table E.1 below.

Table E.1: Summary of the ACCC's proposed determinations under the Code

Section of the Code	Summary of ACCC's proposed determination
Section 33	The ACCC proposes to make a determination under section 33(3) which would require covered suppliers to record certain details in respect of gas supply agreements, offers and EOIs as specified by the ACCC and keep these records for a period of 6 years.
Section 34	<p>The ACCC proposes to make a determination under section 34(3), which would require covered suppliers to publish relevant information, as soon as practicable, after 1 April and 1 October of each year.</p> <p>The ACCC proposes to make a determination under section 34(7) which would require covered suppliers to publish the volume of uncontracted regulated gas that is likely to be available to the supplier in each quarter, over the relevant 24 month period.</p>
Section 35	<p>The ACCC proposes to make a determination under section 35(3) to require covered suppliers to provide the ACCC with relevant information, as soon as practicable, after 1 April and 1 October of each year.</p> <p>The ACCC does not propose to make a determination under section 35(7) at this time.</p>

Consultation on proposed determinations

Before making determinations under the Code, the ACCC must consult with the public about the proposed determinations.³ In making these determinations, the ACCC must take into account comments made in consultation.⁴

Stakeholder submissions assist the ACCC in making informed determinations. The ACCC invites stakeholders to make submissions in response to the proposed determinations under sections 33(3), 34(3), 34(7) and 35(3) of the Code.

Submissions must be received before **5:00pm (AEDT), 6 December 2023**. The process for making a submission is set out in section 3.1 of this document.

³ Subsections 33(4), 34(4), 34(8), 35(4) and 35(8) of the Code.

⁴ Subsections 33(5), 34(5), 34(9), 35(5) and 35(9) of the Code.

Further guidance

If you would like broader information in relation to these requirements, guidance is available on the ACCC website:

- [ACCC's Gas Code Reporting Guide](#). This guide contains high-level information in relation to reporting requirements, timing and submission. The ACCC will update the reporting guide when we make the final determinations to reflect our updated guidance on record keeping and reporting under the Code.
- [ACCC's Compliance and enforcement guidelines on the Gas Market Code](#). This provides further guidance on the key requirements and the consequences of non-compliance with the Code.

1. Introduction

The *Competition and Consumer (Gas Market Code) Regulations 2023* (the Code) commenced on 11 July 2023.⁵ There was a 2-month transition period to provide companies time to adjust to the new conduct provisions, record keeping and reporting obligations.

The Code is intended to facilitate a well-functioning domestic wholesale gas market with adequate gas supply at reasonable prices on reasonable terms for both suppliers and buyers.⁶

Key elements of the Code include:

- **Price rules** – prohibition on supply over the reasonable price, initially set at \$12/GJ.
- **Good faith obligations** – parties to negotiations and agreements must deal with each other in good faith.
- **Negotiations** – various requirements for expressions of interest (EOIs), offers and negotiations.
- **Transparency** – record keeping, reporting and publication obligations for suppliers.

The Code applies to all wholesale gas producers and their affiliates⁷ in the Australian east coast gas market (including the Northern Territory).⁸

2. ACCC's role in the east coast gas market

The ACCC has a number of roles in relation to the gas market. This includes a wide-ranging Inquiry role into the supply of and demand for natural gas in Australia as directed by the Government and a regulatory role in relation to the Code.

For more information regarding the ACCC's role in the gas market see:

- [Compliance and enforcement guidelines on the Gas Market Code](#)
- [Gas Inquiry 2017-30](#)
- [ACCC's role in energy markets](#)

The ACCC will continue to perform its other roles including reporting on the gas market as part of the Inquiry while also meeting its new obligations under the Code.⁹

The Code is intended to facilitate a well-functioning domestic wholesale gas market with adequate gas supply at reasonable prices and on reasonable terms for both suppliers and buyers.¹⁰ Part 6 of the Code sets out record keeping, reporting and publication obligations which will assist in improving transparency in the market and enabling the ACCC to effectively perform its compliance and enforcement role under the Code. Similarly, the ACCC's Inquiry function is to inquire into measures to improve the transparency of gas supply arrangements, with matters to be monitored and taken into consideration including the pricing and availability of offers to supply gas.¹¹

⁵ *Competition and Consumer (Gas Market Code) Regulations 2023*.

⁶ Explanatory Statement, *Competition and Consumer (Gas Market Code) Regulations 2023*.

⁷ See Sections 5 and 6 of the Code.

⁸ Section 9 of the Code.

⁹ See Australian Government [Budget October 2022-23](#).

¹⁰ See Explanatory Statement, *Competition and Consumer (Gas Market Code) Regulations 2023*.

¹¹ See Gas market transparency measures Terms of Reference, p. 2.

Noting this overlap, the ACCC acknowledges that the information we consider should be recorded and provided to the ACCC in respect of the transparency obligations of the Code will overlap, to some extent, with the information the ACCC may seek to collect or has, in the past, collected as part of its Inquiry function.

The ACCC is seeking to transition to the collection of data under the Code as efficiently and effectively as possible. In doing this, the ACCC will balance our need to collect the information necessary to monitor and enforce compliance under the Code, against the reporting burden placed on industry.

The ACCC's experience in collecting information and analysing it for our Inquiry function has informed our view as to the most efficient form to collect information, including in the form in which that information is to be given. The introduction of the Code determinations provides an opportunity to consider how best to:

- minimise the information collecting burden and avoid duplication
- provide ongoing certainty on information that will be collected
- provide ongoing certainty on the timing of information collection

To this end, if the ACCC proceeds with these proposed determinations, certain information previously collected under compulsory notices issued in the course of the ACCC's Inquiry function is intended to shift to information collection under the Code and no longer be collected under section 95ZK notices.

To achieve this the ACCC intends to issue notices under section 53ZT to collect information recorded by suppliers under the Code. The ACCC intends to issue section 53ZT notices at least twice a year, consistent with issuing section 95ZK notices.

3. Consultation on proposed determinations

Before making determinations in relation to sections 33(3), 34(3), 34(7) and 35(3) of the Code, the ACCC must consult with the public about the proposed determinations.¹² In making these determinations, the ACCC must take into account comments made in consultation.¹³

The ACCC invites public submissions on the proposed determinations, as set out in this document and the related proposed legislative instrument. The ACCC particularly welcomes the inclusion of detailed reasons to support the views put forward in your submission. This will assist the ACCC to take your comments into account.

3.1. Issues on which the ACCC seeks views

The ACCC is seeking comments on all matters relating to the proposed determinations, and particularly on the issues set out below:

- **Code objectives** - whether these determinations will support achieving the Code's intended outcome of increased transparency of information in respect of available gas including:
 - the proposed requirement set out in the proposed determination under section 34(7) for suppliers to publish and report the volume of contracted gas that is likely to be available to the supplier in the relevant 24 month period,

¹² Subsections 33(4), 34(4), 34(8), 35(4) and 35(8) of the Code.

¹³ Subsections 33(5), 34(5), 34(9), 35(5) and 35(9) of the Code.

disaggregated into financial year quarters, will improve transparency in the market

- whether gas buyers who purchase regulated gas from suppliers think they will benefit from the proposed determinations
- **Compliance burden** - the additional burden of complying with the obligations should the proposed determinations be made and how best to minimise the information collecting burden and avoid duplication with information previously collected under 95ZK notices
- **Specific concerns or challenges** – whether there are any challenges or concerns for suppliers in relation to:
 - the proposed record keeping requirements under section 33(3)
 - the timing requirements set out in the proposed determinations under sections 34(3) and section 35(3)
 - the proposed requirement set out in the proposed determination under section 34(7) for suppliers to publish and report the volume of contracted gas that is likely to be available to the supplier in the relevant 24 month period, disaggregated into financial year quarters
- **Transitional – are there issues that the ACCC should take into account when planning and implementing transitional arrangements**
 - Noting that the ACCC will need to predominantly use section 95ZK notices to collect data in January 2024 while we transition to collection under the Code, how should we balance monitoring compliance with the Code against the burden placed on suppliers?

The ACCC prefers that submissions be sent via email in Microsoft Word format (although other text readable document formats will be accepted). Submissions should be sent to the following email address:

gascode@acc.gov.au

Please address submissions to:

Ms Melisande Waterford
General Manager
Gas Markets Branch
ACCC
GPO Box 3131
Canberra ACT 2601

ACCC staff are happy to meet with stakeholders to discuss the proposed determinations.

Due date for submissions

Submissions must be received before **5:00pm (AEDT), 6 December 2023**.

Confidentiality of information provided to the ACCC

The ACCC strongly encourages public submissions. Unless a submission, or part of a submission, is marked confidential, it will be published on the ACCC's website and may be made available to any person or organisation upon request.

Sections of submissions that are claimed to be confidential should be clearly identified.

Any parties wishing to submit commercial-in-confidence material should refer to the process set out below.

Please submit 2 versions of the submission to gascode@acc.gov.au by 6 December 2023:

- (a) a public submission that can be published on the ACCC's website, in which all confidential material has been removed and replaced with 'c-i-c'. Please ensure that redacted information is not searchable or otherwise able to be viewed.
- (b) a confidential version that clearly identifies the information over which confidentiality is claimed by bookending the confidential material with a marking of 'c-i-c'. Please also highlight for ease of reference the material over which confidentiality is claimed.

For further information about the collection, use and disclosure of information provided to the ACCC, please refer to the ACCC publication [ACCC & AER Information Policy: collection and disclosure of information](#), available on the ACCC website.

Further information

If you have questions about any matters raised in this document, please contact:

Wallace Stark
Executive Director (a/g)
Gas Markets Branch
Phone: 02 6243 1325
Email: wallace.stark@acc.gov.au

4. Section 33 of the Code – Record keeping by a supplier

Section 33 of the Code provides that a supplier must keep a record of the following information, for a period of 6 years from the relevant date specified in the Code:

- each gas EOI issued by the supplier
- each gas initial offer issued by the supplier
- each buyer gas final offer given to the supplier
- each gas final offer issued by the supplier
- all documents and information exchanged between the supplier and a person with whom the supplier has negotiated in respect of a gas EOI, gas initial offer, buyer gas final offer or gas final offer
- documents or information that the supplier creates, obtains or holds and that relate to the supply, price or marketing of regulated gas
- each agreement to supply regulated gas entered into by the supplier
- the name of each person who gave the supplier a notice, in writing in each year, stating an interest in further negotiations in relation to a gas EOI by the supplier.

4.1. ACCC role under Section 33 of the Code

Section 33(3) states that the ACCC may, by legislative instrument, make a determination specifying further kinds of details that must be recorded by suppliers, and the period of time for which these records must be kept.

The ACCC can also approve in writing the form in which records pursuant to section 33 are to be kept.

4.2. ACCC's proposed determination in relation to Section 33 of the Code

The ACCC proposes to make a determination under section 33(3) of the Code specifying the details that suppliers need to record in relation to agreements, offers and gas EOIs.

4.2.1. Proposed definitions under section 33(3) of the Code

The ACCC proposes to define the terms relevant to the proposed determination under section 33(3) as set out in the proposed legislative instrument.

The ACCC considers that the proposed definitions in the proposed legislative instrument for the most part, define common business terms that suppliers use in their operations. Where possible the ACCC has used terms already defined in the Code¹⁴ or definitions which the ACCC has adopted in section 95ZK notices issued to suppliers in its Inquiry function.

¹⁴ Sections 4 of the Code.

4.2.2. Proposed details to be recorded under section 33(3) relating to agreements to supply regulated gas

The ACCC proposes to make a determination that suppliers record the details set out in Part 6 of the proposed legislative instrument, relating to agreements to supply regulated gas, under section 33(3) of the Code.

Broadly, the ACCC proposes to make a determination requiring that suppliers record details relating to the following matters with respect of agreements to supply regulated gas:

- details of the agreement, including the type of agreement, title of the agreement and whether the agreement is subject to an exemption under the Code
- details of the buyer, including their name and ABN/ACN
- details relating to the supply of regulated gas, including the start and end dates for supply, the delivery points and delivery region, annual contract quantity, whether the regulated gas supplied or to be supplied is subject to the Australian Market Supply Condition and the basin expected to be the predominant source of the regulated gas supplied.

The ACCC considers that it is appropriate that the details outlined in the proposed legislative instrument be recorded, as specified, so that ACCC can effectively perform its compliance and enforcement role under the Code. These specific details will help the ACCC ascertain a clear understanding of a supplier's agreements to supply regulated gas and allow the ACCC to monitor and enforce compliance with Parts 3, 4, 5, 6 and 7 of the Code, as well as section 53ZQ of the CCA. The proposed specific details to be recorded under the determination will assist the ACCC in engaging clearly and effectively with suppliers.

4.2.3. Proposed additional details to be recorded under 33(3) for all agreements to supply regulated gas for a period of 12 months or greater

The ACCC proposes to make a determination set out in Part 7 of the proposed legislative instrument which would require that suppliers record the following additional details relating to agreements to supply regulated gas for a period of 12 months or greater, under section 33(3) of the Code.

Broadly, the ACCC proposes to make a determination requiring that suppliers record details relating to the following matters with respect to agreements to supply regulated gas for a period of 12 months or greater:

- Details relating to pricing information such as escalation by the consumer price index, commodity charge and the commodity linked slope.
- Details relating to non-price conditions such as the take or pay multiplier and load factor.

The ACCC considers that it is appropriate that the details outlined in the proposed legislative instrument be recorded, in this manner, so that ACCC can effectively perform its compliance and enforcement role under the Code. These specific details outlined will help the ACCC ascertain a clear understanding of the supplier's agreements to supply regulated gas for a period of 12 months or greater so that the ACCC can monitor and enforce compliance with Part 4 of the Code, as well as section 53ZQ of the CCA. On balance, the ACCC considers that this requirement will support the Code's objectives while imposing the minimum burden on suppliers necessary to achieve these objectives. The proposed specific details to be

recorded under the determination will assist the ACCC in engaging clearly and effectively with suppliers.

4.2.4. Proposed details to be recorded under section 33(3) in relation to variations to agreements to supply regulated gas

The ACCC proposes to make a determination that suppliers record the details set out in Part 8 of the proposed legislative instrument, relating to variations to agreements to supply regulated gas, under section 33(3) of the Code.

Broadly, the ACCC proposes to make a determination requiring that suppliers record details relating to the following matters with respect to variations to agreements to supply regulated gas:

- details of the variation, including title of the variation and whether the agreement is subject to an exemption under the Code
- details of the buyer, including their name and ABN/ACN
- details relating to the supply of regulated gas under the variation, including the start and end dates for supply, the delivery points and delivery region, annual contract quantity, whether the regulated gas supplied or to be supplied is subject to the Australian Market Supply Condition and the basin expected to be the predominant source of the regulated gas supplied

The ACCC considers that it is appropriate that the details outlined in the proposed legislative instrument be recorded, as specified, so that ACCC can effectively perform its compliance and enforcement role under the Code. These specific details will help the ACCC ascertain a clear understanding of a supplier's variations to agreements to supply regulated gas and allow the ACCC to monitor and enforce compliance with Parts 3, 4, 5, 6 and 7 of the Code, as well as section 53ZQ of the CCA. The proposed specific details to be recorded under the determination will assist the ACCC in engaging clearly and effectively with suppliers.

4.2.5. Proposed additional details to be recorded under 33(3) for all variations to agreements to supply regulated gas for a period of 12 months or greater

The ACCC proposes to make a determination set out in Part 9 of the proposed legislative instrument which would require that suppliers record the following additional details relating to variations to agreements to supply regulated gas for a period of 12 months or greater, under section 33(3) of the Code.

Broadly, the ACCC proposes to make a determination requiring that suppliers record details relating to the following matters with respect to variations of agreements to supply regulated gas for a period of 12 months or greater:

- Details relating to pricing information such as escalation by the consumer price index, commodity charge and the commodity linked slope.
- Details relating to non-price conditions under as the take or pay multiplier and load factor.

The ACCC considers that it is appropriate that the details outlined in the proposed legislative instrument be recorded, in this manner, so that ACCC can effectively perform its compliance and enforcement role under the Code. These specific details outlined will help the ACCC ascertain a clear understanding of the supplier's variations to agreements to supply

regulated gas for a period of 12 months or greater so that the ACCC can monitor and enforce compliance with Part 4 of the Code, as well as section 53ZQ of the CCA. On balance, the ACCC considers that this requirement will support the Code's objectives while imposing the minimum burden on suppliers necessary to achieve these objectives. The proposed specific details to be recorded under the determination will assist the ACCC in engaging clearly and effectively with suppliers.

4.2.6. Proposed details to be recorded under section 33(3) in relation to certain offers

The ACCC proposes to make a determination set out in Part 10 of the proposed legislative instrument that would require suppliers to record the certain details relating to supplier gas offers and buyer gas offers for agreements to supply regulated gas, under section 33(3) of the Code.

Broadly, the ACCC proposes to make a determination requiring that suppliers record details relating to the following matters with respect to offers that are to supply regulated gas for a period of 12 months or more:

- the type of offer
- details of the buyer, including their name and ABN/ACN
- whether the offer is subject to an exemption
- whether the offer proceeded to an agreement and associated details
- relevant details relating to the offer such as delivery point and delivery region, proposed start date of supply, proposed end date of supply, annual contract quantity, the take or pay multiplier, the commodity linked slope and the fixed price component.

The ACCC considers that it is appropriate that the details outlined in the proposed legislative instrument be recorded, in this manner, so that ACCC can effectively perform its compliance and enforcement role under the Code. The specific details outlined will help the ACCC ascertain a clear understanding of offers so that the ACCC can monitor and enforce compliance with Parts 3, 4, 5 and 7 of the Code, as well as section 53ZQ of the CCA. The proposed specific details of the determination will assist the ACCC in engaging clearly and effectively with suppliers.

4.2.7. Proposed details to be recorded under 33(3) in relation to gas EOIs

The ACCC proposes to make a determination, set out in Part 11 of the proposed legislative instrument, which would require that suppliers record the certain details relating to gas EOIs under section 33(3) of the Code.

Broadly, the ACCC proposes to make a determination requiring that suppliers record details relating to the following matters with respect to gas EOIs:

- the date the gas EOI was issued
- whether it is subject to an exemption under the Code
- details about the persons who responded to the EOI
- whether the gas EOI proceeded to a gas initial offer and associated details

- details relevant to the gas EOI such as intended start date and end date of supply, delivery points and region, annual contract quantity, take or pay multiplier, load factor and banking rights.

The ACCC considers that it is appropriate that the details outlined in the proposed legislative instrument be recorded, in this manner, so that ACCC can effectively perform its compliance and enforcement role under the Code. The specific details outlined will help the ACCC ascertain a clear understanding of the EOIs issued so that the ACCC can monitor and enforce compliance with Parts 3, 5 and 7 of the Code, as well as section 53ZQ of the CCA. The proposed specific details of the determination will assist the ACCC in engaging clearly and effectively with suppliers.

4.2.8. Section 33 records kept in a form approved by the ACCC

Records required to be kept under section 33, including those prescribed by the proposed determination, must be kept in a form approved in writing by the ACCC.

The ACCC proposes that the details required to be kept under section 33 be recorded in the format of the Section 33 workbook that can be found on the ACCC's website as part of the consultation package. The ACCC proposes that at the beginning of each reporting year, the supplier creates a new copy of the Section 33 workbook and updates the reporting year field in the "Company Details" tab. This will ensure that the years in the other tabs of the workbook are updated and relevant while ensuring that suppliers are meeting their record keeping obligations.

5. Section 34 of the Code – Suppliers to publish information relating to available gas

Section 34 of the Code provides that a supplier must publish information relating to available gas on their website. This information must be published in a legible and prominent way.

Section 34 specifies that covered suppliers must maintain a statement including the following information on their website:

- the volume of uncontracted gas that is likely to be available to the supplier over a 24-month period¹⁵
- the volume of uncontracted gas over a 24-month period that the supplier intends:
 - to be the subject of an EOI, a gas initial offer or a gas final offer; or
 - to be supplied under an agreement
- the details of each EOI the covered supplier intends to issue over the next 24 months, including the volume of gas proposed to be supplied and the period of supply
- information of a kind specified in a determination made by the ACCC.

5.1. ACCC role under Section 34 of the Code

Section 34(3) states that the ACCC may, by legislative instrument, make a determination specifying a day, after which the information is to be published, as soon as practicable.

Section 34(7) states that the ACCC may make a determination specifying any additional information suppliers must publish on their website.

The ACCC can specify the form in which this information is to be published.

5.2. ACCC's proposed determination in relation to Section 34 of the Code

5.2.1. Proposed determination under section 34(3)

The ACCC proposes making a determination under section 34(3) of the Code to require covered suppliers to publish the required information biannually. The ACCC proposes that this information will be required to be published, as soon as practicable, after 1 April and 1 October of each year.

The ACCC considers that these dates are appropriate, striking a balance of not being too early in the calendar year when suppliers may have limited personnel available to meet publishing requirements, and not being too late in the calendar year so that the published information can be of use to those looking to contract regulated gas in the coming year. Furthermore, 1 April and 1 October align with financial quarters, streamlining the publishing process.

The ACCC considers that it is appropriate for information under section 34(3) to be published biannually. The ACCC considers that publishing information biannually will ensure

¹⁵ For the purposes of the Code, the ACCC expects that covered supply is "likely to be available" is expected to be a supplier's "best estimate" of available gas.

that the market has timely and up-to-date information. On balance, the ACCC considers that this timing requirement will support the Code's objective of transparency while imposing the minimum burden on suppliers necessary to achieve this objective.

5.2.2. Proposed determination under section 34(7)

The ACCC proposes making a determination under section 34(7) of the Code requiring covered suppliers to publish the volume of uncontracted regulated gas that is likely to be available to the supplier, in each financial quarter, over the relevant 24 month period.

For the purposes of the proposed determination under this section, the relevant 24 month period is the 24 months immediately following the dates set under section 34(3) (1 April and 1 October). For example, the relevant 24 month period for information published on 1 April 2024 is from 1 April 2024 through to 31 March 2026.

The ACCC considers that it is appropriate that suppliers are required to publish the volume of uncontracted regulated gas likely to be available to the supplier over a 24 month period, in a disaggregated manner, which sets out the volume of gas likely to be available in each quarter, to support the transparency objectives of the Code. The ACCC considers that one aggregated number for the entire 24 month period has limited utility to gas buyers and greater transparency on when the volumes of gas are likely to come available to the suppliers, will support the Code's objectives. The ACCC considers that the proposed requirement to biannually publish the volume of uncontracted regulated gas likely to be available to a supplier in each quarter of the upcoming 24 months achieves the objective of transparency while imposing the minimum burden on suppliers necessary to achieve this objective.

The ACCC acknowledges that the volume of uncontracted regulated gas a supplier expects is likely to be available to them in the future, at any given point in time, is based on a range of circumstances and related assumptions. The ACCC's expectation is that when publishing information under this proposed determination, suppliers are to provide their best estimate of uncontracted regulated gas likely to be available within each quarter, over the relevant time period, based on all the relevant information available to them at that time. The ACCC understands that circumstances may change over time, influencing assumptions and as such, the volume of uncontracted regulated gas reported as likely to be available in a quarter during one reporting period, may change, to some extent, for another reporting period.

If the final determination is consistent with the proposed determination, suppliers will be required to report the details pursuant to section 34(7) to the ACCC under section 35(6)(a).

5.2.1. Section 34 publishing in a form approved by the ACCC

The ACCC has published the form in which the statement containing the information required to be published under section 34 is to be published. The approved form and further details can be found [here](#) on the ACCC's website.

The table in the approved form must be published on the covered supplier's website in a prominent position and legible. It cannot be published as an attachment or link.

Should any determination, pursuant to section 34(7), be made, the ACCC will publish an updated form in which the statement containing the information required to be published under section 34 is to be published, as appropriate.

6. Section 35 of the Code - suppliers to report information relating to available gas to the ACCC

Section 35 of the Code provides that covered suppliers must provide the ACCC with a notice setting out certain information relating to available gas as soon as practicable after a date determined by the ACCC.

Presently, section 35 requires suppliers to provide to the ACCC a notice setting out the same information published pursuant to section 34 of the Code. In addition, section 35 states that covered suppliers must provide the ACCC with information on whether they intend to, in the 24-month period:

- issue a gas EOI, gas initial offer or gas final offer for uncontracted regulated gas
- supply uncontracted regulated gas.

6.1. ACCC role under Section 35 of the Code

Section 35(3) states that the ACCC may, by legislative instrument, make a determination specifying a day, after which this information is to be provided to the ACCC, as soon as practicable.

Section 35(7) states that the ACCC may make a determination specifying any additional information suppliers must provide to the ACCC. The ACCC does not intend to issue a proposed determination under section 35(7) at this time.

The ACCC can specify the form in which the notice containing the required information is to be provided.

6.2. ACCC's proposed determination in relation to Section 35 of the Code

6.2.1. Proposed determination under section 35(3)

The ACCC proposes to make a determination which would require that, under section 35(3) of the Code, covered suppliers provide this updated information to the ACCC biannually. The ACCC proposes that this information should be provided to the ACCC, as soon as practicable, after 1 April and 1 October of each year.

The ACCC considers it appropriate that reporting requirements under section 35(3) align with publishing requirements under section 34(3). The ACCC considers that this streamlines Code compliance and minimises the compliance burden for suppliers.

6.2.2. Section 35 publishing in a form approved by the ACCC

The ACCC has published the form in which the notice setting out the information required to be reported under section 35 is to be kept. The approved form and further details can found [here](#) on the ACCC's website.

Should any determination, pursuant to section 34(7), be made, the ACCC will publish an updated form in which the notice setting out the information required to be reported under section 35 is to be kept, as appropriate.