



Australian Government

Department of the Environment and Energy

NATIONAL LIQUID FUEL EMERGENCY RESPONSE PLAN: POLICY MANUAL



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1. PRELIMINARY

Associated Documents

Primary Legislation

Energy Administration Act 1987 (NSW)

Essential Goods and Services Act (NT)

Essential Services Act 1958 (Vic)

Fuel Emergency Act 1977 (Vic)

Fuel, Energy and Power Resources Act 1972 (WA)

Fuels Control Act 1979 (ACT)

Liquid Fuel Emergency Act 1984 (Australian Government)

Liquid Fuel Supply Act 1984 (Queensland)

Petroleum Act 1967 (WA)

Petroleum Products Emergency Act 1994 (Tasmania)

Petroleum Products Regulation Act 1995 (SA)

Petroleum (Submerged Lands) Act 1976 (Australian Government)

State Emergency and Rescue Management Act 1989 (NSW)

Subordinate Legislation

Liquid Fuel Emergency Guidelines 2008

Liquid Fuel Emergency (Activities – Essential Users) Determination 2008

Inter-Governmental Agreement in relation to a National Liquid Fuel Emergency 2006

Planning Documents

Australian Petroleum Statistics (Department of the Environment and Energy)

IEA CERM Operations Manual

IEA Emergency Management Manual

IEA Emergency Reference Guide

New South Wales Petroleum Supply Disruption Response Plan

Northern Territory Fuel Emergency Manual

Petrol and Other Transport Fuels Restrictions and Rationing in South Australia –
Administrative Procedures

Petroleum Products Supply Emergency Management Plan (Tasmania)

Queensland Liquid Fuel Emergency Plan

State Liquid Fuel Shortage - Emergency Plan (WA)

State Liquid Fuel Shortage - Operational Plan (WA)

Acronyms and Abbreviations

ABARE	Australian Bureau of Agricultural and Resource Economics
ABS	Australian Bureau of Statistics
ACCC	Australian Competition and Consumer Commission
ACT	Australian Capital Territory
AIP	Australian Institute of Petroleum
CERM	Coordinated Emergency Response Measures
EMA	Emergency Management Australia
EOSS	Emergency Oil Sharing System
IEA	International Energy Agency
IEP	International Energy Program
IGA	Intergovernmental Agreement in Relation to a National Fuel Emergency (October 2006)
LFE Act	<i>Liquid Fuel Emergency Act 1984</i>
LPG	Liquid Petroleum Gas
MOU	Memorandum of Understanding
NESO	National Emergency Sharing Organisation
NLFERP	National Liquid Fuel Emergency Response Plan
NOSEC	National Oil Supplies Emergency Committee
NSW	New South Wales
NT	Northern Territory
SA	South Australia
WA	Western Australia

2. INTRODUCTION

Background

Australia's state and territory governments have constitutional responsibility for planning and co-ordinating the response to fuel shortages within their territorial boundaries and have appropriate legislation and associated response plans in place to manage such emergencies.

In the event of an actual or likely fuel shortage with national implications, the Governor-General may, when circumstances require, declare a national liquid fuel emergency under the Australian Government *Liquid Fuel Emergency Act 1984* (LFE Act). The declaration of a national liquid fuel emergency requires prior consultation with state and territory governments.

The Australian Government minister with portfolio responsibility for energy (the Minister) administers the LFE Act. The powers of the LFE Act primarily focus on periods of declared national liquid fuel emergencies and gives the Minister and delegates wide-ranging powers to control the drawdown, transfer and sale of industry stocks of crude oil and liquid fuels, to control the range of products produced by Australian refineries, and to control bulk and retail sales of fuel across Australia. Contingency powers may be exercised at any time.

The Minister has the power to delegate many of the powers conferred by the LFE Act to state and territory ministers, Australian Government and State officials and authorised persons. It is expected that the Minister would delegate these powers extensively during a national liquid fuel emergency. State and Territory ministers may continue to exercise powers under State and Territory fuel emergency Acts where they are consistent with the LFE Act. Powers that can be delegated to State and Territory ministers and officials are discussed later in this Plan.

Australia may also be called on to fulfil its obligations as a member of the International Energy Agency (IEA). IEA members are required to maintain minimum emergency oil stocks equivalent to at least 90 days net imports and be prepared to participate in a Collective Action to address a global fuel supply disruption if called upon. The provisions of the LFE Act are designed to ensure Australia can meet these and other IEA obligations.

The policy context and the processes and procedures during an IEA Collective Action are discussed further in **Attachment 8.5 – Australia's IEA Obligations**.

Aim

The aim of the NLFERP Policy Manual (Policy Manual) is to detail the background policy aspects of managing a national liquid fuel emergency declared under the LFE Act. The Policy Manual should be used in conjunction with the NLFERP Communication Manual, the five NLFERP User Manuals and the NLFERP Operations Manual.

Objectives

The objectives of the measures described in the NLFERP are to:

- ensure that essential users have sufficient fuel to attend to their duties;
- ensure other fuel users receive petroleum supplies for as long as possible;
- ensure fuels are distributed equitably and efficiently between all of Australia's States and Territories;
- assist in minimising the effects of a fuel shortage on industry and commerce; and
- ensure Australia meets its obligations as a member of the IEA

during a declared national liquid fuel emergency.

Scope

The NLFERP describes the arrangements for co-ordinating the response to a national liquid fuel emergency. The NLFERP applies to the Australian Government and State and Territory governments within Australia as well as producers, refiners, suppliers, distributors, sellers and users of crude oil, condensate and liquid fuels (including refined liquid petroleum products) in Australia. 'Refined liquid petroleum products' covers aviation gasoline, motor spirit, aviation turbine fuel, lighting kerosene, heating oil, power kerosene, automotive diesel, industrial diesel fuel, LPG, fuel oil, bitumen, naphtha, lubricating oil and lubricating grease.

Activation

The NLFERP can be activated by a likely or actual disruption to fuel supplies which may require declaration of a national liquid fuel emergency.

Authority

The NLFERP is developed under the authority of the NOSEC which comprises representatives of the Australian Government, all state and territory governments and the oil industry. NOSEC reports to the COAG Energy Council. The NLFERP will be submitted for approval to Australian, State and Territory energy ministers.

Maintenance

The Australian Government Department of the Environment and Energy (the Department) is responsible for maintaining the NLFERP. Maintenance responsibilities include developing and updating the strategies and actions in the NLFERP in accordance with agreed policy and operational positions, consulting with all agencies listed in the NLFERP before making changes, notifying all agencies listed in the NLFERP of amendments, and conducting regular communications tests in order to update contact lists.

It is intended the NLFERP will be a working document with continual improvements. The NLFERP will be formally reviewed within two years of its authorisation by NOSEC. This

process will be initiated by the Department. Once agreed by NOSEC, changes will be incorporated into the NLFERP on an ongoing basis.

Integration with other arrangements and plans

The NLFERP covers arrangements for the co-ordination of a national liquid fuel emergency declared under the LFE Act. It relies on State and Territory governments implementing agreed measures under delegation from the Minister including, where required, the proposed arrangements to ration retail sales.

As distinct from the NLFERP, State and Territory governments are responsible for developing and maintaining their own response plans to manage fuel shortages that occur within their own jurisdictions. To the extent possible, State and Territory governments will seek to achieve and maintain broad compatibility with the national plan and with other jurisdictions' response plans with a view to reducing inconsistencies and difficulties which may arise from emergencies operating in adjacent State and Territories, as well as during a transition from a jurisdictional controlled event to a national one. This approach will help to achieve a rapid, effective and co-ordinated response during a national liquid fuel emergency, particularly where State and Territory government response plans have already been activated.

The NLFERP will be relevant to the operation of State and Territory response plans developed under that jurisdiction's legislation where:

- a national liquid fuel emergency is declared following the activation of response plans under State or Territory legislation (transitional arrangements will need to be considered); and/or
- State and Territory governments wish to activate their own response plans during a national liquid fuel emergency in order to implement measures to meet local requirements.

The declaration of a national liquid fuel emergency under the LFE Act does not preclude jurisdictions from concurrently activating their own liquid fuel emergency legislation and jurisdictional response plans. Similarly, operation of jurisdictional legislation and response plans do not preclude declaration of a national liquid fuel emergency and implementation of the NLFERP. However, under sections 51 and 52 of the LFE Act, a direction issued under the LFE Act prevails over any inconsistent or conflicting provision of any other Australian Government, State or Territory law. State and Territory governments have recognised the importance of ensuring individual jurisdictional emergency response arrangements achieve and maintain consistency with the NLFERP with the objective of minimising administrative overlap and regulation confusion in these instances.

The NLFERP is a collective term that includes the NLFERP Communications Manuals, including the Preface, Communication Manual and the five user Manuals; this Policy Manual; and the NLFERP Operations Manual. Read in conjunction, these documents provide all of the

material that should be required to allow a timely and effective response to a liquid fuel emergency.

Officers and stakeholders should be familiar with the LFE Act, the *Liquid Fuel Emergency Guidelines 2008*, the *Liquid Fuel Emergency (Activities - Essential User) Determination 2008* and the Intergovernmental Agreement in relation to a National Liquid Fuel Emergency (IGA).

Training

New staff in the Australian Government line area with policy responsibility for the NLFERP will receive an introduction to the NLFERP with an explanation of its use.

A national simulation will be conducted for those agencies/individuals with a role under the NLFERP at least every two years to test the currency of the NLFERP's arrangements.

Scenarios will be selected which provide the opportunity for the widest possible participation. State and Territory governments are encouraged to conduct complementary state or territory simulations to test their own jurisdictional plans.

In the expectation of a national liquid fuel emergency, costs for training relevant jurisdictional staff will be covered by the Australian Government.

3. TYPES OF PETROLEUM SHORTAGES

A fuel supply disruption is a failure of some part of the crude oil and refined petroleum products supply chain that results in a shortage of refined products within Australia. The supply chain commences at the Australian or international producing oil well and progresses to the petrol pump or final use via a complex system of pipeline, sea, road and rail transport interspersed by one or more oil refineries which convert oil into the petroleum products needed by consumers and industry.

Minor failures of most links of the supply chain such as shipping delays due to poor weather or unplanned shutdowns of parts of oil refineries, are relatively common and can often be bypassed by rearrangements of the chain to accommodate the shortfall. This is achieved by adjustments of the global oil market and may or may not result in fluctuations in the price of oil products. As a result, such disruptions often go unnoticed by end users.

Major failures of the supply chain are not as readily corrected by the market because time is needed to bring alternative sources into play.

The response to a fuel supply disruption depends on the point at which the chain is broken, the volume of oil or product removed from the chain and how long it will be before the break can be mended. The closer to the consumer the break occurs, the quicker the response required if the consequences of the break are to be minimised.

A fuel supply shortage in Australia could be the result of domestic market developments (at a national or jurisdictional level) and/or due to international events. There is a wide range of possible developments which individually, or in combination, can create a supply problem, often at short notice. These can include:

- market factors (unanticipated demand spikes);
- natural disasters impacting on crude production, refinery operation, shipping, and distribution infrastructure; and
- civil unrest and strikes, and foreign government action (e.g. export embargoes).

Further down the supply chain industrial disputes can prevent the unloading of oil at the receiving port, shut down refineries and stop the delivery of petroleum products to consumers. Refineries also need to be closed for regular maintenance and unforeseen closures may arise from a range of events including technical difficulties, power failures, lightning strikes and other factors. While a single isolated event would not generally result in a disruption to fuel supplies, an unforeseen combination of events has the potential to rapidly lead to a significant fuel shortage.

Notwithstanding the above discussion about disruptions, the circumstances that would require the declaration of a national liquid fuel emergency are rare and the vulnerability of Australia to an emergency situation, although changing over time, is considered to be very low. Indeed, the circumstances have not arisen since the LFE Act came into force in 1984. If an event were to occur, the consequences of a shortage could be severe and co-ordinated national action is required to cover this circumstance.

4. OPTIONS IN RESPONDING TO A NATIONAL FUEL EMERGENCY

The Australian Government's policy is, where possible, to allow industry to manage fuel supply shortfalls without government intervention. This approach is validated by the long, successful history of the petroleum industry in making available adequate supplies of petroleum products to ensure a stable, secure supply of oil and products sufficient to meet Australia's requirements. It is also the approach that best minimises the economic impacts of supply disruptions.

Industry Capabilities

The petroleum industry has in place a range of highly effective supply balancing mechanisms with which to respond to an actual (or expected) fuel supply shortfall. These mechanisms include but are not limited to:

- effective planning to meet anticipated supply of and demand for petroleum products;
- sourcing additional petroleum products from other Australian or international refineries;
- sourcing and refining additional crude oil from either Australian or international sources;
- increasing stock levels in anticipation of a disruption and appropriate distribution of available stocks to meet localised supply shortfalls;
- carefully and equitably allocating/rationing bulk fuel to contracted customers based on available supply;
- planned increases in the capacity of refinery production including increased through-put; and
- utilising flexibility mechanisms designed to increase production of particular desired petroleum products (albeit at the expense of other less-desired products).

These mechanisms, depending on the duration and extent of the supply disruption, could include use of alternative crude oils and relaxing fuel standards within-refinery technical capabilities

The key mechanism for managing a severe supply disruption is the industry's bulk fuel allocation procedure.

Bulk Allocation

Industry seeks to ensure continuous supply to all areas which involves simultaneously managing all aspects of the supply chain from crude shipments, refinery throughput, and terminal and distribution capacities. Different points in the supply chain will be subject to different constraints, such as pipeline capacity or the availability of transport.

Industry would normally expect to meet all requests to buy fuel at terminals. However, circumstances may arise where demand exceeds supply when, either actual demand exceeds

forecast demand or when there is a supply disruption or shortage such as during a national liquid fuel emergency.

When a potential demand-supply problem is emerging, industry will attempt to meet demand using all available supply alternatives. If it transpires that the ability of industry to ensure continuous supplies is at risk, the chief mechanism for managing supply is bulk allocations at terminals.

Bulk allocations are the supply of existing contracted customers at a proportion of their usual forecast demand established with their fuel supplier.

When supply is subject to bulk allocations, spot sales are not conducted and may result in an uncontracted purchaser being declined supply by a particular company at a particular time and location. Spot sales account for approximately 5 per cent of sales in the normal course of business.

Bulk Allocations are used where the actual demand exceeds supply and oil company stock levels are expected to be drawn down at an unacceptable rate. Bulk allocations are usually commenced at 100 per cent of contracted volumes.

Most customers are not aware that there is a potential supply problem as contracted supplies are still being delivered. Purchasers wishing to buy on the spot market will not be able to purchase product from that supplier when Bulk Allocations are in place.

Bulk allocations falling below 100 per cent of contracted volumes are a potential indication of a supply problem and the impact on customers would depend on the expected duration of the event and customers' stock levels. The use of bulk allocations could therefore be characterised as a precautionary measure which largely ensures an equitable distribution of available supplies over the duration of the event.

In more severe supply events, bulk allocations also ensure that sufficient stocks are maintained for the use of emergency services.

Industry maintains close contact with relevant Australian, State and Territory and governments and keeps them apprised of the supply situation on an ongoing basis.

Historically, while there may be stock-outs of some products at some retail sites as a result of short term supply disruptions, motorists have had alternative supply options at all times, and there has been no significant across the board panic buying.

If industry bulk allocations at the terminal are not sufficient to mitigate a severe and prolonged supply disruption, the Australian Government could consider activating the LFE Act.

Government Intervention

Rationale for Government Intervention

It is clear that in circumstances that would give rise to the declaration of a national liquid fuel emergency, normal actions of suppliers and consumers may not be capable of meeting national objectives and government intervention to manage a fuel shortage may be required.

The form of the Australian Government's response will depend on the nature, severity and expected duration of the supply disruption. While state and territory fuel emergency response plans could be activated to respond to incidents which did not require a national response in the first instance, the impact of long term supply disruptions would generally not be limited to one or two states or territories and could become the subject of a co-ordinated emergency response by the Australian Government, possibly through activation of the LFE Act. An Australian Government response may also be required to meet Australia's IEA obligations (Attachment 8.5).

Operation of the Price Mechanism to Reduce Demand

The legislative framework of the LFE Act prevents the Australian Government from controlling prices (under section 25) in the event of a national liquid fuel emergency. This is consistent with the Government's policy to allow the market to work. In practice, the Australian Government's initial response would be to monitor the effect of natural price increases on patterns of demand without intervening in the market and the extent to which this strategy could alleviate the supply shortage. It is the Government's policy to allow oil price increases to flow through to consumers during a supply disruption, reflecting the desirability of using price rises resulting from a reduction in supplies to restrain fuel purchases. It also reflects the recognition that while price rises would not lead to uniform demand restraint across all incomes, the use of price controls could prove costly in the longer term given that overseas suppliers and refiners would be unlikely to supply to, or invest in, a market where prices are kept artificially low.

To address these issues, during a liquid fuel emergency the Australian Competition and Consumer Commission (ACCC) will monitor retail fuel prices against international and domestic benchmarks, noting that a primary role of the ACCC is to promote effective competition and prevent anti-competitive practices.

An existing framework for the provision of recovery assistance exists in the context of disaster recovery planning. It is anticipated that in the event of a national liquid fuel emergency, state and territory disaster recovery plans may provide a framework for managing some of the consequences of a national liquid fuel emergency. The need for, extent of, and eligibility for, assistance would be determined at the time of the emergency depending on the scale and duration of the emergency event and its impact on low income earners.

Initial Contingency Demand Restraint Actions (ICDRA)

(Note: measures may be introduced separately or collectively over 30 days)

National Oil Emergency Demand Restraint Strategy (NOEDRS)

The NOEDRS is a list of demand restraint measures which can be applied during a national or global oil supply disruption. It identifies preferred measures, how and by whom each initiative is best applied, and estimated volumetric savings. It provides a range of light-handed demand restraint measures supported by policies and procedures, to compliment industry initiatives and build on incentives created by price pass through.

The NOEDRS enhances Australia's demand side emergency response capability and strengthens compliance with Australia's IEA obligations under the International Energy Program to maintain a demand restraint capability. Where a global oil supply disruption results in an IEA co-ordinated action but does not warrant activating the LFE Act, the NOEDRS extend options available to Australia by introducing a list of Initial Contingency Demand Restraint Actions (ICDRA), to complement market based mechanisms. The ICDRA are set out below. *Principles*

Australian's NOEDRS meets the following principles:

- Australia's initial contingency response plan consists of market and policy-based demand restraint measures that are mutually reinforcing and capable of delivering up to a 10 per cent demand reduction¹ in total in response to an IEA collective action, without invoking legislative tools such as the LFE Act or jurisdictional Acts.
- Policy retains market-based price-led demand response as the primary strategy.
- Market and industry mechanisms are supported as economically efficient and least cost approaches.
- Consistency with existing provisions of the LFE Act, the NLFERP, and the IGA.
- Consistent with the IEA *Guidelines for Demand Restraint* (2010) and the IEA publication *Saving Oil in a Hurry* (2005).
- Meets Australia's obligations under the IEA IEP Treaty 1974 and CERM 1985 (as amended).
- Compliments industry contingency response plans.
- Developed in consultation with NOSEC and has their support.
- Supported by clear procedures for timely and effective implementation, monitoring and evaluation.
- Supported by appropriate data systems.

¹ Based on historical evidence for reductions from market measures combined with IEA estimates for savings from light-handed policy measures.

Type of Measure and contribution to fuel saved	Description of mechanism	Implemented By	Saving Estimate (MM+LH) 7.6% to 10.7%	Cost Responsibility	
1. Market measure (MM) Saving is applied to all liquid fuel use. Total MM = 4 - 6 %	Consumers and industry respond to price signal	Market price mechanism (ACCC safeguards consumer interest by monitoring prices)	4% to 6% Estimate depending on the current level of prices and the market response.	Market will determine degree of price pass through to consumers.	
2. Light-handed (LH) policy measures apply to road transport fuel use and are predominantly passenger vehicle focused. Contribution of LH policy measures is reduced by 40% to reflect the contribution of passenger vehicles to road transport fuel consumption Sub-total LH 6% to 8.5% Total LH (@60% = 3.6% to 5.1%	Promotion of eco-driving	Website of eco driving information to reduce personal fuel usage	Commonwealth in cooperation with NOSEC 2% to 3% Estimates derived from IEA guidelines.	Commonwealth for national website, Jurisdictions for any mirror websites	
	Corporate information campaign	Corporate information campaign promoting use of business continuity planning	Commonwealth. Corporations integrate demand restraint measures in business continuity planning.	Commonwealth for development of national information material and campaign. Individual firms	
	Car pooling campaign	Public and corporate information campaign promoting alternatives to single occupant and discretionary driving during an emergency	Commonwealth and Jurisdictions seek real-time cooperation of implementing partners e.g. Department of Transport and driving associations	0.5% Estimates derived from IEA guidelines	Commonwealth: development of national public information material & campaign. Jurisdictions: distribution & supporting media
	Public transport campaign	Public information campaign promoting the use of public transport during a liquid fuel emergency	Commonwealth and Jurisdictions seek real-time cooperation of implementing partners e.g. Department of Transport	0.5% to 1% Estimates derived from IEA guidelines.	Commonwealth: development of national public information material & campaign. Jurisdictions: distribution & supporting media
If the disruption escalates beyond thirty days &/or around a 10% supply disruption then heavier-handed policy and legislative measures to be considered in accordance with the LFE Act and NLFERP, including bulk allocation directions by the Minister to Industry					
<p>Guidance note: This pre-determined menu of actions is designed to:</p> <ul style="list-style-type: none"> Provide Australia's initial response to an IEA call for coordinated action requiring response and commitment to a set of demand restraint measures within 48 hours of an agreed alert notification, consistent with the IEA Initial Contingency Response Plan. Facilitate a flexible additional reduction in oil consumption from solely market-based responses and an agreed complimentary menu of light-handed demand restraint policy measures supporting choice of action through information. Provide an automatic response capability to cover up to 30 days of an oil disruption. It is assumed that the coordinated action will either be withdrawn OR escalated, requiring heavier supplementary action depending on circumstances. <p>Decision making criteria to support selection and escalation/withdrawal of measures include:</p> <ul style="list-style-type: none"> the nature of the emergency; effectiveness of measures; and status of the supply situation and whether panic buying/hoarding is occurring. <p>Data supports decision making and is consistent with IEA Emergency Data Questionnaire requirements:</p>					

Regulated Retail Rationing

Where a further government response to a fuel supply shortage is required, measures would focus on regulatory controls which could be placed on either bulk or retail sales of petroleum products and further customer demand side management responses with the objective of reserving supplies for essential users and ensuring other users have petroleum supply for as long as possible.

Whilst the Government's preference is to allow industry to respond to a fuel emergency in the first instance, the LFE Act incorporates powers to direct the supply of liquid fuels, either at the bulk or retail level. Depending on the severity and expected / actual duration of an emergency, people may be restricted in their fuel consumption for certain periods of time. The measures set out in the NLFERP cover the implementation of regulated Bulk Allocation and retail rationing arrangements, and recognise the desirability of maintaining public awareness campaigns throughout.

It is anticipated that mandatory controls would only be introduced if market based measures did not achieve desired outcomes. The form of Government intervention would depend on the expected severity and length of the shortage. In considering the merit of response strategies, the petroleum industry and other key stakeholders, particularly State and Territory governments, will be consulted and given adequate opportunity to provide input to the Australian Government on the options for managing an emergency with national implications.

Supply Impediments related to Fuel Quality Standards

It is possible that supply of petroleum products during an emergency may be enhanced by relaxing fuel standards. Some aspects of standards have implications for vehicle operability and the environment but others might be varied for the limited period of an emergency without significant adverse consequences. A concern with the relaxation of fuel standards is that this has potential to create a commercial advantage for some participants in the market. This issue will be further explored by NOSEC.

If necessary, the Government could move to address other impediments to the supply of petroleum products wherever possible and appropriate.

Other Response Options

If Australia experienced a decline in fuel supplies of more than 7 per cent and this decline was not globally widespread, Australia may also consider the merit of drawing on its rights as a member of the IEA to seek additional petroleum supplies from other IEA member countries, if available and feasible.

Liquid Fuel Emergency Act 1984

The LFE Act is the principal power for managing a severe fuel shortage at the national level and provides the authority for government action to prepare against and manage available resources during a national liquid fuel emergency. The LFE Act is administered by the Minister.

The constitutional basis for Australian Government action under the LFE Act relates to matters of national concern and specific Australian Government responsibilities (eg. defence; the protection of the existence of Australia as nation; Australia's rights and obligations as a member of the IEA; supplies to the Territories and to the Australian Government or its authorities; as well as ensuring that trade or commerce may be carried on without obstruction or hindrance, and to the extent that the Constitution permits, in an efficient, competitive and profitable manner).

The LFE Act incorporates contingency planning powers which may be activated at any time and emergency powers which are applicable during periods of declared national liquid fuel emergency. Contingency planning powers include powers to direct fuel industry corporations to maintain particular levels of reserves, develop bulk allocation procedures and to maintain statistical information. The Minister may also enter into arrangements for carrying out measures to enable the implementation of directions under sections 23 and 24 of the LFE Act to regulate or prohibit the supply of liquid fuel. The IGA is an example of such an arrangement.

Emergency planning powers give the Minister wide-ranging powers to control the drawdown, transfer and sale of industry stocks of crude oil and liquid fuels, to control the range of products produced by Australian refineries and to control bulk and retail sales of fuel across Australia. The declaration of a national liquid fuel emergency does not require all of the powers under the LFE Act to be exercised at a particular time.

The Minister has the power to delegate many of the powers conferred by the LFE Act to State and Territory ministers, Australian Government and State and Territory officials and authorised persons. It is anticipated the Minister would delegate their powers extensively during a national liquid fuel emergency.

The Guidelines to the LFE Act are legally binding and constrain the nature of some of the directions made under the Act in order to establish a consistent national framework.

Further information on the LFE Act is provided at **Attachment 8.2**.

Actions and requirements for publication and notification under the LFE Act are provided at **Attachment 8.4**.

Australia's IEA Obligations

As a member of the IEA, Australia is required to:

- maintain minimum emergency oil stocks of at least 90 days of net imports;
- have in place a demand restraint program which can be activated in an emergency to reduce domestic demand to a level prescribed by the IEA;
- maintain a domestic National Emergency Sharing Organisation (NESO) to decide on domestic oil allocation in an emergency (this function is performed by NOSEC in consultation with relevant agencies);

- participate in the equitable sharing of available oil supplies with other member nations through the Emergency Oil Sharing System (EOSS) and Co-ordinated Emergency Response Measures (CERM); and
- participate in the IEA's emergency information system by providing regular data reports on oil industry operations.

In recent years the IEA has developed contingency plans to respond to specific crises. These plans have provided for the implementation of CERM-type measures to make additional quantities of oil available to the international market.

In 1991 Australia responded to an IEA CERM request due to the Iraq war. Australia supported and participated in the contingency plan activated by the IEA in September 2005 in the aftermath of Hurricane Katrina. Australia's contribution was to make available 35,900 barrels per day (which was 1.8 per cent of the total IEA response). Australia successfully met its obligation over the first 30 days through market-led demand restraint, achieving a 6.29 per cent reduction in consumption during September 2005. More recently Australia responded to an IEA CERM request in response to civil unrest in Libya in 2011.

Further information on IEA emergency response measures is provided in the Section on the IEA in **Attachment 8.5**.

5. RESPONDING TO A NATIONAL FUEL EMERGENCY

This section discusses the powers available to the Minister during a national liquid fuel emergency and how these powers would most likely be used.

It should be noted that in responding to a national liquid fuel emergency, it is intended that there would be wide consultation and a high level of communication between governments and with industry. A set of communications principles have been developed by the Australian Government, State and Territory governments, and industry for sharing information about serious actual/forecast supply disruptions. These principles are designed to ensure governments are forewarned of potentially significant shortages in supply and are better placed to consider the cumulative effects of a range of isolated events. Governments have also agreed to consult one another when they propose to invoke emergency powers to manage fuel supply shortages within their jurisdictions.

A copy of the communications principles is at **Attachment 8.1**.

An overview of the communications arrangements during the lead up to and during a liquid fuel emergency is set out in the **NLFERP Communications Manual** and the five **NLFERP User Manuals**.

Declaration of a National Liquid Fuel Emergency under the LFE Act

LFE Act Requirements

The Governor-General may declare by Proclamation, under section 16 of the LFE Act, a period of national liquid fuel emergency if there is a shortage or likelihood of a shortage of liquid fuel that will require the use of emergency powers under sections 17-24 of the LFE Act.

A national liquid fuel emergency, under section 16 of the LFE Act, may be declared only if the Governor-General is satisfied that the use of these emergency powers is in the public interest, there is no real prospect of averting the shortage by voluntary augmentation of supplies by oil companies, and the Minister has provided the opportunity for prior consultation with the relevant state and territory ministers.

The period of a national liquid fuel emergency specified in a Proclamation cannot exceed three months (section 16(4) of the LFE Act) however successive Proclamations are possible. A Proclamation declaring a period of national liquid fuel emergency may be revoked by a subsequent Proclamation at any time if it is no longer in the public interest for the emergency to continue (section 16(5) of the LFE Act).

Establishing the Need for a Declaration

It is envisaged that the LFE Act would only be invoked in response to an actual or expected severe and prolonged disruption to liquid fuel supplies. The objectives of the Government's intervention would focus on circumstances relating to the defence of Australia, the protection of Australia as a nation, to give effect to Australia's IEA obligations, for the purposes of

dealing with the consequences of events that severely disrupt national liquid fuel supplies and for the purpose of ensuring minimum levels of supply are maintained to essential users.

The Minister is responsible for providing advice to the Australian Government and the Governor-General on the need to declare a national liquid fuel emergency. In providing this advice, the Minister is required to consult with state and territory ministers under section 16(2)(b) of the LFE Act and would also consult industry and other stakeholders through NOSEC and other fora as appropriate. In practice it is expected that the Minister would make a recommendation to Cabinet on whether or not a national liquid fuel emergency should be declared.

The decision making framework for declaration of a national liquid fuel emergency is set out in the **Communications Manual** and the **five User Manuals** and is also considered under **Roles and Responsibilities, Chapter 6** of this manual.

The Communications principles set out in **Attachment 8.1**, and in the **Communication Manual**, the **five User Manuals**, facilitate information sharing and co-ordinated arrangements for managing a national liquid fuel emergency.

Contingency Planning Powers

The planning powers under the LFE Act can be invoked at any time and enable the Minister to direct companies to accumulate and maintain specified quantities of fuels at prescribed locations and to provide relevant statistical information (sections 12-15 of the LFE Act) in case of an actual emergency. Petroleum producers, major oil companies and some large consumers are required to report stock levels and other data to the Department each month. This information, in turn, is provided to the IEA for inclusion in its emergency information system and statistical database.

The planning powers also enable the Minister to direct relevant industry corporations to develop bulk allocation procedures as a stand-by in case of a national liquid fuel emergency. In particular, these procedures will need to distinguish between essential users and other users.

Alert Phase

In the *expectation* of a national liquid fuel emergency, an ‘alert phase’ may be activated. It is expected that this will follow a series of ‘pre-alert phase’ consultations with NOSEC which have indicated the need to activate an official ‘alert phase’. The purpose of the alert phase is to expedite appropriate preparations, consultations and resource allocation decisions to ensure a best practice response can be implemented. Consultations during this phase may include discussion of options which might be taken to avoid a national liquid fuel emergency, how best to respond, and preparation for implementation of measures. The alert phase would be implemented by the Minister on the advice of NOSEC.

This alert phase signals the requirement to:

- convene NOSEC to assess and monitor the situation (either face-to-face or via teleconference);

- recommend appropriate response options and ensure preparations for implementation of these options are well advanced to allow rapid implementation;
- consult relevant parties (including the confidential briefing of all involved Ministers and agencies);
- commence the preparation of relevant documentation including, for example, Ministerial directions, proclamations, media releases etc;
- ensure resource allocations are appropriate and placed on standby to manage the potential liquid fuel emergency event; and
- seek an emergency ACCC authorisation of co-operative industry planning processes in response to the liquid fuel emergency event.

A national alert phase may be triggered where the Minister, acting on the advice of the NOSEC Chair, believes that an event has occurred, or is likely to occur, that will have national implications. These triggers are expected to be directly related to:

- a recommendation from the Australian Institute of Petroleum (AIP) that an alert phase should be invoked;
- an expectation that the IEA will commence co-ordinated CERM;
- such other serious failure of the petroleum supply chain which the Minister reasonably expects will have widespread national impacts on the Australian economy.

An alert phase may or may not be made public. This decision will be taken by the Minister.

Delegation of Australian Government powers to states and territories

Powers that could be delegated to the State and Territory ministers and officials and the circumstances under which these powers would most likely be delegated are detailed at Attachment 8.6. It is also anticipated the Minister would delegate to Australian Government officials most of the powers listed in Attachment 8.7. Unless circumstances require otherwise, it is intended the same powers would be delegated to each jurisdiction at the same time. Sample documents relating to the declaration of a national liquid fuel emergency and implementation of response measures (including delegations) are provided in the Operations Manual.

The power to give directions regulating or prohibiting the supply of fuel by relevant fuel industry corporations or persons cannot be delegated under the LFE Act, but it is anticipated that if retail rationing were to be implemented under the LFE Act, the Department would recommend delegation of the following powers to the states and territories:

- implementation of retail rationing arrangements;
- identification of essential users;
- authorisation of the release of items seized for evidence;
- the ability to seek injunctions for compliance purposes; and
- reconsideration of reviewable decisions.

Implementation of measures to manage a national liquid fuel emergency

Powers to Direct Industry Corporations (sections 17-20 of the LFE Act)

The powers under these sections would generally only be used if governments were unable to achieve the desired provision and distribution of fuel by agreement with relevant fuel supply corporations. Directions under these sections would be issued following consultation with the states and territories (in accordance with section 42 of the LFE Act) and other affected parties.

Powers under sections 17 and 19 of the LFE Act (apart from section 17(5) which, under section 49, is prohibited from being delegated) may be delegated to State and Territory ministers and officials, however it is not anticipated these powers would be delegated to the states and territories at the outset of a national liquid fuel emergency.

Sections 17-20 of the LFE Act enable the Minister to issue directions to an industry corporation directing it to:

- (section 17) *accumulate, or maintain at a specified place, specified quantities of specified liquid fuels by a specified date*
 - these powers could be used to direct the maintenance of minimum stocks of product within the distribution chain when supplies reached critical levels, or to direct the maintenance of stocks of particular products at certain places for a particular purpose (for example, defence); and
 - these powers could also possibly be used at the early stage of an emergency to prevent excessive drawdown of available stocks.
- (section 18) *transfer liquid fuel between states and territories, or within states and territories for national purposes* (defence, provision of fuel for ships and aircraft engaged in trade and commerce, fuel exports etc.)
 - these powers could be used to ensure there was a more uniform distribution of available fuel supplies between the states and territories in order to afford consumers and industry more equitable access to fuels, or to ensure sufficient fuel was available at a particular location within a jurisdiction for national purposes; and
 - these powers would be used to respond to an identified need following consultation with the affected parties.
- (section 19) *make available for sale to one or more specified persons specified quantities of liquid fuel*
 - these powers could be used to ensure continued supplies were available to essential users or to the suppliers of those users;
 - these powers could be used to ensure available supplies were equitably distributed within a particular State or Territory or directed to regions of greatest need; and
 - these powers could be used to direct companies to sell quantities of fuel to specific customers in accordance with Australia's obligations under the IEA EOSS.
- (section 20) *produce or refine a specified quantity of liquid fuel of a specified kind*

- these powers could be used to direct refineries to produce fuel product types in proportions considered to be most consistent with the national need during an emergency.

The scope of such directions would be constrained by operational considerations at refineries and will need to be considered at the time of the emergency.

Powers to Control Retail Sales (sections 23 and 24 of the LFE Act)

Sections 23 and 24 of the LFE Act give the Minister the power to issue directions implementing a national system to ration fuel to retail users during a specified period (planning period) of a national liquid fuel emergency.

The Guidelines to sections 23 and 24 of the LFE Act require the Minister's directions to ensure fuel is not supplied without evidence of entitlement to purchase the quantity to be supplied, and the maximum quantities of fuel that may be supplied at one time, or over a particular period, are specified. The directions may specify different supply periods and quantities for different persons or class of fuel users during a planning period. The Minister may enter into arrangements with State and Territory ministers that would facilitate the implementation of such measures at any time (section 15 of the LFE Act).

Policy for Retail Rationing

There are a number of key characteristics of an effective retail rationing scheme, including:

1. Achieves the required demand response.

Any retail rationing scheme must be able to:

- help constrain demand to the available supply in the Australian market (including if an Australia-wide bulk allocation direction is utilised);
- provide a fair and transparent allocation of available fuel supply to users not on the essential users list; and
- allow market price signals to flow through to fuel users and consumers.

2. Practical to implement and administer.

Any retail rationing scheme:

- can be easily, rapidly and efficiently implemented on the ground;
- utilises existing commercial business practices and systems technology at the retail level (to the greatest extent possible); and
- can be readily administered including assisting with the orderly management of retail sites and fuel purchases.

3. Simple to understand and communicate.

Any retail rationing scheme needs to:

- be simple enough that it is easily communicated to, and understood by, the general public; and

- reflects, to the greatest extent possible, the normal consumer buying behaviours and preferences.
4. **Flexible to the particular circumstances of any given liquid fuel emergency and how it evolves over time.**

Any retail rationing scheme should provide for refinement during the course of a liquid fuel emergency as the severity of the liquid fuel emergency changes.

5. **Provides a clear decision making framework and role for government.**

Any retail rationing scheme provides a clearly defined (and appropriately limited) set of key parameters for government decision making.

The Australian Government has established a retail rationing scheme which is consistent with these efficiency criteria. The scheme simply involves ‘retail restrictions’ being set in terms of a maximum transaction value per motorist per day. Whilst the ‘total transaction value’ would be fixed, the price per litre would be able to fluctuate according to the normal operation of the market and consistent with the principles of efficient management of scarce resources. This would have the effect of reducing or increasing the volume of fuel sold if prices rise or fall respectively (as would be expected under scarcity pricing during an emergency).

This retail rationing scheme:

- will achieve the required demand response, as prices and sales volumes will be market determined and will reflect the market and supply conditions at the time;
- is easy to communicate to market operators and is quick and easy to implement, as it is consistent with existing retail systems, technology and practices (site operators and pumps can only typically limit or authorise a total ‘dollar purchase’ at the pump, not a volume limit on purchases);
- is flexible, as the ‘total transaction value’ can be readily determined and adjusted depending on the supply situation;
- is easy to administer and control, as it will likely lead to less queuing and disorder at the retail site;
- focuses NOSEC and Minister’s decisions to determining a ‘total transaction value to implement on the basis of available supply; and
- is easy for consumers to understand and is reflective of consumer buying behaviour, as consumers are more sensitive to the total value of the fuel sale rather than the total litres purchased.

Implementation Example: *A \$40 ‘total transaction value’ limit was recommended by NOSEC and agreed by the Minister.*

- The Department, states and territories, communicates the limit, through a media statement.
- Retail sites authorise a \$40 limit on all pumps.
- Motorists visit a retail site, fill their tank to the \$40 limit or less (before the pump switches off), and then pays at the bowser through a pre-set facility, or at the counter.

The maximum transaction value limit would be determined with reference to a benchmark price of fuel prior to the emergency multiplied by a number of litres. The volume of litres

would be developed in consultation with NOSEC and would reflect an assessment of the shortfall in supply and the expected duration of the liquid fuel emergency.

Fuel marketers consider such an approach would lead to more effective site management during a national liquid fuel emergency, impose tighter controls over the scheme, and would produce a more favourable consumer response to the scheme compared to other arrangements.

Depending on the severity and duration of the emergency, it is intended that essential users will continue to receive unrestricted fuel supply during a liquid fuel emergency.

Essential Users

The Minister is responsible for identifying essential users that fall into classifications listed in section 11(1) of the LFE Act. Essential user classification is defined by the user's need for a particular refined petroleum product to undertake an activity that:

- relates to Australia's defence; or
- relates to the provision of the particular product as fuel for ships and aircraft engaged in international or domestic trade or commerce; or
- relates to the export of the particular product from Australia; or
- relates to activities essential for the health, safety and welfare of the community as listed in the *Liquid Fuel Emergency (Activities – Essential users) Determination 2008*.

The activities listed in the Determination are:

- an ambulance service;
- a corrective service;
- a fire or rescue service;
- a police service;
- a public transport service;
- a State Emergency Service or an equivalent organisation; and
- a taxi services.

Identification of Additional Essential Users

The prevailing policy is that essential users have been identified in the LFE Act and the Essential Users Determination, and the Minister will be advised not to extend essential user status.

The NOSEC has developed a comprehensive Guidance Note to set out current policy with respect to essential users in a national liquid fuel emergency and the rationale that informs that policy.

The Guidance Note also sets out some actions that fuel users can take to manage the impacts of a reduction of fuel supply.

The NOSEC Guidance Note: Essential Users under the *Liquid Fuel Emergency Act 1984* is at **Attachment 8.11**.

Planning Periods

Under the LFE Act, the regulation of retail sales and identification of essential users is subject to planning periods. For each successive planning period, it will be necessary to consider what retail controls should be adopted for the duration of that planning period and to renew the identification of essential users. It should be noted however, that for administrative ease this can be achieved via a direction from the Minister that, for example, ‘previous essential user status will carry over into the new phase’.

The Minister is required to consult state and territory ministers in relation to the renewal of planning periods and the measures to be implemented during subsequent planning periods (section 42 of the LFE Act). Consultations with other Australian Government ministers, the Prime Minister, industry, and other relevant key stakeholders will also be required. The choice of measures would clearly depend on the efficacy of the current set of response measures and the likely availability of fuel supplies to meet demand over the next planning period.

Powers to Control Bulk Sales (sections 21 and 22 of the LFE Act)

These sections enable the Minister to direct fuel industry corporations and relevant persons to implement a Bulk Allocation procedure for certain amounts of a particular liquid fuel to bulk customers. Bulk customers are normally account customers with an established purchasing history of at least 15 months from their supplier.

Currently, the Guidelines to sections 21 and 22 of the LFE Act outline a number of matters that the Minister must take into consideration before issuing a bulk allocation direction, for example, the expected severity, type, impact and duration of liquid fuel supply disruption.

Fuel suppliers have their own procedures to limit sales to bulk customers based on a set percentage of contracted future supply. This system is applied reasonably regularly without noticeable adverse consequences. However it is subject to the drawbacks that spot customers generally only receive fuel if it is available and the system does not allow prioritisation of essential users. This is because the provisions of the *Trade Practices Act 1974* do not allow industry to prioritise customers.

Fuel suppliers will be encouraged to implement industry-based measures to control bulk sales voluntarily. Such measures may be applied during the early stage of an emergency as well as when supplies are clearly limited. The power under section 19 of the LFE Act would be used to direct sales to particular essential customers where required.²

² If a mandatory approach was desirable, there would be scope for States/Territories to implement bulk rationing under their own Acts where relevant powers were available. Consultation through NOSEC would ensure, to the extent possible, that states and territories adopted a consistent approach. Further work is required to determine whether there is a need to address the current deficiencies in the LFE Act in relation to bulk sales or whether other arrangements could be used to manage purchases during a national emergency. The key issues to be examined include current industry practices to manage bulk sales, state and territory arrangements to manage bulk sales, views of states, territories and industry on the need to use powers under the LFE Act to manage bulk allocations, and the nature of amendments required to make the LFE Act more workable.

The procedures to be implemented under this section would be above and beyond any bulk allocation that is already being conducted by the fuel industry voluntarily.

The framework for implementing a bulk allocation is set out in the **NLFERP Operations Manual**.

Implementation of Subsequent Measures

Ongoing monitoring will be required to ensure an emergency is being effectively managed. Information such as the actual level of demand required for different classes of users to continue to function, the factors likely to affect demand, and the logistical issues relevant to distribution are likely to become more apparent as the emergency progresses. This information, along with a general assessment of the way the emergency is being managed, will assist planning and preparation for subsequent stages.

Companies involved in supply and distribution will be required to provide daily information to the Australian Government on stock levels (consumption coverage in days) in each state and territory and their views on where and when shortages are likely to occur.

A proforma for information provision is provided in the **NLFERP Operations Manual**.

The Minister is required to consult State and Territory ministers in relation to the renewal of planning periods including the measures to be implemented nationally during a subsequent planning period (section 42 of the LFE Act). The Minister would also need to consult other Australian Government ministers, the Prime Minister and industry as part of this process.

Questions of whether the period of national liquid fuel emergency could be terminated or allowed to lapse, or whether the emergency should be extended, also need to be regularly considered. These issues would be considered in consultation with state and territory governments.

Termination of a national liquid fuel emergency under the LFE Act

Under section 27(2) of the LFE Act, directions given by the Minister under Part III of the LFE Act will cease to be in force at the end of the proclaimed period or on a date proclaimed in the revocation Proclamation if the period of the national liquid fuel emergency is terminated earlier. Directions may be revoked at any time. The revocation must be published in the same way as the original giving of the directions, as required by section 33(3) of the *Acts Interpretation Act 1901*.

In considering whether a national liquid fuel emergency should be terminated, relevant issues discussed above need to be examined. The Minister is also required to provide the opportunity for prior consultation with state and territory ministers. Appropriate advice would be prepared for the Minister and provided to the Governor-General.

Potential Compensation Liabilities

Sections 45 and 46 of the LFE Act are specific provisions which cover compensation for the acquisition of property or for loss or injury incurred through compliance with relevant

directions made under the LFE Act. The Australian Government acknowledges through the LFE Act that there are situations where compensation may be payable to industry participants affected by relevant directions taken under the LFE Act.

The Australian Government, through NOSEC, will progress with states, territories and industry an appropriate framework for managing compensation issues arising from the declaration of a national liquid fuel emergency. This will be incorporated as part of an ongoing review process.

6. ROLES AND RESPONSIBILITIES

Consultation in a national liquid fuel emergency

During decision-making processes in the declaration, implementation, and termination stages of an emergency, the Australian Government, State and Territory governments and industry have responsibilities to consult with each other.

The Minister is required to consult with State and Territory governments, prior to declaring an emergency and prior to issuing directions and delegating powers under the LFE Act. The Minister is also likely to consult closely with other relevant Australian Government ministers, industry Chief Executive officers, key industry associations and other relevant stakeholders.

Where appropriate, officers of the Department will consult with other Australian Government departmental officers regarding potential implications of decisions and advice respective to their portfolios. This can be facilitated through an Interdepartmental Committee established for the purposes of managing the emergency and considering issues relating to recovery. The relevant Australian Government agencies which may be consulted include the:

- Attorney-General's Department;
- Australian Competition and Consumer Commission;
- Department of Agriculture and Water Resources;
- Department of Communications and the Arts;
- Digital Transformation Agency;
- Department of Jobs and Small Business;
- Department of Industry, Innovation and Science;
- Department of Defence;
- Department of Home Affairs;
- Department of Social Services;
- Department of Finance;
- Department of Foreign Affairs and Trade;
- Department of Infrastructure, Regional Development and Cities;
- Department of Prime Minister and Cabinet; and
- Department of the Treasury.

Consultation between the Australian Government, states and territories and industry will be performed primarily through NOSEC channels, which will be in regular communication throughout the emergency. Industry associations which are not otherwise members of NOSEC will be consulted where required.

The roles and responsibilities of the Australian Government, State and Territory ministers and agencies, and NOSEC are in the **User Manuals** along with operational roles of agency officers and the principal operational contact in each jurisdiction.

Contact lists for NOSEC, relevant industry associations and Interdepartmental Committee members are in the **NLFERP Operations Manual**.

7. INFORMATION MANAGEMENT

In the event of a national fuel emergency, effective and efficient information flows and management will be critical to minimising economic and social costs. The broad areas of information management that need to be established prior to an emergency event are the processes of notification, communication, media, records and resources management.

Notification

The declaration and management of a national fuel emergency requires immediate notification and effective communication between industry and governments. Notifications will include the:

- nature of the event;
- geographic area affected;
- time the event occurred;
- current stock position and level of stock accessibility;
- response strategies implemented; and
- estimated time to restore normal supplies.

Communications

Communication Principles set out in the Communications Manual between governments and industry have been established for the initial communication of potential supply situations for decision-makers to receive sufficient information on the need to declare a national liquid fuel emergency.

Under the Communication Principles:

- **Industry** would comprise liquid fuel supply managers;
- **State and Territory governments** include nominated officers in state and territory energy and/or emergency agencies; and
- **Australian Government** is represented by the Department as the first point of contact.

The Communication Principles will be supplemented by formal and informal communications with NOSEC representatives. Further notification or briefing to relevant other organisations must be ongoing as appropriate as the situation develops.

Communication

In managing a national liquid fuel emergency, it is essential to have an effective communication network which allows key government officers to receive and relay information about actual and forecast events to other relevant government agencies, the general public, oil companies, issuing centres, service station proprietors, and other relevant stakeholders.

Further detailed information about communications and public relations can be found in the **NLFERP Communications Manual**.

Records Management

In the aftermath of an incident, it will be important to have an accurate record of the chain of events, actions, outcomes and players involved in the incident, for example, in implications for potential compensation claims.

It will also be extremely beneficial to future planning and management of similar incidents to have records that can be evaluated for the efficiency and effectiveness of procedures such as communication channels between organisations and management of the media and public communication. This evaluation could contribute significantly to refining response procedures and roles and responsibilities.

Records to be maintained during an incident

1. Log of events/actions, detailing where possible/appropriate the:
 - date;
 - time;
 - location;
 - description; and
 - issues such as:
 - key players (organisations and/or individuals) in event;
 - trigger(s) for the event;
 - consequence/implications of the event; and
 - who were organisations and public and private stakeholders affected by the event.
2. File notes on all correspondence with external parties to the officer's organisation. These should detail, where possible/appropriate the:
 - date;
 - time;
 - location;
 - description; and
 - issues such as:
 - key players (organisations and/or individuals responsible for) performing the action(s);
 - trigger(s) for the action;
 - intended outcome of the action(s); and
 - actual outcome of the action(s).

A template for incident logging and recording is provided in **Part B** of the **Operations Manual, Chapter 5**.

Resource Management

Australian Government arrangements

Management of a national liquid fuel emergency by the Australian Government would generally be funded from the funds of the relevant Australian Government agency. It is expected that the Department will provide sufficient resources to manage the fuel shortage. Where agency resources are inadequate, additional funding must be sought from the Minister for Finance.

The Australian Government is responsible for the costs associated with national co-ordination and implementation and maintenance of a national media and call centre operation.

In accordance with sections 45 and 46 of the LFE Act, the Australian Government may be required to pay compensation for the acquisition of property otherwise than on just terms, or for losses, injury or damage caused by reason of compliance with directions under Part II of the LFE Act.

State and Territory government arrangements

State and Territory governments are responsible for providing resources to implement liquid fuel emergency response plans within their jurisdictions and to use their existing infrastructure, emergency systems and resources to implement measures under the LFE Act.

Where required, there is also scope for State and Territory governments to seek reimbursement from the Australian Government for the implementation of measures under the LFE Act during a national liquid fuel emergency. The Australian Government will consider requests for reimbursement of reasonable costs from State and Territory governments.

An overview of the liquid fuel market and emergency response mechanisms for each State and Territory is at **Attachment 8.9**.

8. ATTACHMENTS

8.1 Communications principles

The following key principles should be taken into account by all stakeholders involved in decision making:

- Individual companies within the industry to notify the State and Territory governments, and the Australian Government, of serious and prolonged supply situations.
- State and Territory governments to notify the Australian Government of serious and prolonged supply situations.
- Individual companies within the industry to notify the Australian Government if the supply situation has potential national implications;
- Governments not to alert competitors to individual company supply issues.
 - Information about individual company supply situations is to be communicated bilaterally between government and the relevant company.
- Australian Government to alert parties to international issues affecting them.
- All parties are committed to in-confidence communications unless otherwise agreed.
- The AIP to identify broad market and regulatory issues affecting security of supply, to the NOSEC.

8.2 Australian Government *Liquid Fuel Emergency Act 1984* – An outline

PART I – PRELIMINARY

The LFE Act (sections 1-5.)

Short title, commencement date, interpretation, extension of power to external Territories, and the binding of each State and Territory to the Crown.

Operation of the LFE Act (section 6)

The Ministerial powers under sections 12, 13, 17, 18, 19, 20, 21, 22, 23, 24 are limited to matters of national concern such as:

- defence;
- obligations to the IEA Agreement;
- supplies to Territories;
- protection of Australia as a nation;
- ensuring trade and commerce may be carried on (nationally and internationally); and
- supply of goods/services to the Australian Government to be carried on without hindrance.

Protection of the powers of the LFE Act (sections 7 and 8)

The powers of the Act are protected if challenged in court.

Planning periods (section 9)

The specified period of a declared emergency (maximum three months) may be sub-divided by the Minister into 'planning periods' (typically periods of one-month duration):

- by instrument in writing; and
- served, as specified in the regulations, on State and Territory energy ministers.

Planning periods are the basic duration for the identification of 'essential' and 'other' users, operation of the bulk allocation scheme, and regulation of retail sales under sections 11(1), 21(1), 22(1), 23(1), 24(1).

Bulk Customer identification (section 10)

The identification of 'bulk customers' (organisations or persons) by the Minister enables them to participate in the bulk allocation scheme (developed under section 13 and implemented under sections 21 and 22). Identification is made by instrument in writing for a specified period (guidelines under section 10(1)). Those instruments can be:

- varied;
- revoked;
- appealed against.
- the power under section 10 can be delegated (section 49).

Bulk customers are identified in relation to specific fuels and may be identified in advance of an emergency (but identification can be effected during a planning period). Copies of any instrument must be made available to the bulk customer.

Essential Users (section 11)

The Minister may, at any time, specify, vary/revoke Guidelines to identify 'essential' users. Such identification is generally made by State or Territory energy ministers, but the Minister may also identify 'essential' users in a State or Territory if their activities include:

- the defence of Australia;
- provision of fuel for ships/aircraft engaged in trade or commerce (nationally or internationally)
- the export of product from Australia; or
- any other activities deemed by the Minister (and gazetted) to be of national significance in terms of providing essential services.

Specified users are identified in relation to specific fuels and planning periods (section 9), and the Minister's determination(s) may be appealed against (section 44), or the power delegated (section 49).

Application of Criminal Code (section 11A)

Chapter 2 (except Part 2.5) of the *Criminal Code Act 1995* applies to all offences created by this Act.

PART II – CONTINGENCY PLANNING POWERS

Before giving any direction under Part II, the Minister must give State and Territory energy ministers the opportunity to consult.

Fuel Industry Corporations to hold reserve stocks of fuel (section 12)

The Minister may, at any time, specify Guidelines directing fuel industry corporations to hold, maintain or accumulate reserves (with regard to both quantity and quality) at specified locations and for specified periods of time. The Minister may vary or revoke the Guidelines.

- The direction to a fuel corporation is given so that the corporation will be in a position to comply with any direction given under sections 17, 18, 19, 20, 21, 23, if the Governor-General declares a national liquid fuel emergency. The power under section 12 can be delegated (section 49).
- A corporation cannot refuse or fail to comply without a reasonable excuse.
- A corporation can appeal against the Minister's decision (section 44).

Note: during a declared emergency, the authority under section 12 passes to section 17, and sections 17, 18, 19 provide the basis for directions to the fuel industry aimed at achieving the most beneficial use of stocks.

Bulk Allocation procedures: Development by fuel Industry Corporations (section 13)

The Minister may, at any time, specify Guidelines for the allocation by corporations of bulk supplies to persons/organisations identified as bulk customers under section 10(3) for distribution of fuel in the event of a declared emergency. The Guidelines can be:

- varied;
- revoked;
- appealed against; and
- the power under section 13 can be delegated (section 49).

This section provides for suppliers of bulk customers to be directed to develop procedures for the bulk allocation of fuel to bulk customers during an emergency. Bulk allocation procedures are those developed by corporations for the supply of specified fuel to their customers— each customer's percentage will depend on the customer's priority category under section 11 (for example, 'essential' user).

Particulars of the procedures must be furnished to the Minister who will determine if amendments are required. A corporation cannot refuse or fail to comply without a reasonable excuse.

Statistical information to be maintained (section 14)

The Minister can direct corporations to maintain statistical information.

- Corporations and/or relevant persons cannot refuse or fail to maintain such data without reasonable excuse.
- A failure to comply or the maintenance of false or misleading information is an indictable offence and can result in fines and/or imprisonment.

Statistical information to be provided (section 14A)

The Minister can, by writing, direct corporations to make statistical information available to the Australian Government and/or State and Territory energy ministers.

- Corporations and/or relevant persons cannot refuse or fail to maintain such data without reasonable excuse.
- A failure to comply or the provision of false or misleading information is an indictable offence and can result in fines and/or imprisonment.

Prosecution of Offences against section 14 or 14A (section 14B)

An offence against sections 14 or 14A is an indictable offence.

Arrangements for Regulating Fuel Supplies to Retail Customers (section 15)

This section empowers the Minister to enter into arrangements with State and Territory energy ministers for the purpose of ensuring the effective operation of any directions given under sections 23 and 24, that is, retail fuel supplies.

- The Australian Government may reimburse State and Territory governments with respect to their cost of implementing such arrangements.

PART III – DECLARATION OF, AND POWERS FOR DEALING WITH, A NATIONAL LIQUID FUEL EMERGENCY

Note: the powers in Part III can only be exercised after formal declaration of a national liquid fuel emergency by the Governor-General. There is a requirement for State and Territory government consultation as in Part II.

Declaration of a national liquid fuel emergency (section 16)

A national liquid fuel emergency may be declared by the Governor-General, by Proclamation, if they are satisfied that the shortage will require the Minister to use the emergency powers under sections 17-24; and they are satisfied that:

- it is in the public interest;
- State and Territory energy ministers have been given the opportunity to consult with the Minister on the shortage or likelihood of a shortage; and
- there is no prospect of averting the shortage by the voluntary augmentation of supplies by industry.

The period specified in the Proclamation cannot exceed three months.

- Successive declarations are possible
- Declarations can be revoked at any time.

Control of stocks during a declared national liquid fuel emergency (section 17)

Corporations may be directed (by instrument in writing) to maintain or accumulate stocks at specified locations, quantities, and for specified periods. The conditions can be:

- varied; or
- revoked.

Corporations cannot refuse or fail to comply without a reasonable excuse.

The conditions are similar to section 12, and a direction under section 12 can remain in force following termination of section 17.

Note: sections 17-19 provides the basis for directions to the fuel industry.

Transfer of liquid fuel during a declared national liquid fuel emergency (section 18)

The Minister can direct corporations (by instrument) to transfer specified quantities of supplies to specified locations as needed including transfer of supplies between states and territories and for national purposes (for example, defence).

Directions for sale of liquid fuel (section 19)

The Minister may issue a written direction to a corporation to make available for purchase specified quantities of fuel to another company/person, so they may meet the requirements of the emergency.

- The price must be agreed between buyer/seller or the Minister can nominate an arbitrator to determine the price.

- The corporation must comply or provide a reasonable excuse.

Refinery output (section 20)

The Minister may issue a written direction requiring refineries to produce products in proportions considered to be most consistent with the national need. Corporations cannot refuse or fail to comply without a reasonable excuse.

Allocation of fuel to Bulk Customers by Corporations (section 21)

The Minister may, at any time, specify guidelines to Corporations for the allocation of fuel to bulk customers.

- The guidelines can be varied or revoked.
- Any Direction must be gazetted.
- Australian Government, State and Territory ministers will determine the allocation quantities, etc, for 'essential' users they have identified.

Corporations cannot refuse or fail to comply without a reasonable excuse.

Allocation of fuel to Bulk Customers by Relevant Persons (section 22)

The powers in this section are similar to section 21 except that they relate to fuel suppliers who are relevant persons, as distinct from corporations.

- 'Relevant Persons' is defined in section 3.
- Guidelines to section 22 refer.
- The Relevant Person must comply or provide a reasonable excuse.

Regulating/prohibiting retail fuel supplies by Corporations (section 23)

The Minister may, at any time, specify guidelines regulating/prohibiting retail fuel supplies by corporations.

- The Guidelines can be varied or revoked and must be gazetted.
- The Corporation must comply or provide a reasonable excuse.

Regulating/prohibiting retail fuel supplies by Relevant Persons (section 24)

The powers in this section are similar to section 23 except that they relate to fuel suppliers who are relevant persons as distinct from corporations (also see Guidelines).

Note: sections 23 and 24 provide the means for the Minister to introduce any arrangements established under sections 15.

Directions Concerning Bulk/Retail Sales Must Not Regulate Prices (section 25)

The Australian Government, in regard to any direction issued under sections 21(1), 22(1), 23(1), 24(1), cannot set either a maximum or minimum price.

This section does not constrain states and territories from applying their own legislation.

Publication of directions (section 26)

Any directions issued under sections 21, 22, 23, 24 must be published in a relevant State and Territory newspaper in general circulation.

Cessation of directions when Proclamation ceases to be in force (section 27)

Directions given under Part III remain in force (unless otherwise specified) until the end of the period of declared national liquid fuel emergency and any subsequent, continuously proclaimed periods of national liquid fuel emergency.

PART IV – ENFORCEMENT

Note: the sections in this part, and Part V, are only briefly described here, and in some cases grouped together – see the main LFE Act for details.

Repealed (section 28)***Appointment of authorised persons (section 29)******Authorised person to carry identity cards (section 29A)******Requirement for persons to furnish information and produce documents (section 30)******Inspection (section 31)******Nature of powers conferred to Magistrates (section 31A)******Seizure (section 32)******Consent (section 32A)******Assistance to authorised persons (section 33)***

Authorised persons appointed by the Minister may be individuals or specified classes (for example, a police force) and identity cards and certificates of authorisation may be issued (section 29). Authorised Persons must carry their identity card at all times when exercising their authorised powers (section 29A).

An authorised person can require others to provide information or produce documents, unless another Australian Government law prohibits it, and failure to comply incurs a fine (section 30).

Authorised persons have the powers of inspection, with or without the consent of the owners (section 31), and seizure of any matter or thing on the grounds that it will provide evidence of the contravention of any provisions of the LFE Act (section 32).

- Seized items can be held for up to 60 days or until the termination of the proceedings for which they are evidence.
- A security payment may be required.

A power conferred on a magistrate by section 31 is conferred on him or her in a personal capacity and not as a court or a member of a court (s 31A).

The occupier or person in charge of land, premises or property must be informed that they may refuse consent prior to an authorised activity being undertaken (section 32A).

Authorised persons can request owners/persons in charge to provide reasonable assistance in the execution of their duties, failure to comply can incur a fine, imprisonment, or both (section 33).

Civil penalty orders (section 34)

Civil action for recovery of pecuniary penalties (section 35)

The pecuniary penalties for sections 12(9), 13(9), 14(6) or (7), 14A(6) or (7), 17(8), 18(6), 19(5), 20(7), 21(9), 22(9), 23(9), 24(9) are specified (section 34). The Minister may proceed through a Court for the recovery of pecuniary penalties specified under section 34 anytime up to six years after the offence is committed (section 35).

Criminal proceedings not to be brought for contraventions of civil penalty provisions (section 36)

Injunctions (section 37)

Exposure to criminal proceedings are defined but only if suspected contraventions of a civil penalty provision (section 36).

A supplementary power is available for enforcing the LFE Act by granting an injunction:

- for restraint; and
- to induce a course of action (section 37).

Forfeiture (section 38)

A Court may order forfeiture of articles involved in an offence and the Minister may direct disposal of such articles.

Repealed (section 39)

Conduct by employees of agents of bodies corporate (section 40)

The intentions, conduct, etc, of a servant/agent, etc, of a body corporate on behalf of the body corporate are deemed to be the intentions, etc, of the body corporate.

PART V – MISCELLANEOUS

Note: the sections in this part, and Part IV, are only briefly described here, and in some cases grouped together – see main LFE Act for details.

Making of Guidelines (section 41)

Guidelines under the LFE Act may be made at any time.

Variation or revocation of instruments (section 41A)

A Direction given, Guidelines made or any other instrument made under the LFE Act may be varied or revoked.

Australian Government, State and Territory ministers' consultation (section 42)

The Minister is required to consult with State/Territory Ministers before:

- determination of planning periods (section 9(1));
- identification of 'essential' and 'other' users (section 11(1)(d)) of national significance; and
- giving a Direction under Parts II or III.

Operation of the Trade Practices Act 1974 (section 43)

Anything done under the LFE Act is authorised for the purposes of subparagraph 51(1)(a)(i) of the *Trade Practices Act 1974*.

Reconsideration and review of decisions (section 44)

The LFE Act contains provisions for reconsideration and review of decisions made by the Minister under sections 10(1), 11(1), 12(1) or (8), 13(6) or 44(2), but not after a national emergency has been declared.

- A dissatisfied party may also appeal against a reviewed decision.

Compensation for acquisition of property (section 45)

Compensation for compliance with directions (section 46)

Compensation for acquisition of property (section 45), or for loss/injury incurred by complying with Parts II (section 46), may be payable.

- The amount payable, if the parties cannot agree, will be determined by a court.

Exemption from suit – Ministers and delegates (section 46A)

No civil action, suit or proceeding can be laid against the Minister or their delegate in relation to anything done or omitted to be done in performing powers or functions under this LFE Act.

Exemption from legal proceedings (section 47)

If, during an emergency, compliance with directions under Part II or III results in a breach of contract, this section protects against legal proceedings.

Jurisdiction of Courts (section 48)

The jurisdiction of the Federal Court, the Supreme Courts of the states and territories and the inferior courts is defined.

Delegation (section 49)

The Minister may delegate all/any of their powers except:

- the power to make Guidelines;
- Directions; and
- the power of delegation.

It is expected that in practice the Minister will delegate extensively.

Repealed (section 50)***Operation of State and Territory laws (section 51)******Directions prevail over inconsistent Australian Government, State or Territory laws (section 52)***

Any State or Territory law can continue to operate to the extent that they can do so concurrently with the LFE Act (section 51), and a Direction issued under the LFE Act will prevail over any inconsistent Australian Government, State or Territory laws (section 52).

LFE Act does not confer powers on ministers (section 53)

Powers under the LFE Act are not conferred on State and Territory energy ministers by implication.

Repealed (section 54)***The Liquid Fuel (Defence Stocks) Act 1949 is repealed (section 55)******The Governor-General may make regulations (section 56)***

8.3 Liquid Fuel Emergency Guidelines 2008 (Guidelines) – An outline

BACKGROUND

The Guidelines were signed by the former Minister for Resources and Energy, the Hon Martin Ferguson MP, on 19 September 2008 and passed by both Houses of Parliament on 10 November 2008.

PURPOSE

The LFE Act includes requirements that the Minister specify Guidelines to be observed in the exercise of certain powers conferred by the LFE Act.

- Guidelines must be approved by tabling in both Houses.
- Guidelines are subject to disallowance in either House during the following 15 sitting days.
- Any variations to the Guidelines must be approved by tabling in both Houses, but are subject to disallowance in either House during the following 15 sitting days. If the variations are disallowed, the Guidelines in their unchanged form remain effective.

During an emergency period, newly-made variations to the Guidelines, or variations still in the disallowance period (but not yet disallowed), are immediately effective.

- This does not prevent such variations being subsequently disallowed.

The objective of the Guidelines is to ensure that, in the event of a national liquid fuel emergency, essential and non-essential users in the Australian market receive fuel allocated in an equitable and transparent manner, based on available supply. The Guidelines aim to do this by providing the Australian Government and the fuel industry with guidance on those matters that a decision maker must consider in making a Determination under the LFE Act, to manage a national liquid fuel emergency.

The Guidelines refer to sections 10, 11, 12, 13, 14, 14A, 17, 20, 21, 22, 23 and 24 of the LFE Act.

SUMMARY OF THE GUIDELINES

Guidelines under section 10 of the LFE Act

Identify bulk customers, as required under section 10(1), who would participate in the bulk allocation scheme developed by fuel industry corporations under section 13, and implemented during an emergency under sections 21 and 22.

Guidelines under section 11 of the LFE Act

Identify 'essential' users as required under section 11(1) of the LFE Act. The Minister may identify certain users if their activities are related to defence, provision of bunker fuel, exports, intra-State trade, or matters of national significance related to essential services.

Essential users are fuel customers who due to the nature of the work:

- are essential for the preservation of the health, safety or welfare of the community; and

- would not be able to undertake that activity without a continuing supply of refined liquid petroleum product.

Guidelines under section 12 of the LFE Act

Provide for fuel industry corporations to maintain or accumulate reserves of fuel in preparation of a possible national liquid fuel emergency. The Guidelines outline matters:

- which must be taken into account before the Minister gives a Direction, for example, the expected severity, type, impact and duration of a liquid fuel supply disruption during a period of national emergency;
- relating to the quantity of reserve supplies; and
- relating to places at which the fuel is to be kept.

Guidelines under section 13 of the LFE Act

Provide for development of the bulk allocation procedures which:

- are developed by fuel suppliers on direction of the Minister under section 13(1) of the LFE Act; and
- during a declared emergency, their implementation and operation are covered under sections 21 and 22 of the LFE Act.

Guidelines under section 14 of the LFE Act

Provide for maintenance of statistical information and contain matters which the Minister must consider before issuing a direction under section 14(1) of the LFE Act.

- The Minister is required to be mindful of the potential burden that a direction under this section may impose on relevant fuel industry corporations and persons, as well as the commercial sensitivity of such data.

Guidelines under section 14A of the LFE Act

Provide for release of statistical information and contain matters which the Minister must consider before issuing a direction under section 14A(1).

- The Minister is required to be mindful of the effect that a direction to make statistics available may have on the relevant fuel industry corporation or person, particularly in regards to the timeframe within which the statistics are to be provided, commercial sensitivity and competitions in that market.

Guidelines under section 17 of the LFE Act

Provide for maintenance or accumulation of reserves. The Guidelines outline matters:

- which must be taken into account before the Minister gives a Direction, for example the expected severity, type, impact and duration of a liquid fuel supply disruption during a period of national emergency;
- relating to the quantity of reserve supplies; and
- relating to places at which the fuel is to be kept.

Guidelines under section 20 of the LFE Act

Provide for refineries to produce or refine specified amounts of fuel during a national liquid fuel emergency.

Guidelines under section 21 of the LFE Act

Provide for the Minister, during a declared emergency, to direct the implementation by fuel corporations of the bulk allocation procedures for the supply of specified fuel to their bulk customers

Guidelines under section 22 of the LFE Act

Similar to the Guidelines to section 21 of the LFE Act, except they refer to 'relevant persons' (that is, persons other than a corporation who are engaged in importing, exporting or selling fuel), and provide for the Minister to direct a relevant person to implement specified bulk allocation procedures for the supply of fuel to their identified bulk customers.

Guidelines under section 23 of the LFE Act

Provides for the introduction of a national system to ration fuel to retail users by enabling the Minister to give directions to corporations regulating or prohibiting supplies to certain classes of customer.

Guidelines under section 24 of the LFE Act

Similar to the Guidelines to section 23 of the LFE Act above, except they apply to 'relevant persons' and their customers.

8.4 Commonwealth actions and requirements for clarification, publication and notification under the *Liquid Fuel Emergency Act 1984*

Action	LFE Act Section	Instrument in writing	Consult State & Territory ministers	Advise State & Territory ministers	Advise Others (e.g. relevant corporation/person)	Registration on Federal Register of Legislative Instruments	Gazette	Newspaper advertising
PART I: PRELIMINARY								
Determine planning periods	9(1)	✓	✓	✓		✓		
Identify bulk customers	10(1)	✓			✓			
Guidelines – identify bulk customers	10(4)	✓				✓		
Identify essential users	11(1)	✓	✓ only 11(1)(d)	✓	✓			
Identify essential users whose activity is essential to health, safety and welfare	11(3)	✓	✓	✓ as for 11(1)		✓		
Guidelines – identify essential users	11(5)	✓				✓		
PART II: CONTINGENCY PLANNING								
Direct maintenance of reserves	12(1)	✓	✓		✓			
Guidelines – direct maintenance of reserves	12(6)	✓				✓		
Direct development of bulk allocation procedures	13(1)	✓			✓	✓		
Guidelines – direct development of bulk allocation procedures	13(3)	✓				✓		
Approval of bulk allocation procedures	13(5) 13(7)	✓			✓			
Amendment to bulk allocation procedures	13(6)	✓	✓		✓			
Direct maintenance of statistical information	14(1) 14(2)	✓	✓		✓	✓		
Guidelines – direct maintenance of statistical information	14(4)	✓				✓		
Direct release of statistical information	14A(1) 14A(2)	✓	✓		✓			
Guidelines – direct release of statistical information	14A(4)	✓				✓		

Action	LFE Act Section	Instrument in writing	Consult State & Territory ministers	Advise State & Territory ministers	Advise Others (e.g. relevant corporation/person)	Registration on Federal Register of Legislative Instruments	Gazette	Newspaper advertising
PART III: EMERGENCY POWERS								
Declare emergency (Governor-General)	16(1)	✓	✓			✓	✓	
Revoke emergency (Governor-General)	16(5)	✓				✓	✓	
Direct maintenance of reserves	17(1)	✓	✓		✓			
Guidelines – direct maintenance of reserves	17(5)	✓				✓		
Authorise reduction in reserves	17(7)	✓	✓		✓			
Direct transfer of fuel	18(1)	✓	✓		✓			
Direct release or sale of fuel	19(1)	✓	✓		✓			
Direct refinery output	20(1)	✓	✓		✓			
Guidelines – direct refinery output	20(4)	✓				✓		
Direct corporations/ persons to implement bulk allocation	21(1) 22(1)	✓				✓		✓
Guidelines – direct corporations/ persons to implement bulk allocation	21(7) 22(7)	✓				✓		
Direct regulation or prohibition of fuel sales by corporations/persons	23(1) 24(1)	✓				✓		✓
Guidelines – direct regulation or prohibition of fuel sales by corporations/persons	23(7) 24(7)	✓				✓		
PART IV: ENFORCEMENT								
Appoint authorised persons	29(1)	✓			✓			
Require information or documents	30(1)	✓			✓			
PART V: MISCELLANEOUS								
Certification of relevant facts	42(2)	✓		✓				
Allow period in excess of 3 days for request for review of decision	44(2)	✓						
Inform affirmation, revocation, or variation of decision	44(5)	✓			✓			
Notice to affected parties	44(7)	✓			✓			
Delegation of powers	49	✓	✓	✓				

8.5 Australia's IEA obligations

As a member of the IEA, Australia is required to participate in the IEA's Emergency Oil Sharing System (EOSS) and Co-ordinated Emergency Response Measures (CERM) if activated. Australia could also be required to comply with a contingency plan developed by the IEA to respond to a specific crisis. The provisions of the LFE Act are designed to ensure Australia can meet these and other IEA obligations.

Rules and procedures relating to the implementation of IEA measures are set out in the IEA Emergency Management Manual, Emergency Reference Guide and CERM Operations Manual.

IEA members are required to maintain minimum emergency oil stocks equivalent to at least 90 days net monthly imports. Australia's stocks (comprising crude oil and petroleum products) are held voluntarily by industry within the supply chain.

The implementation of IEA measures is co-ordinated in each IEA member country by a National Emergency Sharing Organisation (NESO). This function is performed in Australia by the NOSEC. The NESO is responsible, among other things, for providing information on national oil supplies, organising national emergency oil sharing arrangements and liaising with the IEA Secretariat and oil companies during an emergency.

Provision of data by the Department of the Environment and Energy (the Department) and the Australian Bureau of Statistics (ABS) would be required to meet IEA reporting requirements during an IEA-declared emergency.

The EOSS has been designed to cope with a disruption to oil supplies of medium severity by aiming to ensure that participating countries, acting through the IEA and with the assistance of the oil industry, distribute limited available supplies of oil and liquid fuels. Rules and procedures relating to the EOSS are set out in the IEA Emergency Management Manual. The EOSS has not been activated since it was developed in 1975.

The EOSS is designed to operate initially at two levels of shortfall (and corresponding levels of demand restraint) and may be activated when:

- IEA member countries collectively, or any member country individually, experiences or can reasonably be expected to experience a shortfall in total oil supplies of between 7 and 12 percent; and
- then demand restraint for the affected country(s) would be required at 7 percent.

Note: there is scope for countries holding emergency reserves in excess of their emergency reserve commitment to draw upon these reserves as an alternative to demand restraint

Member countries may also be required to draw upon their emergency reserves at a rate determined by the IEA. When supplies are cut by more than 12 per cent, then demand restraint would be required at 10 per cent. Member countries would also be required to draw upon their emergency reserves at a rate determined by the IEA.

In the event of a prolonged shortage where IEA member countries' cumulative daily emergency reserve drawdown obligations could be expected to reach 50 per cent of

emergency reserve commitments, the IEA has the power to direct the implementation of further emergency measures including a higher level of demand restraint.

The EOSS relies heavily on the IEA's statistical reporting system which collects information from members in order to assess the extent of any disruption and to make the calculations necessary to share out available supplies and to determine a country's supply right or supply obligation.

The IEA emergency information system

The IEA emergency information system comprises:

- the IEA Monthly Oil Statistics Questionnaire;
 - this provides historical oil supply and demand elements used in key emergency calculations (data contributed by Australia is compiled by the Department and the ABS);
- quarterly IEA and world oil supply and demand forecasts;
- monthly emergency oil supply data (provided only during an emergency)
 - these provide month-by-month data during an emergency on current and scheduled oil supplies to Participating Countries, closing stocks and apparent consumption;
- Questionnaire A is submitted by IEA reporting companies (the four major refining companies operating in Australia report through their headquarters outside Australia);
- Questionnaire B is submitted by each country's NESO and covers data provided by reporting companies (including affiliates) and non-reporting companies and stockholding agencies on their activities related to that country;
- demand restraint, stockdraw, and other information supplied by NESOs during an emergency; and
- advice from industry and other supplementary information available to the IEA.

Calculation of supply rights and obligations

Participating countries' supply rights and supply obligations are calculated as follows:

- when a country's available oil supply [indigenous production + imports during disruption - exports] exceeds the amount allowed for home consumption under the EOSS, the country has an allocation obligation and is required to provide oil to other member countries (this notionally goes into a common pool); and
- when a country's available oil supply is less than the IEA authorised volume for consumption, the country has an allocation right and is entitled to receive oil from the IEA common pool.

The process of redistributing oil is achieved by some countries making, and others accepting, 'voluntary offers' of crude oil and/or petroleum products and/or other actions to meet countries' supply rights where necessary. The allocation process involves three types of activity that may take place simultaneously:

- Type 1: voluntary action by companies to re-arrange their supply systems independent of any request from the IEA

- Type 2: voluntary rearrangement of supplies by companies in response to a specific request from the IEA to assist in meeting participating countries' supply rights (these transactions must be approved by the IEA Allocation Coordinator)
- Type 3: additional actions to meet countries' supply rights – these will be determined by participating countries at the time of the emergency and might include direct instructions from individual governments to companies.

Type 2 activities require IEA reporting companies and NESOs (on behalf of companies that are either affiliates of IEA reporting companies or are companies that do not report to the IEA) to submit voluntary offers to the IEA. These offers may be closed (that is, between a specified supplier and receiver) or open (that is, a company offering to enter into commercial negotiations with a potential supplier or buyer). The supplier is required to advise the IEA whether offers approved by the IEA are actually executed. Procedures relating to the preparation and processing of voluntary offers are set out in the IEA Emergency Reference Guide.

The EOSS does not guarantee access to the most suitable grades of crude or types of product for any participating country, but the NESO in each country may negotiate with the IEA in relation to what it is offered and may, within limits, refuse to accept particular cargoes. There is also scope for the IEA to review and implement measures to address major product imbalances through the EOSS.

IEA members are obliged under the EOSS to provide all international marine bunker requirements in an emergency. Any demands above normal requirements would increase a member's right to additional supplies through the EOSS. Uniform demand restraint will apply for international aviation at the overall level set by the IEA. Australia is able to continue its normal exports to Papua New Guinea, Fiji and other Pacific and Indian Ocean countries and territories in accordance with historical oil trade patterns while the EOSS is operating.

Co-ordinated Emergency Response Measures

CERM have been designed to operate where there is an oil supply disruption of an insufficient magnitude to trigger the EOSS (ie below 7 per cent) or where the disruption exceeds the threshold but the IEA Governing Board considers activation of the EOSS is not warranted. The IEA CERM decision provides a framework for international consultations on co-ordinated stockdraw and other response measures, such as demand restraint, fuel switching and surge production, in the event of an actual or potentially significant oil supply disruption. CERM are intended to provide a rapid and effective means of addressing interrupted oil supplies and would generally be the preferred over the EOSS as an initial response to an oil shortage.

In recent years the IEA has sought to develop contingency plans to respond to specific crises. Australia supported and participated in the oil supply contingency plan activated by the IEA in January 1991 following the outbreak of open warfare in the Persian Gulf in response to the Iraqi invasion of Kuwait. Under the plan IEA member countries were required to achieve an overall reduction in market requirements of 2.5 million barrels of oil per day to the world market (equivalent to around 7 per cent of oil consumption in IEA member countries) through

a combination of stockdraw, demand restraint measures, fuel switching and surge production. Australia met its requirements through a combination of increased indigenous production and demand restraint (induced by a marked increase in price). No drawdown in stocks was necessary.

The IEA also developed a contingency plan in response to the September 11 2001 terrorist attacks. This plan required a collective response by IEA members to make available two million barrels of oil per day to the market. The plan was not activated. The development of a further response mechanism to make additional oil available to oil markets at short notice is being considered.

8.6 Powers which could be delegated to State or Territory energy ministers, or nominated officers, by the Minister administering the *Liquid Fuel Emergency Act 1984*

LFE Act Subsection	Relevant powers	Delegation – when
10(1), 10(6), 10(8) and 10(9)	Powers to identify a person or organisation as a bulk customer and to revoke an instrument identifying a person or organisation as a bulk customer.	Will not be delegated – powers to control bulk purchases will not be used.
11(1), 11(9) and 11(10)	Powers to identify persons engaged in the activities listed in section 11(1) of the LFE Act as essential users and to cause notice of the decision to be made available to the person concerned.	At outset of emergency.
17(1), 17(2), 17(7), 17(9) and 17(10)	Powers to direct fuel industry corporations to build or hold stocks of crude oil or petroleum products at specified locations during an emergency, and to authorise variations of those reserves.	Will not be delegated to states and territories during initial stages of an emergency.
19(1), 19(2) and 19(6)	Powers to direct fuel industry corporations to release or sell liquid fuel.	Will not be delegated to states and territories during initial stages of an emergency.
29(1), 29(2), 29(2A), 29(4), 29(5AA) and 29(6)	Powers to appoint authorised persons and issue identity cards and certificates of office to authorised persons.	At the outset of emergency.
32(2)	Powers to authorise the release of items seized under section 32(1) of the LFE Act under appropriate conditions.	At the outset of emergency.
37(1)(a) and 37(2)(c)	Powers to seek an injunction restraining persons from acts which contravene relevant provisions of the LFE Act or seek an injunction requiring persons take actions to comply with relevant provisions of the LFE Act.	At the outset of emergency.
44(2), 44(4) and 44(5)	Powers to reconsider reviewable decisions and inform persons of the outcome and reasons.	At the outset of emergency.

8.7 Powers which could be delegated to Australian Government officers, by the Minister administering the *Liquid Fuel Emergency Act 1984*

LFE Act Subsection	Relevant powers
10(1), 10(6), 10(8) and 10(9)	Powers to identify a person or organisation as a bulk customer and to revoke an instrument identifying a person or organisation as a bulk customer.
11(1), 11(3) and 11(10)	Powers to identify essential users and provide notification.
12(2) and 12(6)	Powers to direct fuel industry corporations to build or hold stocks of crude oil or petroleum products at specified locations, and to authorise variations of those reserves.
17(1), 17(2), 17(7), 17(9) and 17(10)	Powers to direct fuel industry corporations to build or hold stocks of a specified kind of liquid fuel at specified locations during an emergency, and to authorise variations of those reserves.
18(1), 18(4) and 18(7)	Power to direct the transfer of fuel as required between states and territories, or within states and territories for national purposes during a national emergency.
19(1), 19(2) and 19(6)	Powers to direct fuel industry corporations to release or sell liquid fuel.
20(1), 20(2) and 20(8)	Powers to direct refineries to produce refined products in proportions considered to be most consistent with the national need during an emergency.
29(1), 29(2), 29(2A), 29(4), 29(5AA) and 29(6)	Powers to appoint authorised persons and issue identity cards and certificates of office to authorised persons.
32(2)	Powers to authorise the release of items seized under section 32(1) of the LFE Act under appropriate conditions.
35(1)	Power to institute court proceedings for the recovery of pecuniary penalties by the Australian Government.
37(1)(a) and 37(2)(c)	Powers to seek an injunction restraining persons from acts which contravene relevant provisions of the LFE Act or seek an injunction requiring persons take actions to comply with relevant provisions of the LFE Act.
38(2)	Powers to direct the disposal of forfeited items.
44(2), 44(4) and 44(5)	Powers to reconsider reviewable decisions and inform persons of the outcome and reasons.

8.8 National Oil Supplies Emergency Committee Terms Of Reference

NOSEC was formed on 25 March 2002 in response to requirements under the *Liquid Fuel Emergency Act 1984*. The NOSEC role was further reinforced with the establishment of an Intergovernmental Agreement in 2006.

The task of the NOSEC is to ensure that the COAG Energy Council, through the Senior Committee of Officials (SCO), receives relevant advice and information on issues confronting national supply of crude oil and petroleum products. NOSEC is to report annually to SCO, or as required, on its operations and state of readiness.

SCO Sponsor

The SCO Sponsor for NOSEC is Rob Heferen, Deputy Secretary, Department of the Environment and Energy.

Membership

Officials from Commonwealth, state and territory agencies responsible for energy policy and representatives of the oil industry.

Each jurisdiction will determine the appropriate level of representation; representatives must be empowered to make decisions consistent with meeting the needs of the SCO and the Energy Council and the functions of the NOSEC Project Team.

See below for the NOSEC Project Team membership list as at 6 March 2019.

Name	Organisation
██████████ (NOSEC Chair)	Commonwealth - Department of the Environment and Energy
██████████ (NOSEC Secretariat)	Commonwealth - Department of the Environment and Energy
██████████ ██████████	Commonwealth - Department of Defence
Nathan Dickens	Industry - Australian Institute of Petroleum
██████████	Industry - BP Australia Limited
██████████	Industry - Viva Energy Australia
██████████	Industry - ExxonMobil Australia
██████████	Industry - Caltex Australia Limited
██████████	Queensland - Department of Natural Resources, Mines and Energy
██████████	South Australia - Department for Energy and Mining
██████████	Victoria - Department of Environment, Land, Water

	and Planning
██████████	New South Wales – Department of Planning and Environment
██████████	Western Australia - Public Utilities Office, Department of Treasury
██████████	Northern Territory - Department of Chief Minister
██████████	Tasmania - Department of State Growth
██████████	Australian Capital Territory - Environment, Planning and Sustainable Development Directorate

Objectives

NOSEC will:

- meet as required to consult on major matters relevant to the management of a national liquid fuels emergency including the preparation and testing of the National Liquid Fuel Emergency Response Plan; and
- will operate as a means of sharing information between, and learning from the experience of, the Commonwealth, state and territory governments and the oil industry, in relation to oil shortages.

Priority Tasks

NOSEC will monitor, as required, crude oil and petroleum products and advise on logistics and product availability. It will assess prospective oil supplies, expected normal levels of demand and the scope for balancing demand with expected supplies.

During a national fuel emergency, NOSEC will provide the main executive channel through which Commonwealth and state and territory governments will formulate their overall management response to an emergency. It will advise governments on:

- appropriate levels of demand restraint and mechanisms;
- allocation arrangements for bulk fuel supplies;
- retail rationing
- any adjustments to refinery production patterns and levels;
- movement of crude and product imports and indigenous production between refineries in different regions;
- stocks release policies; and
- specific requirements for variation from nationally uniform approaches.

It will also fulfil the role of National Emergency Sharing Organisation which is an ongoing requirement of Australia's membership of the International Energy Agency.

8.9 Jurisdictional Liquid Fuel Markets and Emergency Response Overview

8.9.1 AUSTRALIAN CAPITAL TERRITORY (ACT)

Contact Person: NOSEC member

State legislation: *Fuels Control Act 1979* and the *Emergencies Act 2004*

Jurisdictional Liquid Fuel Emergency Response Plan: The Energy Emergency (Liquid Fuels Interum Arrangements) Operational Sub-plan is a supporting plan within the Energy Emergency (Coordination Plan).

The Fuels Rationing Bill 2018 has been developed to respond to a liquid fuel emergency. The Bill has not yet been passed by the Legislative Assembly. A new plan will be developed if and when the Bill passes.

Who administers the ACT Energy Emergency (Liquid Fuels Interum Arrangements) Operational Sub-plan?: ACT Environment, Planning and Sustainable Development Directorate.

When was the Plan reviewed? An ACT Fuels Emergency Plan is currently under development and will be finalised if and when the *Fuels Rationing Bill 2018* commences.

When was the ACT Liquid Fuel Emergency Response Plan last tested? N/A

Is the ACT Liquid Fuel Emergency Response Plan publically available: No

Has the ACT Liquid Fuel Emergency Response Plan been invoked: No

Description of liquid fuel market in the ACT: There is no substantial reserve of liquid fuels in the ACT. The ACT obtains the majority of its liquid fuel products from Sydney, NSW, via road with a backup supply from Victoria. There are no refineries or major terminals within the ACT and therefore reduction in supply can have an immediate effect.

Most retail outlets (service stations) in the ACT have sufficient storage capacity on site for 2-3 days of sales at normal consumption rates, but this can vary significantly.

There is a risk that actual demand may turn out to exceed expected demand and that this excess may not easily be met placing pressure on storage volumes.

Fuel sales data for 2017/18 as follows:

158,645,939L	ULP 91RON
37,335,781L	ULP 95RON
80,297,711L	ULP 98RON
146,268,770L	Automotive Diesel (diesel+up to 5% biodiesel)
44,893,809L	E10

7,210,993L LPG
127,337 E85 (70-85% ethanol +ULP)

Description of emergency response arrangements:

The Chief Executive must under section 3 of the *Fuels Control Act 1979*, appoint a Public Servant as the Controller of Fuels (the Fuels Controller). The Fuels Controller may delegate to a public servant the controller's functions under the *Fuels Control Act 1979*.

Under the current administrative arrangements the Fuels Control Act 1979 is allocated to the Minister for Police and Emergency Services - Justice and Community Safety Directorate and the Minister for Justice, Consumer Affairs and Road Safety - Justice and Community Safety Directorate

Under the Act the Minister may declare that an emergency exists if the maintenance of essential services is or about to be affected by a reduction of fuel supply to the ACT; or that undue hardship is being suffered, or is likely to be suffered, by residents of the ACT by reason of a reduction of the supply of a fuel to the ACT; or that undue hardship is being suffered, or is likely to be suffered, by residents of the ACT by reason of difficulties in the distribution of a fuel within the ACT;

There are four key players within the ACT:

- The Minister responsible for Police and Emergency Services.
- The Minister responsible for Justice, Consumer Affairs and Road Safety – Justice and Community Safety Directorate.
- The Environment, Planning and Sustainable Development Directorate is responsible for advising the Minister on all energy matters and administering the energy portfolio within the jurisdiction.
- The NOSEC representative who is the principal contact point with the Commonwealth Government on petroleum supply issues.

The Fuels Controller may delegate functions under section 12 of the *Fuels Control Act 1979*. They may establish an Incident Controller or an Incident Co-ordinator to respond to and support the fuel emergency.

The Emergency Services Agency facility will be utilised for command and control functions during a liquid fuel emergency. It is the primary decision making centre for managing a period of petroleum restrictions and for maintaining communication and liaison with the Commonwealth Government, NOSEC, service stations and Permit Issuing Centres.

Other agencies may be activated as per the ACT Emergency Plan which sets out arrangements for emergency management in the Territory.

Website: www.esa.gov.au

8.9.2 NEW SOUTH WALES (NSW)

Contact Person: NOSEC Member

State legislation: *Energy and Utilities Administration Act 1987.*

Jurisdictional Liquid Fuel Emergency Response Plan: Petroleum Supply Disruption Response Plan (PSDRP).

Who administers the PSDRP: NSW Department of Planning and Environment

When was the PSDRP last reviewed? Last review was 5+ years ago. The PSDRP is being reviewed in the first half of 2019.

Is the PSDRP publically available: No.

Has PSDRP been invoked: No.

Description of liquid fuel market in NSW: Typical downstream market demand data from Australian Petroleum Statistics, Dec 2018 is:

In KL/pd (not seasonally adjusted)

E10 –	3981
ULP (91 RON) –	5148
PULP (95 RON) –	2924
Super (98 RON) –	3766
Jetfuel –	9832
Diesel –	18263

Narrative description of petroleum market in NSW: The significant majority of petroleum product used in NSW is imported from overseas with the remainder coming from domestic refineries outside of NSW. Small amounts of product is trucked from interstate into more remote areas of NSW. Most imported product comes through Sydney port facilities, with a small amount coming through Newcastle.

Key facilities:

Viva Energy (a subsidiary of Vitol) owns most of the Shell assets in Australia. Viva has retained the Shell logo in their retail network. Key facilities in NSW are:

- Gore Bay Marine Terminal in Sydney Harbour. All Viva product used in Sydney is supplied via pipeline from Gore Bay to the bulk storage facilities at the old Refinery site at Clyde.
- Parramatta road tanker loading facility, located close to the bulk fuel facility.

- Viva manages the Sydney airport fuel terminal (the JUHI) on behalf of the JUHI owners (BP, Viva, Caltex and ExxonMobil). The JUHI is predominantly supplied via pipeline from the Viva Clyde and Caltex Kurnell Terminals. The Viva JUHI pipeline is licensed by I&I NSW under the Pipelines Act 1967.

BP operates a regional terminal at Newcastle which has a shipping berth allowing imports by sea. If required, BP can receive product via Sydney Metropolitan Pipeline (the Sydney to Newcastle pipeline).

- In Sydney BP predominantly utilise the VOPAK terminal for fuel storage and truck loading. BP may also from time to time utilise Viva, ExxonMobil or Caltex facilities for product supply.

Caltex has several key installations in NSW:

- The Kurnell Terminal which is a bulk fuel import terminal. Product is stored at the Kurnell terminal, and distributed via pipeline to the Caltex Banksmeadow and Newcastle terminals, as well as the JUHI at Sydney Airport and the Silverwater Terminal owned by Caltex and ExxonMobil.
- Caltex operates the Sydney to Newcastle pipeline (SMP) and a jet fuel pipeline to Sydney Airport JUHI. The SMP pipeline is licensed by I&I NSW under the Pipelines Act 1967.

ExxonMobil operates two key facilities including the Sydney Metropolitan Pipeline Terminal at Silverwater on behalf of joint venture partner Caltex. The terminal is owned by Sydney Metropolitan Pipeline Pty Ltd, a 40/60 joint venture between Mobil Oil Australia and Caltex Australia.

- The Silverwater terminal receives its refined products by pipeline from Caltex's Kurnell Terminal and Vopak Terminal in Sydney.

VOPAK operates an independent petroleum terminal facility at Port Botany. Capabilities include bulk liquid storage, berth operation, road tanker loading, and product (including petrol /ethanol) blending. Pipeline transfer capabilities include jet fuel shipments to Sydney airport JUHI via the Caltex jetfuel pipeline, and multiproduct transfers via the Sydney Metropolitan Pipeline. Historically both BP and ExxonMobil have regularly utilised Vopak for product storage and distribution.

Energy emergencies:

The NSW Minister for Energy has extensive powers to act in the event of an emergency involving an interruption to the supply of electricity, gas and petroleum. These powers are contained in the Energy and Utilities Administration Act 1987. The powers can include directions to producers, transmitters, distributors, sellers and end users through rationing or curtailment of supplies. The provisions require a declaration of an emergency in relation to the form of energy in question and the Governor's approval is required.

The directions and or regulations are limited to 30 days in duration with provisions for extension if required. The powers were last used in February 1988 to ration petrol.

Regulations under the Act have been raised since 1988 as a precautionary measure but not used.

The NSW Department of Planning and Environment is sponsor of the Energy and Utility Services Functional Area Coordinator (EUSFAC) role, a member of the State Emergency Management Committee. EUSFAC coordinates state level emergency management activities in the electricity, gas, petroleum or water supply sectors and works with other NSW and Australian Government agencies to develop and implement emergency management and critical infrastructure plans for utility supply chains in NSW.

Website: <https://www.emergency.nsw.gov.au/Documents/plans/supporting-plans/Supporting-Plan-Energy-utilities.pdf>

8.9.3 NORTHERN TERRITORY (NT)

Contact Person: NOSEC member

State legislation: *Essential Goods and Services Act 1981* (As is force at 1 May 2016).

Jurisdictional Liquid Fuel Emergency Response Plan: The Northern Territory Fuel Emergency Manual: Part 1. Emergency Plan and Part 2. Operating Procedures.

Who administers the Northern Territory Fuel Emergency Plan? The Department of the Chief Minister administers the plan and chairs the Northern Territory Fuel Emergency Advisory Committee (FEAC). FEAC is responsible for developing a coordinated Government response to liquid fuel crises in the Northern Territory and acts as an advisory body to the Minister responsible for the *Essential Goods and Services Act*.

When was the Plan reviewed? The Northern Territory Fuel Emergency Manual is currently under review.

When was the Northern Territory Fuel Emergency Plan last tested? N/A

Is the Northern Territory Fuel Emergency Plan publically available: No

Has the Northern Territory Fuel Emergency Plan been invoked: No

Description of liquid fuel market in NT: Vopak operate a large independent petroleum import and distribution terminal at East Arm, Berrimah; which is 16km by road to Darwin City. The terminal has 21 tanks with a capacity of 173,583 cubic meters or 1,091,804 barrels. The terminal allows shipping discharge and truck loading facilities servicing the Darwin area and regional Northern Territory.

Commercial wholesalers import fuel and strive to maintain a minimum of 5 days of supply at the Vopak distribution terminal. Fuel is then transported by road to retail outlets throughout the Northern Territory. The retail sites normally hold 10 days of fuel supply, however this may vary for some isolated or remote areas throughout the Northern Territory.

Remote challenges.

The Power and Water Corporation (PWC) provides services to 72 Indigenous communities including 20 remote towns and 66 outstations across the Northern Territory. To service these regional and remote communities, PWC operates and maintains over 50 diesel mini-grid power stations. PWC's fuel use is 28 million litres of diesel per year or approximately 75,000 litres per day. The Corporation's current business continuity arrangements are to stock a minimum of 6 weeks supply at 72 community sites. PWC's arrangements also consider the effects of monsoonal rains that make roads impassable. There is provision for up to 6 months supply to be held at the small number of sites that may be affected by seasonal weather (flooded roads).

Description of emergency response arrangements:

Fuel shortage threshold. The following events, either individually or collectively, would cause serious disruption to the supply of fuel within the Northern Territory:

- Failure of supply of petroleum products from overseas or interstate sources.
- Failure of the distribution system within the Northern Territory.

The most likely causes of such a failure would be:

- Industrial action.
- Damage to port and storage facilities, road network or transport equipment.
- Major damage to gas pipelines or gas processing plants.

Fuel shortage reporting. The oil companies will monitor any potential fuel shortfall and give advance notice of the impending shortage to the Fuel Emergency Advisory Committee (FEAC). Thereafter FEAC will monitor the situation through the oil companies undertaking constant surveillance of fuel stocks until the emergency is resolved. FEAC will prepare media coverage of issues and maintain regular liaison with the oil companies and other organisations.

Fuel shortage response. If the Minister accepts the advice of FEAC that a fuel shortage exists or will exist, and that fuel restrictions are to be introduced, an Executive Council (EXCO) submission, a Gazette notice and Ministerial directions will be required. The FEAC member representing the Department of the Chief Minister will prepare the EXCO submission with background information on the problem, including stocks data and projections.

Ministerial Directions. Pursuant to Section 7 of the Essential Goods and Services Act, the Minister may, by instrument in writing, give such directions as he thinks fit to ensure that fuel is available for use, and is used, in a manner best calculated by him to serve the interest of the community. The Minister shall take whatever other steps he considers reasonable in order to bring the existence of fuel restrictions to the attention of the public. A fuel emergency operations centre will be established upon declaration of a fuel shortage and restrictions.

Commencement and cessation of restrictions. Subject to Section 16 of the Act, notices should be served on terminal operators, distributors and service stations to make them aware of their responsibilities and the penalties for non-compliance. The FEAC representative will coordinate with NT Police, Fire and Emergency Services, and provide a list of service stations. Police, by agreement, will serve notices to remote service stations, if this is considered necessary. FEAC will be responsible for the provision of data for advertisements and media releases. When fuel restrictions are no longer required the Minister will revoke the declaration of fuel restrictions.

8.9.4 QUEENSLAND

Contact Person: NOSEC Member - General Manager, Energy Markets, Energy Division, Queensland Department of Natural Resources, Mines and Energy

State legislation: *Liquid Fuel Supply Act 1984*

Jurisdictional Liquid Fuel Emergency Response Plan: Queensland Department of Natural Resources, Mines and Energy Liquid Fuel Emergency Response Plan (DNRME LFERP)

Who administers the QLFERP: Department of Natural Resources, Mines and Energy

When was the QLFERP last reviewed? 28 September 2018

When was the plan last tested? The new plan is expected to be tested before February 2019.

Is the QLFERP publically available: No.

Has the QLFERP been invoked: No.

Description of liquid fuel market in Queensland:

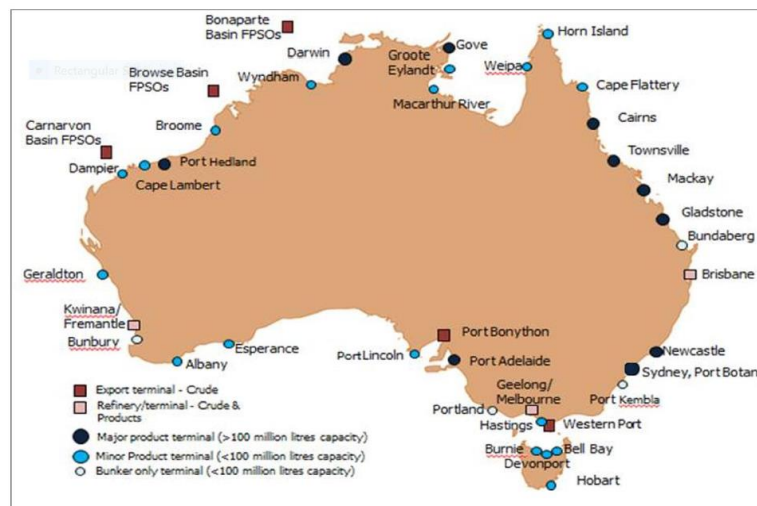
1. Approximate Demand Levels in QLD

The Queensland government collects data and statistics in relation to the Queensland liquid fuel market. This information includes data relating to volumes of fuel sold, including data by fuel type.

2. Refineries and Terminals in QLD

Caltex operates the Brisbane Lytton refinery, which is located near the port of Brisbane in Queensland. Major liquid fuel supply terminals in Queensland are used by Caltex, Viva Energy Australia, BP, Woolworths and Exxon Mobil, with Rio Tinto owning and using supply from a terminal in Weipa.

The Queensland liquid fuel supply chain has considerable span and diversity – from crude and product shipments, refinery production and throughput, storage facilities, extensive terminal and distribution networks, and around 1500 retail service stations. There is a high level of diversity built into the fuel supply chain itself, with multiple supply chains both into, and within, Queensland servicing supply and demand. Supply chain arrangements are supported by a number of supply entry points, demonstrated in figure 1, from which alternate supplies can be delivered.



Description of emergency response arrangements:

The Queensland Department of Natural Resources Mines and Energy Liquid Fuels Emergency Response Plan (LFERP) is part of a toolbox of legislative, planning and process guides for the management of a liquid fuel emergency in Queensland. The LFERP will be used to support the restoration of ‘operational’ liquid fuel supply where industry identifies that such support is required.

Government actions may include the Minister for Energy enacting emergency powers under the *Liquid Fuel Supply Act 1984 (Queensland)* after careful consideration of the appropriateness and potential effectiveness of these measures. Should there be a need to declare a Liquid Fuel Emergency in Queensland *under the Liquid Fuel Supply Act 1984 (Queensland)*, a proclamation by the Governor in Council and/or Ministerial declaration will be required. The Minister may (in writing) delegate all or any of the Minister’s powers and functions under the Act, except to delegate to another person.

The Minister has powers to determine actions and directions that will constrain the demand of liquid fuel and can also assume control of the extraction, production, supply, distribution, sale, purchase, use and storage of liquid fuels. Before enacting emergency powers under Liquid Fuel Supply Act 1984 Queensland will take into account a number of external factors such as:

- The inter-governmental agreement
- provisions of Commonwealth Liquid Fuel Emergency Act 1984 (Commonwealth)
- Other national legislation and policy (e.g. policy related to fuel pricing).

Website: www.dnrme.qld.gov.au

8.9.5 SOUTH AUSTRALIA (SA)

Contact Person: NOSEC Member – [REDACTED] ([REDACTED])

State legislation: *Petroleum Products Regulation Act 1995*

Jurisdictional Liquid Fuel Emergency Response Plan: Liquid Fuel Emergency Procedures

Who administers the Liquid Fuel Emergency Operations Procedures?: South Australian Department for Energy and Mining and Technical Regulation

When was the Liquid Fuel Emergency Procedures last reviewed? 17 August 2018, Version 4.0

Is the Liquid Fuel Emergency Procedures publicly available: No

Has the Liquid Fuel Emergency Procedures been invoked: 2001 (in a previous version)

Description of liquid fuel market in South Australia: The liquid fuel supply chain in South Australia is fully owned and operated by the private sector. The industry has undergone significant change over the last 15 years, shifting away from a fully vertically integrated industry. There has been significant investment in liquid fuel infrastructure by industry (including by new entrants) with major import terminals in the State now being serviced by three marine import berths. There has also been significant expansion in terminal capacity, particularly in relation to diesel storage.

The fuel terminal operators work on a just-in-time inventory system at the Birkenhead and Outer Harbor terminals (approx. 15-20 kms northwest of the Adelaide CBD). The system relies on continuous movement of fuels from ships into terminal tanks and out to road tankers for distribution. Port Bonython Fuels also operates a large capacity diesel storage facility near Whyalla.

South Australia does not have an oil refinery. Nearly all of South Australia's petrol, diesel and jet fuel is imported as refined product by marine tanker from overseas refineries. At any time, there is more than one ship en-route to Adelaide. Fuel is also sourced from domestic refineries.

Competition is very strong at the service station level, with the oil majors having a presence (either operating their own sites or co-branded with grocery retailers) as well as independent chain On The Run having a significant presence. There are also a number of independent service stations as well as independent chains such as Liberty Oil and United Petroleum operating retail sites. Nearly all service stations stock a full range of fuel products including regular unleaded, 95 premium unleaded, 98 premium unleaded, diesel and autogas. A number also stock products such as AdBlue.

South Australia uses, on average, about 8 million litres of petrol and diesel per day. Demand for diesel can also rise up by an average of 25-30% during the winter crop sowing season (May–June) and particularly during the grain harvest (November–January). The highest diesel

demand occurs during bumper grain harvests or when rare climatic conditions result in several agricultural areas being ready simultaneously for harvest.

Description of emergency response arrangements: The Fuel Emergency Procedures provide that the Department to form an Incident Management Team that will have the key role in relation to arrangements that may apply in a severe liquid fuel supply shortfall and the day to day coordination involved in an actual liquid fuel restriction or rationing event, including interaction with petroleum companies.

Website: <https://www.sa.gov.au/topics/energy-and-environment/energy-supply/emergency-management>

8.9.6 TASMANIA

Contact Person: NOSEC rep

State legislation: *Petroleum Products Emergency Act 1994*

Jurisdictional Liquid Fuel Emergency Response Plan: Petroleum Products Supply Emergency Management Plan

Who administers the Petroleum Products Supply Emergency Management Plan: Office of Energy Planning - Department of State Growth

When was the Petroleum Products Supply Emergency Management Plan last reviewed? 2014.

When was the plan last tested? October 2013

Is the Petroleum Products Supply Emergency Management Plan publically available:
No

Has the Petroleum Products Supply Emergency Management Plan been invoked: No

Description of liquid fuel market in Tasmania: Tasmania has a relatively small liquid fuel market compared to the mainland.

Typical downstream market demand data extrapolated from Australian Petroleum Statistics (APS) July 2018 is:

In KL/pd (Approximate and not seasonally adjusted)

E10 – No data available

ULP (91 RON) – 813 700 litres per day

PULP (95 RON) – 130 400 litres per day

Super (98 RON) – 40 500 litres per day

Auto Diesel – 493 000 litres per day (retail); 1 360 000 litres per day (total)

Heating Oil – No data available

Tasmania has no refinery. It has five terminals operated by:

1. Caltex (Hobart);
2. ATOM (Hobart);
3. ATOM (Burnie);
4. Viva (Devonport); and
5. United Petroleum (Bell Bay).

The retail market is dominated by BP, Shell/Coles, Woolworths/Caltex and United with a number of small independents.

Description of emergency response arrangements: The Tasmanian Government has extensive powers to direct in the event of an emergency involving an interruption to the

supply petroleum products. These powers are contained in the *Petroleum Products Emergency Act 1994* (the Act).

The Governor may, by proclamation, declare a period of emergency restriction in relation to specified petroleum products whenever a petroleum products shortage is likely or actual. A period of emergency restriction can also be declared a rationing period. There are time limits on such declarations.

The Minister for Energy is the responsible Minister under the Act. The Minister may give direction in relation to the production, supply, storage, distribution, transportation, sale, purchase, use or consumption of petroleum products during a declared period of restriction. The Minister may fix maximum quantities and prices in relation to the sale of a petroleum product.

Under the Tasmanian Emergency Management Plan, the Department of State Growth is the lead agency should a petroleum products shortage occur. Broader emergency events are managed by the State Controller under the *Emergency Management Act 2006*, but should such events involve liquid fuels, State Growth is represented in the State Control Center by its National Oil Supplies Emergency Committee member and / or the Director of Energy Planning. The *Petroleum Products Supply Emergency Management Plan* is managed by State Growth under the auspices of the *Energy Supply Emergencies State Special Plan* which is authorised by the State Emergency Management Committee (SEMC). SEMC coordinates State level emergency management planning and works with other Tasmanian and Australian Government agencies to develop and implement emergency management and critical infrastructure plans for utility supply chains in Tasmania.

Website: www.emergency.tas.gov.au and www.stategrowth.tas.gov.au

8.9.7 VICTORIA

Contact Person: NOSEC Member

State legislation: *Fuel Emergency Act 1977; Emergency Management Act 2013.*

Jurisdictional Liquid Fuel Emergency Response Plan: State Emergency Response Plan Liquid Fuels Supply Sub-Plan (the sub-plan) and State Operations Plan – Class 2 Liquid Fuel Emergencies (SOP).

Who administers the sub-plan: Emergency Management Victoria with reviews undertaken by the Department of Environment, Land, Water and Planning (DELWP). The SOP is administered by DELWP.

When was the sub-plan last reviewed? The sub-plan was last reviewed in 2018, and will be reviewed every 3 years and updated if necessary. The SOP is current from 2018.

Is the PSDRP publically available: No.

Has PSDRP been invoked: No.

Description of liquid fuel market in Victoria: Fuel sales data extrapolated from Australian Petroleum Statistics (APS) for the 2017-18 financial year in megalitres (ML) (sourced from APS Issue 270, January 2019) .

E10 – 292.3

ULP (91 RON) – 3256.2

95 RON – 415.4

98 RON – 759.6

Diesel Oil – 4714.0

Narrative description of petroleum market in Victoria:

According to APS, total demand for petroleum products in Victoria has increased by 11 per cent since 2010-11. Demand for total products continues to grow at around 1-2 per cent per annum with total petrol use remaining relatively stable during this period, although demand for premium unleaded fuel is replacing demand for regular unleaded fuel due to newer vehicles in the market.

The largest demand growth is occurring in relation to diesel and jet fuel. Increased demand for diesel can be attributed to mining industry related activities, ongoing strong trucking freight and agricultural activities and a growth in sales of diesel vehicles. The increase in jet fuel demand can be attributed to growth in air travel for business and leisure. In 2017 Melbourne Airport was the second busiest airport among the five major Australian airports.

Two of Australia's four oil refineries are situated in Victoria. The Geelong Viva Energy refinery which is located adjacent to Corio Bay supplies approximately 55 per cent of

Victoria's fuel needs and 10 per cent of Australia's fuel demand. The site can refine 19 million litres of oil per day, and is the only refinery in Australia that manufactures avgas. The site also has substantial fuel and crude oil storage, including a 100 million litre crude oil tank commissioned in 2017. Crude oil and other feedstocks arrive at the refinery via ship or via the Westernport-Altona-Geelong (WAG) pipeline from Australia's own oil fields. Crude oil is then refined into useable products and distributed via two pipelines to Newport Terminal in Spotswood or via road tanker.

The ExxonMobil refinery which is located in the west of Melbourne refines roughly 14.5 million litres of oil per day, with crude oil arriving via the WAG pipeline from the Gippsland Basin oil and gas fields and via tanker from Gellibrand Wharf in Williamstown, transferred via a short pipeline. There is also a condensate road tanker unloading facility located at the refinery. Once refined, approximately 90 per cent of the fuel products produced at this refinery are transported by pipeline to Mobil's Yarraville terminal and other industry terminals for transportation by road. Jet fuel is distributed via the Somerton pipeline and stored at the Somerton depot before being transferred to Melbourne Airport.

Other important infrastructure includes:

- Holden Dock Fuel Wharf, Gellibrand Pier (Port of Melbourne) and the Port of Geelong are used to import fuel products;
- Newport Terminals 1 and 2 – Viva Energy uses Terminal 1 to distribute its fuel products, with an estimated storage capacity of 140 million litres. Caltex operates Terminal 2 for distribution of fuel products, including an estimated storage capacity of 100 million litres.
- Yarraville Terminal – This is ExxonMobil's distribution terminal for fuel products. Exxon-Mobil operates the fuel storage and truck load-out facilities at the terminal in joint ownership with BP. The site has refined storage capacity of 120 million litres including new tanks for unleaded petrol and jet fuel.
- Westernport-Altona-Geelong (WAG) Pipeline – a 135km pipeline that transports crude oil from the Bass Strait and Gippsland basin oil fields to Altona and Geelong Refineries via ExxonMobil's Longford processing plant and the Long Island Point Plant near Hastings.
- Crib Point (Port of Hastings) – used by United Australia for the discharge of motor spirit and automotive diesel to their terminal in Hastings.
- Yarraville Jet Fuel Pipeline, Somerton Jet Fuel Pipeline, Somerton Jet Fuel Depot and Tullamarine Jet Fuel Pipeline all used to distribute jet fuel to Melbourne Airport.

Description of emergency response arrangements:

Under the Emergency Management Manual Victoria (EMMV), DELWP is assigned as the Control Agency for major liquid fuel supply disruptions. Victoria's Emergency Management Commissioner (EMC) has responsibility to ensure effective control is in place in accordance with the sub-plan. The Secretary, DELWP, may appoint a Class 2 State Controller (SC) – Energy who, with the oversight of the EMC, will coordinate the overall direction of the government response across all agencies in relation to the supply disruption.

In the first instance, response activities are led by industry which uses a wide range of market mechanisms (e.g. scheduling of additional or redirection of imports or the use of bulk allocations) to restore supply to normal.

In the event of a significant, State-wide liquid fuel supply emergency that cannot be addressed via market mechanisms, an emergency can be proclaimed under the Victorian *Fuel Emergency Act 1977*. Once an emergency has been proclaimed, the Victorian Minister for Energy, Environment & Climate Change has broad direction powers available to respond to the situation.

During a liquid fuels emergency, the Victorian government's focus is primarily on consequence management and, in collaboration with the liquid fuel sector, it will take action to: (i) minimise the adverse consequences to users of disrupted services or infrastructure; and (ii) ensure the restoration of supply as quickly as possible.

It is also a government priority to ensure that any public communications, warnings and/or advice to the Victorian community are issued in a timely manner and are well-targeted, so that the community can make informed decisions and act purposefully. DELWP is responsible for providing media materials for use by the Minister for Energy, Environment and Climate Change during a liquid fuel emergency, in addition to information being disseminated through DELWP and other government agencies social media channels. Victoria has an integrated warning system which uses a variety of channels including website, app, hotline, social media channels and emergency broadcasters.

8.9.8 WESTERN AUSTRALIA (WA)

Contact Person:

██████████
Manager, Emergency Management | Public Utilities Office (NOSEC Representative)
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State legislation:

Emergency Management Act 2005 (WA).
Emergency Management Regulations 2006 (WA).
Fuel, Energy and Power Resources Act 1972 (WA)

Jurisdictional Liquid Fuel Emergency Response Plan: *State Hazard Plan - Energy Supply Disruption*

Who administers *State Hazard Plan - Energy Supply Disruption*: The Coordinator of Energy is the prescribed Hazard Management Agency (supported by the Public Utilities Office) for the Plan.

When was *State Hazard Plan – Energy Supply Disruption* last reviewed? The plan was created to merge the three previous individual Westplans for gas, fuel and electricity supply disruptions, becoming effective on 21 December 2018.

When was the plan last tested? The plan is to be tested in Q3 2019.

Is the *State Hazard Plan - Energy Supply Disruption* publically available? Yes

Has the *State Hazard Plan - Energy Supply Disruption* been invoked? The State arrangements for liquid fuel supply disruptions have been invoked several times, however only two serious events have been managed using the plan.

Description of liquid fuel market in Western Australia: Western Australia obtains the majority of its petroleum feedstock from the Middle East supplemented by South-East Asian and Western Australian crude.

Western Australia has only one oil refinery, the BP Kwinana Refinery, which produces about 80 – 90 per cent of the local demand for refined product. The remaining refined product supply is imported from Singapore and the Eastern States.

Three firms (BP, Caltex, and Shell/Viva) dominate the refining, importing and distribution of petrol in Western Australia; and directly or indirectly control a substantial share of retail petrol outlets with the remainder operated by independent firms.

These firms also operate the majority of fuel terminal sites in the State. Major fuel terminals are located in Kewdale, Kwinana and North Fremantle and in major regional centres such as Broome, Dampier, Esperance, Kalgoorlie and Port Hedland. The exception to this is the main supply terminal for the Perth Metropolitan area which is owned and operated by Coogee Chemicals. All major fuel companies access stock from Coogee Chemicals that is supplied by BP under a comingled arrangement.

In terms of consumption, in 2010 the Western Australian market accounted for approximately 15% of all petroleum products sold in Australia. This amounted to approximately 7,700 ML of petroleum products.³

Description of emergency response arrangements: The management of liquid fuel supply disruption or liquid fuel emergency is conducted under the State's emergency management framework (the EM Framework), prescribed under the Emergency Management Act 2005 (WA) and the Emergency Management Regulations 2006 (WA). The framework focuses on four stages, prevention, preparedness, response and recovery.

The EM framework prescribes roles and responsibilities to various agencies in the event of an incident, these roles are:

1. **Hazard Management Agency (HMA)** – This is a public authority or other person who or which, because of that agency's functions under any written law or specialized knowledge, expertise and resources, is responsible for emergency management.

Under the EM Act, the HMA is responsible for developing strategic and operational plans for dealing with the hazard and maintaining and testing those plans. For a liquid fuel emergency, the Co-ordinator of Energy is the prescribed HMA.

The office has prepared two plans:

- *State Hazard Plan – Energy Supply Disruption* (the strategic plan); and
- *Energy Hazards Operations Plan* (the operational plan).

2. **Combat Agency** – These agencies are responsible for direct management of the hazard on the basis that they have the necessary skills, expertise or equipment to be in the best position to respond in the event of an emergency. In the context of a LFE industry stakeholders fulfil the role of combat agency in most cases, as they control the production and distribution of liquid fuel in WA.
3. **Recovery agency** – These agencies are responsible for coordinating the recovery efforts both during and after the immediate emergency situation. Recovery agencies are typically local government bodies. In the context of a LFE, Local Government is the designated recovery agency.

The *State Hazard Plan – Energy Supply Disruption* uses a colour coded alert warning system. The alert warning system facilitates a consistent approach in assessing the severity of liquid fuel supply disruption events, and ensures that an appropriate level of readiness and response

³ Estimates obtained from Australian Petroleum Statistics 2010.

are implemented as the event escalates from white (normal business) through green to amber, to red.

During the response phase of a LFE, the Public Utilities Office will convene an Operational Area Management Team (OAMT) to develop and coordinate the implementation of strategies to combat the supply shortage. The OAMT comprises representatives from industry, government and community groups and is chaired by the Coordinator of Energy.

The Co-ordinator is responsible for briefing the Minister for Energy on matters relating to the LFE as well as for linking a LFE response to wider State emergency management arrangements through the State Emergency Coordination Group and the State Disaster Council. In the event of a National Fuel Emergency the Coordinator and the OAMT work with the Commonwealth Government and NOSEC to implement national oil demand restraint measures in Western Australia.

Website: <http://www.treasury.wa.gov.au/Public-Utilities-Office/About-us/Emergency-management/>

8.10 NOSEC Guidance Note - Essential Users under the *Liquid Fuel Emergency Act 1984*

This Guidance Note sets out the current policy with respect to Essential Users in a national liquid fuel emergency and the rationale that informs that policy.

The Guidance Note also sets out some actions that fuel users can take to manage the impacts of a reduction of fuel supply.

The prevailing policy is that Essential Users have been identified and that the Federal Minister will be advised not to extend Essential User status.

Overview

Governments and industry recognise the potential risks and impacts of a disruption to liquid fuel supplies.

In the event of an actual or likely fuel shortage with national implications, the Governor-General may, when circumstances require, declare a national liquid fuel emergency under the Australian Government (LFE Act). The declaration of a national liquid fuel emergency (LFE) requires prior consultation with State and Territory governments.

The Act is supported by which were issued in 2008, an *Liquid Fuel Emergency (Activities - Essential Users Determination)* (also 2008) and an *Inter-Governmental Agreement 2006* (IGA). The IGA sets out the parameters for the cooperative response of the Commonwealth, States and Territories in the event of an emergency.

Sitting underneath the LFE Act and the IGA is the National Liquid Fuel Emergency Response Plan (NLFERP) developed by the Commonwealth Government, in partnership with State and Territory governments and fuel industry representatives (including the Australian Institute of Petroleum, Shell, ExxonMobil, Caltex, BP, Woolworths Petrol) via the National Oil Supplies Emergency Committee (NOSEC).

The NLFERP aims to ensure that, during a liquid fuel shortage, available fuel supply is managed and allocated in the most efficient and fair way, to help minimise the economic impacts of the shortage on fuel users and customers.

Essential Users in a national Liquid Fuel Emergency

One aspect of the response to a national liquid fuel emergency relates to the way in which fuel is allocated. Governments all agree that those users who contribute to the provision of goods or services which, if reduced in supply or availability, would be likely to seriously damage the health, safety or welfare of the community, should have priority access to fuel. Users who carry out those activities are defined as Essential Users in section 11 of the LFE Act.

The Minister may determine an activity to be an essential activity for the purposes of s11 at any time. The Minister must not determine and activity unless the Minister is satisfied that it is essential to the health safety or welfare of the community

During a national LFE, these Essential Users may be entitled to fuel above and beyond that which is available under the prevailing bulk allocation or retail rationing scheme. How this is implemented will vary from emergency to emergency.

Liquid Fuel Emergency (Activities – Essential Users) Determination 2008

Section 11 of the LFE Act grants the Minister for the Environment and Energy the power, by issuing a legal direction, to identify a person or organisation as an Essential User of fuel. These Essential Users may receive priority access to petroleum products in the event of a national LFE. A legal direction under section 11 has been put in place.

The purpose of the is to provide a predetermined list of Essential User activities. This allows for greater planning and preparation, so that if an LFE does occur, there will be an existing strategy to prioritize the needs of these Essential Users.

The activities listed in the Determination are the activities carried out by the following:

- a. an ambulance service;
- b. a corrective service;
- c. a fire or rescue service;
- d. a police service;
- e. a public transport service;
- f. a State Emergency Service or an equivalent organisation; and
- g. a taxi service.

NLFERP Framework and Objectives

There are three primary objectives in relation to essential users embedded in the NLFERP and its supporting policy and operational framework.

1. Providing operational certainty for industry and fuel users (so that decisive and quick action can be taken with certainty in the interests of maintaining supply to the whole economy);
2. Providing a clear decision making framework for the Minister/s with little ambiguity in relation to the approach to be adopted by the Government; and
3. Ensuring that fuel users understand the need to take preventative actions to manage the risks of a supply disruption on their own activities and operation.

Maintaining the integrity, clarity and efficiency of the operational framework is paramount.

Current Approach to Essential Users

The overall NLFERP objectives are reflected in the current approach to Essential Users:

- Users in the Determination are those who contribute to the provision of goods or services which, if reduced in supply or availability, would be likely to seriously damage the health, safety or welfare of the community;
- Essential User fuel supply is to be restricted to those cases in which the fuel allocation is essential for providing the service. Fuel will be essential to the provision of the

service where there is a DIRECT connection between the service being provided and the supply of fuel; and

- Only vehicles that are readily identifiable as belonging to an Essential User category will be entitled to fuel as an Essential User during a period of retail rationing.

It should be noted that it is unlikely that fuel supply would ever be restricted to only users listed in the Essential Users Determination. It is likely that during an emergency users not listed on the *Liquid Fuel Emergency (Activities – Essential Users) Determination 2008* will continue to receive a proportion of their normal fuel supply depending on the particular LFE circumstances and the available fuel supply.

It should also be noted that fuel is provided under these arrangements for the sole purpose of providing those activities listed in the Determination. A fuel user who provides those services but who also has fuel needs above those required to undertake the listed activities will need to obtain the additional fuel in the same way as other users.

NOSEC fundamentally believes that the current approach and framework for Essential Users:

- Is consistent with legislation and overall liquid fuel emergency policy framework;
- Is a clear and robust framework which is easily understood by all stakeholders;
- Is administratively simple;
- Can be easily, rapidly and efficiently implemented on the ground;
- Provides a clear decision making framework and role for government;
- Utilizes existing commercial business practices which have been rigorously tested;
- Provides certainty for industry for supply and logistical planning purposes; and
- importantly, is equitable to all fuel users.

Accordingly users should note that as set out above the prevailing policy is that the Minister will be advised not to extend Essential User status.

The onus is on users to consider their own fuel use and prepare appropriate business continuity plans.

Business Continuity Planning

It is in the interests of liquid fuel users to understand their own fuel use and to consider how they would manage the impacts of a reduction of fuel supply. One way to do this is to develop and maintain a business continuity plan.

Fuel users are encouraged to consider the following elements when developing a business continuity plan in relation to fuel use and supply management:

- Business continuity plans should identify current fuel supply arrangements and assess how the organisation would manage a reduction of 10%, 30% or 50% to normal fuel supply for 30 days. The assessment should include a break down by fuel type.
 - The key question is how will the business continue to deliver goods and services (particularly essential ones) with a lower level of fuel supply?
 - This will likely involve a different mode of business operation as compared to business as usual (BAU).

- Business continuity plans should identify internal priorities for fuel use.
 - Business activities should be categorised from highest to lowest priority and fuel use for each activity needs to be understood, quantified and monitored (including differences in fuel use between BAU and peak or emergency times, the impact of seasonal factors etc).
 - Non-essential activities (eg. maintenance) should be cancelled or deferred during times of supply shortage or rationing
- Business continuity plans for publicly funded organisations should not rely on an increased budget to cover additional fuel costs without good reason (such as work directly related to the LFE). This is because similar assistance is not available to the broader community who may be feeling the impact of significantly increased fuel prices.
- Business continuity plans should take into account internal transport movements, both for employees and goods and services, along with vehicle fleet issues. For example determining how critical staff will get to and from work. Business or agency plans may wish to consider the provision of its own transport or car pooling arrangements.

As part of Business Continuity planning, businesses should consider the efficiency of current fuel use and management, and the fuel efficiency of current equipment and vehicles deployed by the business. This will not only reduce overall fuel use to the business (saving money) but assist in managing any fuel supply disruption.

A useful source of additional information on business continuity planning is the *Diesel Fuel & Back-Up Generation: Issues for CEOs, Risk Managers and Diesel Users* Paper. That paper may be found at:

http://www.aip.com.au/pdf/Diesel_fuel_Back-up_Generation.pdf

See also

www.energy.gov.au/publications/nosec-guidance-note-essential-users-under-liquid-fuel-emergency-act-1984