Liquid Fuel Emergency Guidelines 2008

Liquid Fuel Emergency Act 1984

I, MARTIN FERGUSON, Minister for Resources and Energy, make these Guidelines under sections 10, 11, 12, 13, 14, 14A, 17, 20, 21, 22, 23 and 24 of the Liquid Fuel Emergency Act 1984.

Dated 19 September 2008

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Minister for Resources and Energy

Part 1 Preliminary

1.1 Name of Guidelines
These Guidelines are the Liquid Fuel Emergency Guidelines 2008.

1.2 Commencement
These Guidelines commence on the day after they are registered.

1.3 Definitions
In these Guidelines:
bulk customer means a person or organisation that is identified as a bulk customer in accordance with section 10 of the Act.
esential user means a person or organisation that is identified as an essential user in accordance with section 11 of the Act.
Section 1.3

**synthetic fuel** means a fuel that is extracted or fabricated from substances that are rich in hydrocarbons.

*Examples of substances from which synthetic fuel may be extracted or fabricated:*
- coal
- natural gas
- oil shale
- tar sands.

*Note* Several other words and expressions used in these Guidelines have the meaning given by section 3 of the Act, including:
- Energy Minister
- liquid petroleum product
- period of national liquid fuel emergency
- planning period
- refined liquid petroleum product
- relevant fuel industry corporation
- relevant liquid fuel
- relevant person.
Part 2

Bulk customers of relevant fuel industry corporations or of relevant persons

2.1 Guidelines for section 10 of the Act

(1) Subsection 10 (1) of the Act authorises the Minister to identify, by writing, a person or an organisation as a bulk customer of a particular relevant fuel industry corporation, or of a particular relevant person, in relation to a particular refined liquid petroleum product.

(2) Subsection 10 (4) of the Act requires the Minister to make guidelines for the purposes of section 10.

(3) Subsection 10 (3) of the Act provides that an instrument made under subsection 10 (1) must be in accordance with any guidelines in force at the time the instrument is made.

(4) This Part sets out the guidelines.

2.2 Bulk quantities

The Minister must consult with relevant fuel industry corporations and relevant persons to be satisfied as to the quantity of the refined liquid petroleum product that will constitute a bulk quantity of the product.

2.3 Identification of bulk customers

(1) The Minister must treat a person or an organisation as a bulk customer if the Minister is satisfied that:

(a) the person or organisation has a current contractual arrangement to purchase bulk quantities of a refined liquid petroleum product from a relevant fuel industry corporation or from a relevant person; and

(b) the contractual arrangement is for a period of at least 3 months.

(2) If subsection (1) applies, the Minister must not treat the person or organisation as a bulk customer if the person or organisation:

(a) has ceased to carry on the activities for which the bulk quantities of the refined liquid petroleum product were purchased; or

(b) does not intend to carry on the activities for which the bulk quantities of the refined liquid petroleum product were purchased.

(3) A person or an organisation will not be taken to be a bulk customer in circumstances other than those specified in subsections (1) and (2).

(4) In this Part, a contractual arrangement may consist of one contract or multiple contracts.
Section 3.1

Part 3 Essential users of refined liquid petroleum products

3.1 Guidelines for section 11 of the Act

(1) Subsection 11 (1) of the Act authorises the Minister to identify, by writing, a person or organisation as an essential user of a particular refined petroleum product in a particular State or Territory if, and only if, the activities carried on by that person or organisation in that State or Territory are or include:

(a) activities related to the defence of Australia; or
(b) activities related to the provision of that product as fuel for ships and aircraft engaged in trade or commerce:
   (i) between Australia and places outside Australia; or
   (ii) among the States; or
   (iii) between a State and a Territory or between Territories; or
(c) activities related to the export of that product from Australia; or
(d) activities determined under subsection 11 (3) of the Act.

(2) Subsection 11 (3) of the Act provides that the Minister must not determine an activity for the purposes of paragraph 11 (1) (d) of the Act unless the Minister is satisfied that the activity is essential for the health, safety and welfare of the community.

(3) Subsection 11 (4) of the Act provides that an instrument made under subsection 11 (1) of the Act must be in accordance with any guidelines in force at the time the instrument is made.

(4) Subsection 11 (5) of the Act requires the Minister to make guidelines for the purposes of section 11 of the Act.

(5) This Part sets out the guidelines.

3.2 Determination of activities for paragraph 11 (1) (d) of the Act

The Minister must take the following matters into account before determining an activity under subsection 11 (3) of the Act:

(a) the extent to which the activity is essential to the health, safety or welfare of the community;
(b) the extent to which the supply of a particular refined liquid petroleum product is essential for the carrying out of that activity.
3.3 Identification of essential users

(1) The Minister must treat a person or an organisation as an essential user of a particular refined liquid petroleum product in a State or Territory if:
   (a) the person or organisation undertakes an activity mentioned in subsection 11 (1) of the Act; and
   (b) the goods or services provided in undertaking that activity are essential for the preservation of the health, safety or welfare of the community; and
   (c) the person or organisation would not be able to undertake that activity without a continuing supply of that refined liquid petroleum product.

(2) For paragraph (1) (b):
   (a) the Minister must treat goods or services as essential for the preservation of the health, safety or welfare of the community if a failure to provide them would be likely to impair substantially the health, safety or welfare of members of the community; and
   (b) paragraph (a) is not intended to limit the ordinary meaning of the expression essential for the preservation of the health, safety or welfare of the community.

(3) For paragraph (1) (b), if a declaration is made under section 16 of the Act that a national liquid fuel emergency will exist:
   (a) the Minister must take the following matters into account before treating a person or organisation as an essential user of the refined liquid petroleum product during the period of the emergency:
      (i) the severity, type and expected impact and duration of the national liquid fuel emergency;
      (ii) the established need of each category of person or organisation for a refined liquid petroleum product and the availability of that product to meet those needs;
      (iii) the likelihood that the person or organisation can be identified as an essential user; and
   (b) for a person or organisation that is being treated as an essential user in accordance with subsection (1):
      (i) the Minister must also apply paragraph (a) to the person or organisation; and
      (ii) the person or organisation ceases to be treated as an essential user if the Minister is satisfied that it is no longer appropriate to treat the person or organisation as an essential user.

(4) A person or organisation will not be treated as an essential user of the refined liquid petroleum product in circumstances other than those specified in subsections (1) to (3).
Part 4 Minister may direct relevant fuel industry corporations to maintain reserves etc

Section 4.1

4.1 Guidelines for section 12 of the Act

(1) Subsection 12 (1) of the Act authorises the Minister to direct, by writing, a relevant fuel industry corporation:

(a) to maintain at all times after a specified day, at specified places in Australia, specified quantities of reserve supplies of a specified kind of liquid fuel; or

(b) to accumulate, by a specified day, specified quantities of reserve supplies of a specified kind of liquid fuel and to maintain, at all times after that day, such quantities of reserve supplies of liquid fuel of that kind at specified places in Australia.

(2) Subsection 12 (3) of the Act provides that the Minister must not give a direction under subsection 12 (1) of the Act unless it is for the purpose of ensuring that, in the event of a period of national liquid fuel emergency, the relevant fuel industry corporation will be in a position to comply with any direction that could be given to it during that period under Part III of the Act.

(3) Subsection 12 (6) of the Act requires the Minister to make guidelines for the purposes of section 12 of the Act.

(4) Subsection 12 (5) of the Act provides that a direction under subsection 12 (1) of the Act must be in accordance with any guidelines in force at the time the direction is given.

(5) This Part sets out the guidelines.

4.2 Reserve supplies of liquid fuel

(1) The Minister must take the following matters into account before giving a direction to a relevant fuel industry corporation to maintain, or to accumulate and maintain, reserve supplies of a specified kind of liquid fuel:

(a) the expected severity, type, impact and duration of liquid fuel supply disruption during a period of national emergency that may be declared under section 16 of the Act;

(b) the expected impact of the proposed direction on the relevant fuel industry corporation;

(c) the expected impact of the proposed direction on the broader community;

(d) the expected impact of the proposed direction in relation to Australia’s national interests and international obligations;
(e) any other relevant matter.

(2) The Minister must consult with the relevant fuel industry corporation prior to directing that corporation to maintain, or to accumulate and maintain, reserves of fuel.

(3) For paragraph (1) (b), the Minister must consider the following matters:
   (a) the corporation’s market share of the liquid fuel;
   (b) the corporation’s normal distribution system and stockholding patterns in relation to the liquid fuel;
   (c) the expected time it would take the corporation to accumulate additional reserve supplies of the liquid fuel;
   (d) any matter that would adversely affect the ability of the corporation to comply with the direction, including, but not limited to:
      (i) the availability of transport; and
      (ii) the availability of storage facilities; and
      (iii) whether additional storage facilities would be required, and the availability of additional storage facilities; and
      (iv) any constraints on the supply of the liquid fuel which are beyond the corporation’s control;
   (e) the extent to which the requirement to hold additional reserve stocks would cause an unreasonable burden on the corporation, including the effect on the corporation’s normal distribution system and stockholding pattern;
   (f) any matter that would unreasonably place the corporation at a commercial disadvantage to its competitors in the market for the same liquid fuel, including:
      (i) the maximum volume of liquid fuel that can be maintained, or accumulated and maintained, by the corporation before its competitive position relative to its competitors is adversely affected; and
      (ii) the extent to which the costs to the corporation of maintaining, or accumulating and maintaining, the additional reserves of liquid fuel, will be higher or lower than the relative costs incurred by the corporation’s competitors during the same period;
   (g) any other relevant matter.

### 4.3 Quantity of reserve supplies

The Minister must take the following matters into account before giving a direction to a relevant fuel industry corporation about the quantity of a specified kind of liquid fuel that it will be required to maintain, or to accumulate and maintain:

(a) the volume of the liquid fuel stock held in Australia, or that could reasonably be expected to be held in Australia, by the relevant fuel industry corporation;
Section 4.4

(b) the maximum volume of the liquid fuel that the relevant fuel industry corporation could reasonably be expected to maintain, or to accumulate and maintain;
(c) the total volume of the specified liquid fuel that it is expected will be required as an additional stock reserve;
(d) the corporation’s relative share of the total supply of the liquid fuel to be held as an additional stock reserve;
(e) the expected time it will take the relevant fuel industry corporation to accumulate additional stocks of the liquid fuel;
(f) the expected time that certain quantities of additional stock reserves will reasonably be required;
(g) any other relevant matter.

4.4 Places in Australia at which reserve supplies are to be maintained, or accumulated and maintained

The Minister must take the following matters into account before giving a direction to a relevant fuel industry corporation about the places in Australia at which it will be required to store a specified kind of liquid fuel:

(a) the capacity and location of storage facilities that may be used by the corporation to store reserve supplies of liquid fuel;
(b) the extent to which the location or locations at which the corporation can store reserve supplies of liquid fuel will enable the efficient distribution of those reserve stocks to bulk customers during a period of national liquid fuel emergency declared under subsection 16 (1) of the Act;
(c) any other relevant matter.
Part 5  Minister may direct relevant fuel industry corporations to develop bulk allocation procedures

5.1 Guidelines for section 13 of the Act

(1) Subsection 13 (1) of the Act authorises the Minister to direct a relevant fuel industry corporation that:

(a) is included in a class of relevant fuel industry corporations in relation to which guidelines under subsection 13 (3) of the Act are in force; and

(b) supplies a refined liquid petroleum product of a kind specified in those guidelines;

to give to the Minister particulars of procedures the corporation has developed to enable it to allocate bulk supplies of that product in accordance with those guidelines.

(2) Subsection 13 (3) of the Act requires the Minister to make guidelines relating to a specified class of relevant fuel industry corporations allocating bulk supplies of a specified kind of refined liquid petroleum product to:

(a) persons who in the event of a period of national liquid fuel emergency; or

(b) organisations that in the event of a period of national liquid fuel emergency;

would be likely to be bulk customers of that class of relevant fuel industry corporations in relation to that product.

(3) This Part sets out the guidelines.

5.2 Classes of relevant fuel industry corporations

The specified classes of relevant fuel industry corporations are:

(a) corporations engaged in the refining, distribution and marketing of liquid petroleum products as their principal activities; and

(b) corporations engaged in the distribution and marketing of liquid petroleum products as their principal activities.

5.3 Kinds of refined liquid petroleum products

The kinds of refined liquid petroleum products are the following:

(a) each of the liquid fuels defined as a refined liquid petroleum product in subsection 3 (1) of the Act;

(b) biodiesel;

(c) synthetic fuels.
Section 5.4

5.4 Bulk allocation procedure

(1) A bulk allocation procedure must include a mechanism to enable the equitable allocation of the available product to bulk customers in such quantities as are specified in, or worked out in accordance with, a direction by the Minister under section 21 of the Act.

(2) The mechanism referred to in subsection (1):
   (a) must enable the reduction, by a certain percentage or amount, of the quantity of the future monthly supply of the bulk product to be supplied to a bulk customer; and
   (b) must enable the continuing supply of the reduced volume of the future monthly supply of the bulk product to the bulk customer during a period of national liquid fuel emergency; and
   (c) must enable further reductions or increases, by certain percentages or amounts, of the quantity of the future monthly supply of the bulk product to be supplied to a bulk customer, and the continuing supply of the varied volume of the future monthly supply of the bulk product to the bulk customer during a period of national liquid fuel emergency.
Minister may direct relevant fuel industry corporations and relevant persons to maintain statistical information

6.1 Guidelines for section 14 of the Act
(1) Subsection 14 (1) of the Act authorises the Minister to direct relevant fuel industry corporations and relevant persons to maintain, in a specified form and after a specified day, specified statistical information relating to liquid fuels that come into the possession or under the control of that corporation or person after that day.

(2) Subsection 14 (4) of the Act requires the Minister to make guidelines for the purposes of section 14 of the Act.

(3) Subsection 14 (3) of the Act provides that a direction under subsection 14 (1) of the Act must be in accordance with any guidelines in force at the time the direction is given.

(4) This Part sets out the guidelines.

6.2 Classes of relevant fuel industry corporations
The specified classes of relevant fuel industry corporations are:
(a) corporations engaged in the refining, distribution and marketing of liquid petroleum products as their principal activities; and
(b) corporations engaged in the distribution and marketing of liquid petroleum products as their principal activities.

6.3 Classes of relevant persons
The specified class of relevant persons is persons engaged in the distribution or marketing of liquid petroleum products as their principal activities.

6.4 Matters the Minister must consider
The Minister must consider the following matters before issuing a direction under subsection 14 (1) of the Act:
(a) whether:
   (i) the statistical information contains information that is commercial-in-confidence; and
Section 6.4

(ii) appropriate mechanisms are in place to protect that information if the information is to be made available under section 14A of the Act;

(b) whether the statistical information is necessary to enable the Government:
   (i) to plan for, and manage, a national liquid fuel emergency; and
   (ii) to comply with Australia's international obligations;

(c) whether the relevant fuel industry corporation or relevant person is directly responsible for the statistical information that will be sought;

(d) the capacity of the relevant fuel industry corporation to maintain the specified statistical information;

(e) the impact of the direction on the relevant fuel industry corporation, including:
   (i) consideration of the corporation’s current data collection systems and processes; and
   (ii) whether the direction will increase the volume of data the corporation must maintain or the frequency of the mandatory reporting of data;

(f) the current statistical information available to the Minister;

(g) the extent to which the direction may require relevant fuel industry corporations to put in place additional data collection systems and processes;

(h) any other relevant matter.
Section 7.2

Part 7

Minister may direct relevant fuel industry corporations and relevant persons to make available statistical information

7.1 Guidelines for section 14A of the Act

(1) Subsection 14A (1) of the Act authorises the Minister to direct a relevant fuel industry corporation or a relevant person to make available to the Minister and any Energy Minister specified in the direction, and by the day specified in the direction, statistical information that the corporation or person is required to maintain under section 14 of the Act.

(2) Subsection 14A (4) of the Act requires the Minister to make guidelines for the purposes of section 14A of the Act.

(3) Subsection 14A (3) of the Act provides that a direction under subsection 14A (1) of the Act must be in accordance with any guidelines in force at the time the direction is given.

(4) This Part sets out the guidelines.

7.2 Matters the Minister must consider

The Minister must consider the following matters before issuing a direction under subsection 14A (1) of the Act:

(a) whether:
   (i) the statistical information contains commercially sensitive material; and
   (ii) appropriate mechanisms are in place to protect that information;

(b) whether the statistical information is necessary to enable the Government:
   (i) to plan for, and manage, a national liquid fuel emergency; and
   (ii) to comply with Australia’s international obligations;

(c) the current statistical information available to the Minister;

(d) whether the proposed timeframe for the provision of statistical information to the Minister is reasonable;

(e) whether the frequency of requests for the provision of statistical information is reasonable;

(f) any other relevant matter.
Part 8  Minister may direct relevant fuel industry corporations to maintain reserves etc

8.1  Guidelines for section 17 of the Act

(1) Subsection 17 (1) of the Act provides that, during a period of national liquid fuel emergency, the Minister may, by writing, direct a relevant fuel industry corporation:
   (a) to maintain at all times after a specified day, at specified places in Australia, specified quantities of reserve supplies of a specified kind of liquid fuel; or
   (b) to accumulate, by a specified day, specified quantities of reserve supplies of a specified kind of liquid fuel and to maintain, at all times after that day, such quantities of reserve supplies of liquid fuel of that kind at specified place in Australia.

(2) Subsection 17 (5) of the Act requires the Minister to make guidelines for the purposes of section 17 of the Act.

(3) Subsection 17 (4) of the Act provides that a direction under subsection 17 (1) of the Act must be in accordance with any guidelines in force at the time the direction is given.

(4) This Part sets out the guidelines.

8.2  Reserve supplies of liquid fuel

(1) The Minister must take the following matters into account before giving a direction to a relevant fuel industry corporation to maintain, or to accumulate and maintain, reserve supplies of a specified kind of liquid fuel during a period of a national liquid fuel emergency:
   (a) the expected severity, type, impact and duration of liquid fuel supply disruption during a period of a national liquid fuel emergency declared under section 16 of the Act;
   (b) the expected impact of the proposed direction on the relevant fuel industry corporation;
   (c) the expected impact of the proposed direction on the broader community;
   (d) the expected impact of the proposed direction in relation to Australia’s national interests and international obligations;
   (e) stockholding arrangements already in place as a result of a direction or directions made under section 12 of the Act;
   (f) any other relevant matter.
(2) The Minister must consult with the relevant fuel industry corporation prior to directing that corporation to accumulate, or accumulate and maintain, reserve supplies of liquid fuel.

(3) For paragraph (1) (b), the Minister must consider the following matters:
   (a) the corporation’s market share of the liquid fuel;
   (b) the corporation’s normal distribution system and stockholding patterns in relation to the liquid fuel;
   (c) the extent to which the corporation has been required to, or may be required to, utilise existing reserves of fuel to assist in responding to the national liquid fuel emergency;
   (d) the expected time it would take the corporation to accumulate additional reserve supplies of the liquid fuel;
   (e) any matter that would adversely affect the ability of the corporation to comply with the direction, including, but not limited to:
      (i) the availability of transport; and
      (ii) the availability of storage facilities; and
      (iii) whether additional storage facilities would be required, and the availability of additional storage facilities; and
      (iv) any constraints on the supply of the liquid fuel which are beyond the corporation’s control;
   (f) the extent to which the requirement to hold additional reserve stocks would cause an unreasonable burden on the corporation, including the effect on the corporation’s normal distribution system and stockholding pattern;
   (g) any matter that would unreasonably place the corporation at a commercial disadvantage to its competitors in the market for the same liquid fuel, including:
      (i) the maximum volume of liquid fuel that can be maintained, or accumulated and maintained, by the corporation before its competitive position relative to its competitors is adversely affected; and
      (ii) the extent to which the costs to the corporation of maintaining, or accumulating and maintaining, the additional reserves of liquid fuel, will be higher or lower than the relative costs incurred by the corporation’s competitors during the same period;
   (h) any other relevant matter.
8.3 **Quantity of reserve supplies**

The Minister must take the following matters into account before giving a direction to a relevant fuel industry corporation about the quantity of a specified kind of liquid fuel that it will be required to maintain, or to accumulate and maintain:

(a) the volume of the liquid fuel stock held in Australia, or that could reasonably be expected to have been held in Australia, by the relevant fuel industry corporation;

(b) the maximum volume of the liquid fuel that the relevant fuel industry corporation could reasonably be expected to maintain, or to accumulate and maintain;

(c) the total volume of liquid fuel that it is expected will be required as an additional stock reserve;

(d) the corporation’s relative share of the total supply of the liquid fuel to be held as an additional stock reserve;

(e) the expected time it will take the relevant fuel industry corporation to accumulate additional stocks of the liquid fuel;

(f) the expected time that certain quantities of additional stock reserves will reasonably be required;

(g) any other relevant matter.

8.4 **Places in Australia at which reserve supplies are to be maintained, or accumulated and maintained**

The Minister must take the following matters into account before giving a direction to a relevant fuel industry corporation about the places in Australia at which it will be required to store a specified kind of liquid fuel:

(a) the capacity and location of storage facilities that may be used by the corporation to store reserve supplies of liquid fuel;

(b) the extent to which the location or locations at which the corporation can store reserve supplies of liquid fuel will enable the efficient distribution of those reserve stocks to bulk customers during the period of national liquid fuel emergency declared under subsection 16 (1) of the Act;

(c) any other relevant matter.
Minister may give directions as to output from refineries

Part 9

Guidelines for section 20 of the Act

(1) Subsection 20 (1) of the Act provides that, during a period of national liquid fuel emergency, the Minister may, by writing, direct a relevant fuel industry corporation that is engaged in producing or refining liquid fuel to produce in Australia, during a specified period, a specified quantity of liquid fuel of a specified kind.

(2) Subsection 20 (5) of the Act requires the Minister to make guidelines for the purposes of section 20 of the Act.

(3) Subsection 20 (4) of the Act provides that a direction under subsection 20 (1) of the Act must be in accordance with any guidelines in force at the time the direction is given.

(4) This Part sets out the guidelines.

Matters the Minister must consider

(1) The Minister must consider the following matters before issuing a direction under subsection 20 (1) of the Act:
   (a) the expected severity, type, impact and duration of liquid fuel supply disruption during a period of a national liquid fuel emergency declared under section 16 of the Act;
   (b) the expected impact of the proposed direction on the relevant fuel industry corporation;
   (c) the expected impact of the proposed direction on the broader community;
   (d) the expected impact of the proposed direction in relation to Australia’s national interests and international obligations;
   (e) the expected availability of crude oil and petroleum products in Australia during the period of national liquid fuel emergency, including imported products, and the expected demand for those products within Australia;
   (f) whether the fuel production and refining market would be able to meet the demand for a particular liquid fuel product without the exercise of powers under subsection 20 (1) of the Act;
   (g) any direction previously issued to the corporation under subsections 12 (1) and 17 (1) of the Act in relation to the current period of national liquid fuel emergency, and whether the proposed direction under subsection 20 (1) of the Act will be consistent with those directions (if any);
   (h) any other relevant matter.
(2) The Minister must consult with the relevant fuel industry corporation prior to directing that corporation to produce in Australia, during a specified period, a specified quantity of liquid fuel of a specified kind.

(3) For paragraph (1) (b), the Minister must consider the following:
   (a) the corporation’s market share of the liquid fuel;
   (b) the corporation’s normal fuel production, distribution system and stockholding patterns in relation to the liquid fuel;
   (c) the capacity of the corporation to produce, store and distribute the specified fuel in the volume directed;
   (d) any matter that would unreasonably place the corporation at a commercial disadvantage to its competitors in the market for the same liquid fuel, including:
      (i) the maximum volume of liquid fuel that can be produced by the corporation during a specified period before its competitive position relative to its competitors is adversely affected; and
      (ii) the extent to which the costs to the corporation of producing the additional reserves of liquid fuel will be higher or lower than the relative costs incurred by the corporation’s competitors during the same period;
   (e) any other relevant matter.
Part 10 Minister may give directions with respect to allocation by corporations of liquid fuel to bulk customers

10.1 Guidelines for section 21 of the Act

(1) Subsection 21 (1) of the Act provides that, during a period of national liquid fuel emergency, the Minister may direct a relevant fuel industry corporation that, in the course of its trading or commercial activities:

(a) ordinarily makes a specified kind of refined liquid petroleum product available for purchase in bulk in a State or Territory; and

(b) ordinarily makes that product available for such purchase by persons or organisations that are bulk customers of the corporation in relation to that product;

...to make that product available for purchase in bulk in that State or Territory by those persons or organisations in such quantities as are specified in, or worked out in accordance with, the direction.

(2) Subsection 21 (2) of the Act provides that a direction under subsection (1) must specify that the product is to be made available for purchase in accordance with the bulk allocation procedures approved by the Minister under section 13 of the Act.

(3) Subsection 21 (7) of the Act requires the Minister to make guidelines for the purposes of section 21 of the Act.

(4) Subsection 21 (6) of the Act provides that a direction under subsection 21 (1) of the Act must be in accordance with any guidelines in force at the time the direction is given.

(5) This Part sets out the guidelines.

10.2 Matters the Minister must consider

(1) The Minister must consider the following matters before issuing a direction under subsection 21 (1) of the Act:

(a) the expected severity, type, impact and duration of liquid fuel supply disruption during a period of a national liquid fuel emergency declared under section 16 of the Act;

(b) the expected impact of the proposed direction on the relevant fuel industry corporation;

(c) the expected impact of the proposed direction on the broader community;

(d) the expected impact of the proposed direction in relation to Australia’s national interests and international obligations;
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(c) the bulk allocation procedure of the relevant fuel industry corporation, as approved by the Minister under subsection 13 (5) or (7) of the Act;

(f) the supply needs of essential users;

(g) the length of the planning period or periods that may be specified in the direction;

(h) any other relevant matter.

(2) The Minister must consult with the relevant fuel industry corporation prior to directing a corporation to allocate a specified kind of liquid fuel to bulk customers.

(3) For paragraph (1) (b), the Minister must consider the following matters:

(a) the corporation’s market share of the liquid fuel;

(b) any matter that would adversely affect the ability of the corporation to comply with the direction, including, but not limited to, the following:

(i) the availability of transport;

(ii) any constraints on the supply of the liquid fuel which are beyond the corporation’s control;

(c) any matter that would unreasonably place the corporation at a commercial disadvantage to its competitors in the market for the same liquid fuel, including:

(i) the maximum volume of liquid fuel that can be allocated in bulk by the corporation before its competitive position relative to its competitors is adversely affected; and

(ii) the extent to which the costs to the corporation of allocating reserves of liquid fuel to bulk customers will be higher or lower than the relative costs incurred by the corporation’s competitors during the same period;

(d) any other relevant matter.
Minister may give directions with respect to allocation by relevant persons of liquid fuel to bulk customers

11.1 Guidelines for section 22 of the Act

(1) Subsection 22 (1) of the Act provides that, during a period of national liquid fuel emergency, the Minister may direct each relevant person who, in the course of the person’s trading or commercial activities:

(a) ordinarily makes a specified kind of refined liquid petroleum product available for purchase in bulk in a State or Territory; and

(b) ordinarily makes that product available for such purchase by persons or organisations that are bulk customers of the relevant person in relation to that product;

to make that product available for purchase in bulk in that State or Territory by those persons or organisations in such quantities as are specified in, or worked out in accordance with, the direction.

(2) Subsection 22 (7) of the Act requires the Minister to make guidelines for the purposes of section 22 of the Act.

(3) Subsection 22 (6) of the Act provides that a direction under subsection 22 (1) of the Act must be in accordance with guidelines in force at the time the direction is made.

(4) This Part sets out the guidelines.

11.2 Matters the Minister must consider

(1) The Minister must consider the following matters before issuing a direction under subsection 22 (1) of the Act:

(a) the expected severity, type, impact and duration of liquid fuel supply disruption during a period of a national liquid fuel emergency declared under section 16 of the Act;

(b) the expected impact of the proposed direction on the relevant person;

(c) the expected impact of the proposed direction on the broader community;

(d) the expected impact of the proposed direction in relation to Australia’s national interests and international obligations;

(e) the supply needs of essential users;

(f) the length of the planning period or periods that may be specified in the direction;

(g) any other relevant matter.
Section 11.2

(2) The Minister must consult with the relevant person prior to directing that person to allocate a specified kind of liquid fuel to bulk customers.

(3) For paragraph (1) (b), the Minister must consider the following matters:
   (a) any matter that would adversely affect the ability of the relevant person to comply with the direction, including, but not limited to:
      (i) the availability of transport; and
      (ii) any constraints on the supply of the liquid fuel which are beyond the corporation’s control;
   (b) any matter that would unreasonably place the relevant person at a commercial disadvantage to its competitors in the market for the same liquid fuel, including:
      (i) the maximum volume of liquid fuel that can be allocated in bulk by the relevant person before their competitive position relative to its competitors is adversely affected; and
      (ii) the extent to which the costs to the relevant person of allocating reserves of liquid fuel to bulk customers will be higher or lower than the relative costs incurred by the relevant person’s competitors during the same period;
   (c) any other relevant matter.
Part 12

Minister may give directions to corporations regulating or prohibiting supply of liquid fuel

12.1 Guidelines for section 23 of the Act

(1) Subsection 23 (1) of Act provides that, during a period of national liquid fuel emergency, the Minister may give directions regulating or prohibiting the supply by relevant fuel industry corporations, in the course of their trading or commercial activities, of specified refined liquid petroleum products to persons generally or to specified persons.

(2) Subsection 23 (7) of the Act requires the Minister to make guidelines for section 23 of the Act.

(3) Subsection 23 (6) of the Act provides that a direction under subsection 23 (1) of the Act must be in accordance with guidelines in force at the time the instrument is made.

(4) This Part sets out the guidelines.

12.2 Conditions to which a direction may be subject

The Minister may consider making a direction subject to one or more of the following conditions:

(a) a condition that the corporation must not supply fuel to persons generally or to specified persons that are not able to produce evidence of an entitlement to purchase that fuel;

(b) a condition specifying the maximum amount of fuel that can be supplied by the corporation to persons generally or to specified persons:
   (i) at any one time; or
   (ii) over a specified period;

(c) a condition specifying the period or periods of time during the day that fuel can be supplied to persons generally or specified persons.

12.3 Matters the Minister must consider

(1) The Minister must consider the following matters before issuing a direction under subsection 23 (1) of the Act:

(a) the expected severity, type, impact and duration of liquid fuel supply disruption during a period of a national liquid fuel emergency declared under section 16 of the Act;

(b) the expected impact of the proposed direction on the relevant fuel industry corporation;
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(c) the expected impact of the proposed direction on the broader community;
(d) the expected impact of the proposed direction in relation to Australia’s national interests and international obligations;
(e) the bulk allocation procedure of the relevant fuel industry corporation, as approved by the Minister under subsection 13 (5) or (7) of the Act;
(f) the supply needs of essential users;
(g) the length of the planning period or periods that may be specified in the direction;
(h) any other relevant matter.

(2) The Minister must consult with the relevant fuel industry corporation prior to giving a direction to that corporation to regulate or prohibit the supply of a specified kind of liquid fuel.

(3) For paragraph (1) (b), the Minister must consider the following matters:
(a) any matter that would adversely affect the ability of the corporation to comply with the direction, including, but not limited to, any constraints on the supply of the liquid fuel beyond the corporation’s control;
(b) any matter that would unreasonably place the corporation at a commercial disadvantage to its competitors in the market for the same liquid fuel, including:
   (i) the effect of the proposed regulation or prohibition of supply on the competitive position of the corporation relative to its competitors; and
   (ii) the extent to which the costs to the corporation of complying with the regulation or prohibition of supply will be higher or lower than the relative costs incurred by the corporation’s competitors during the same period;
(c) any other relevant matter.
Minister may give directions to relevant persons regulating or prohibiting supply of liquid fuel

Part 13

Minister may give directions to relevant persons regulating or prohibiting supply of liquid fuel

13.1 Guidelines for section 24 of the Act

(1) Subsection 24 (1) of the Act provides that, during a period of national liquid fuel emergency, the Minister may give directions regulating or prohibiting the supply by relevant persons, in the course of their trading or commercial activities, of specified refined liquid petroleum products to persons generally or to specified persons.

(2) Subsection 24 (7) of the Act requires the Minister to make guidelines for the purposes of section 24 of the Act.

(3) Subsection 24 (6) of the Act provides that a direction under subsection 24 (1) of the Act must be in accordance with guidelines in force at the time the instrument is made.

(4) This Part sets out the guidelines.

13.2 Conditions to which a direction may be subject

The Minister may consider making a direction subject to one or more of the following conditions:

(a) a condition that the relevant person must not supply fuel to persons generally or to specified persons that are not able to produce evidence of an entitlement to purchase that fuel;

(b) a condition specifying the maximum amount of fuel that can be supplied by the relevant person to persons generally or to specified persons:
   (i) at any one time; or
   (ii) over a specified period;

(c) a condition specifying the period or periods of time during the day that fuel can be supplied to persons generally or specified persons.

13.3 Matters the Minister must consider

(1) The Minister must consider the following matters before issuing a direction under subsection 24 (1) of the Act:

(a) the expected severity, type, impact and duration of liquid fuel supply disruption during a period of a national liquid fuel emergency declared under section 16 of the Act;

(b) the expected impact of the proposed direction on the relevant person;
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(c) the expected impact of the proposed direction on the broader community;
(d) the expected impact of the proposed direction in relation to Australia’s national interests and international obligations;
(e) the supply needs of essential users;
(f) the length of the planning period or periods that may be specified in the direction;
(g) any other relevant matter.

(2) The Minister must consult with the relevant person prior to giving a direction to that person to regulate or prohibit the supply of a specified kind of liquid fuel.

(3) For paragraph (1) (b), the Minister must consider the following matters:
(a) any matter that would adversely affect the ability of the person to comply with the direction, including, but not limited to, any constraints on the supply of the liquid fuel beyond the person’s control;
(b) any matter that would unreasonably place the person at a commercial disadvantage to its competitors in the market for the same liquid fuel, including:
   (i) the effect of the proposed regulation or prohibition of supply on the competitive position of the person relative to its competitors; and
   (ii) the extent to which the costs to the person of complying with the regulation or prohibition of supply will be higher or lower than the relative costs incurred by the person’s competitors during the same period;
(c) any other relevant matter.

Note