Commonwealth of Australia  
*Liquid Fuel Emergency Act 1984*

**LIQUID FUEL EMERGENCY GUIDELINES 2008**

*Explanatory Statement*

Issued by the authority of the Minister for Resources and Energy  
MARTIN FERGUSON

Date of Approval: 19 September 2008

**LIQUID FUEL EMERGENCY GUIDELINES 2008**

**Part 1 - Preliminary**

**General Outline**

Australia’s dependence on transport fuel makes it vulnerable to oil supply disruptions and Australian Governments have acknowledged a clear responsibility to prepare contingency plans against a possible liquid fuels supply emergency.

Australian Government policy is, where possible, to allow industry to manage fuel supply disruptions without government intervention. If a regulatory response is required, Australia’s State and Territory Governments have constitutional responsibility for planning and coordinating emergency responses within their territorial boundaries in the first instance.

In determining whether there is a need for implementation of a national regulatory response under the *Liquid Fuel Emergency Act 1984* (the Act), the fuel shortage must have national implications. In considering whether there is a national liquid fuel emergency, the severity, impact and duration of the fuel supply shortage will be considered and it is expected that more than one jurisdiction would be affected. In addition, advice from the petroleum industry would be sought regarding its ability to deal independently, through its normal commercial operations with the supply shortage. Furthermore, should Australia need to meet its obligations to the International Energy Agency (IEA), a national liquid fuel emergency under the Act may be declared by the Australian Governor-General, following prior consultation with State and Territory Governments.

The Act provides the authority for the Australian Government to prepare for and manage the response during a national liquid fuel emergency, and to implement measures to meet Australia’s commitments as a member of the IEA. As a member of the IEA, Australia is required to maintain a petroleum product demand restraint program which can be readily activated, and to hold reserve oil stocks equivalent to 90 days net of oil import consumption. The Act gives the Minister for Resources and Energy wide-ranging powers to control the drawdown, transfer and sale of industry stocks of crude oil and liquid fuels, and to control bulk and retail sales of fuel across Australia.

The objective of the *Liquid Fuel Emergency 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 Act, to manage a national liquid fuel emergency

**Legislative Authority**

The Guidelines are issued by the Minister for Resources and Energy, acting under sections 10; 11; 12; 14; 14A; 17; 20; 21; 22; 23 and 24 of the *Liquid Fuel Emergency Act 1984*, who signed the Guidelines on 19 September 2008.


**Consultation**

The Guidelines have been developed under the auspice of the National Oil Supplies Emergency Committee (NOSEC) which is comprised of representatives of industry, State and Territory Governments and the Commonwealth Government.

**Financial Implications**

There are no financial implications.

**Date of Effect**

The Guidelines will commence on the day after they are registered on the Federal Register of Legislative Instruments.

**Notes on Provisions**

**Clause 1 – Name of Guidelines**

This prescribes the name of the Guidelines as the *Liquid Fuel Emergency Guidelines 2008*.

**Clause 1.2 - Commencement**

Clause 1.2 provides for the Guidelines to commence on the day after they are registered

**Clause 1.3 - Definitions**

Clause 1.3 provides a list of definitions for the purposes of these Guidelines and notes that they are in accordance with the definitions outlined in the Act.
Part 2: Bulk customers of relevant fuel industry corporations or relevant persons

General Outline

Section 10 of the Act gives the Minister for Resources and Energy the power to identify a person or an organisation as a bulk customer of a relevant fuel industry corporation or a relevant person.

The purpose of the Guidelines under Section 10 is to assist with the identification of "bulk customer" and provides greater specificity to allow their efficient identification either prior to, or during, a national liquid fuel emergency. Under the Act, bulk customers have an important role to play in facilitating the Government's response to a national liquid fuel emergency. Sections 21 and 22 of the Act provide for the allocation of liquid fuel during a declared emergency to identified bulk customers.

In preparing for and managing a national liquid fuel emergency, the Act gives the Minister the power to impose allocations on bulk customers. The intent of imposing allocations on bulk customers is to ensure the equitable distribution of the available product to bulk customers, as well as ensuring supply to essential users. This also allows the Minister to more easily manage those fuel users that have a key role in the fuel distribution chain including fuel retailers and large commercial fuel users.

When identifying bulk customers, the Minister must be satisfied that the person or organisation has a current contractual arrangement to purchase bulk quantities. The contractual arrangement must be for a period of at least 3 months.

In making a direction the Minister will consult with relevant fuel industry corporations and persons, and will consider the information provided to him.

Section 10 of the Act also provides the Minister with the authority to revoke an identification of a bulk customer if the Minister is satisfied that the person or organisation has ceased to carry on activities which identified them as a bulk customer for the purposes of the Act (section 10(6) of the Act refers).

In accordance with 10(9) of the Act, the Minister will, as soon as practicable, after making a decision identifying a person or organisation as a bulk customer of a relevant fuel industry corporation or revoking the identification of a person or organisation as a bulk customer, give notice of the decision to that person or organisation. All communication will be, at a minimum, consistent with the service requirements under Section 28A of the Acts Interpretation Act 1901.

A Direction made under section 10 of the Liquid Fuel Emergency Act 1984 will make reference to other relevant Direction(s) in force at that time.

Legislative Authority

Subsection 10(4) of the Liquid Fuel Emergency Act 1984, requires the Minister to make Guidelines for the purposes of this section.
Consultation
The Guidelines have been developed under the auspice of the National Oil Supplies Emergency Committee (NOSEC) which is comprised of representatives of industry, State and Territory Governments and the Commonwealth Government.

Financial Implications
There are no financial implications.

Date of Effect
The Guidelines will commence on the day after they are registered on the Federal Register of Legislative Instruments.

Notes on Provisions:

Clause 2.1 – Guidelines for section 10 of the Act

Clause 2.1 outlines the authority for the Minister to identify, by writing, a person or an organisation as a bulk customer in relation to a particular refined liquid petroleum product.

A direction made under Section 10 must be in accordance with Guidelines in force at the time the direction is made.

Clause 2.2 – Bulk quantities

Clause 2.2 requires the Minister to consult with industry and relevant persons in determining what constitutes as a bulk quantity of a refined petroleum product for the purpose of determining a bulk customer. The Guidelines do not specify the quantity of fuel which amounts to a bulk quantity as this may change and is dependent on industry practice at the time.

Clause 2.3 – Identification of bulk customers

Clause 2.3 sets out the criteria for determining which customers are bulk customers. The Guidelines envisage that a bulk customer is one that has an ongoing contractual arrangement for the purchase of bulk quantities of fuel from a relevant fuel industry corporation or relevant person.

The intent of clause 2.3 (3) is to prevent ad hoc fuel purchasers being identified as bulk customers.

Clause 2.3(4) notes that a contractual arrangement can consist of one contract or multiple contracts.
Part 3: Essential users of refined liquid petroleum products

General Outline

Section 11 of the Act gives the Minister the power to identify a person or organisation as an essential user of fuel. 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.

It is recognised that the identification of essential users is critical for three reasons

- To ensure essential users receive priority access to petroleum products in the event of a national liquid fuel emergency
- To enable those who are not essential users to be aware of their potential status, and to take action to mitigate the risks of limited or no supply of liquid fuels during a national liquid fuel emergency; and
- To enable fuel suppliers and governments to develop stockholding and emergency supply plans based on a reasonably firm knowledge of the likely demands by essential users for fuel at a national, regional and local level.

It is recognised that for effective supply planning arrangements to be implemented, fuel suppliers and retailers need to be provided with clear guidance to enable identification of essential users seeking to acquire fuel supplies, as well as sufficient information about the fuel requirements of those essential users.

Subsection 11(7) of the Act also provides the Minister with the authority to revoke an instrument identifying an essential user. In revoking an instrument that identifies a person or organisation as an essential user the Minister must be satisfied that the user is no longer carrying on the activities that led to their identification as an essential user. During a national liquid fuel emergency the revocation will take effect at the end of the planning period in which the revocation was made.

In accordance with 11(10) of the Act, the Minister will, as soon as practicable, after making a decision identify a person or organisation as an essential user of fuel, or revoking the identification of a person or organisation as an essential user of fuel, give notice of the decision to that person or organisation and to the relevant State or Territory Energy Minister. All communication will be, at a minimum, consistent with the service requirements under Section 28A of the Acts Interpretation Act 1901.

A Determination made under section 11 of the Liquid Fuel Emergency Act 1984 will make reference to other relevant Directions that are in force at that time.

Legislative Authority

Subsection 11(5) of the Liquid Fuel Emergency Act 1984, requires the Minister to make Guidelines for the purposes of this section.

Consultation

The Guidelines have been developed under the auspice of the National Oil Supplies Emergency Committee (NOSEC) which is comprised of representatives of industry, State and Territory Governments and the Commonwealth Government.
In making a Determination under this section, either immediately prior to or during an LFE, the Minister will consult with state and territory jurisdictions and relevant fuel industry corporations.

**Financial Implications**

There are no financial implications.

**Date of Effect**

The Guidelines will commence on the day after they are registered on the Federal Register of Legislative Instruments.

**Notes on Provisions**

**Clause 3.1 - Guidelines for section 11 of the Act**

Clause 3.1 outlines the authority under the Act for the Minister to identify a person or an organisation as an essential user of a particular refined petroleum product.

The identification of an essential user under Section 11 must be in accordance with Guidelines in force at the time the direction is made.

**Clause 3.2 – Determination of activities for the purpose of paragraph 11(d) of the Act**

This clause provides guidance as to what matters must be considered in determining an activity as essential, in particular to the health, safety or welfare of the community and how essential the particular refined liquid petroleum product is for carrying out that activity.

**Clause 3.3 – Identification of essential users**

Clause 3.3 sets out the criteria for determining if a person or organisation is an essential user.

Clause 3.3(1), (2) and (3) outlines those matters which determine whether a person or organisation is an essential user and those matter that the Minister must take into account if a national liquid fuel emergency exists, prior to treating the person or organisation as an essential user during the period of the emergency. It recognises that whether a person or an organisation is to be deemed to be an essential user will also depend on the severity, type, and expected impact and duration of the national liquid fuel emergency. In addition the availability of relevant quantities of liquid fuels to support the inclusion of each category of essential user is also a consideration.
Part 4: Minister may direct relevant fuel industry corporations to maintain reserves etc.

General Outline
Section 12 of the Act gives the Minister the power to direct relevant fuel industry corporations to maintain or accumulate reserves of fuel. Whereas a direction to maintain reserves made under Section 17 of the Act can only be given during a national liquid fuel emergency, a direction made under Section 12 can not be given during a period of national liquid fuel emergency.

It is intended that a Direction under this Section of the Act will remain in force during a period of a national liquid fuel emergency until a Direction is issued under Section 17 of the Act.

The purpose of directing fuel industry corporations to maintain reserves of fuel in preparation for a possible national liquid fuel emergency is to ensure that each corporation will be able to comply with a direction given to it during an emergency.

The Minister in determining a Direction under Section 12 of the Act will be mindful of the need for consistency between decision making processes when making a Direction under section 17 of the Act. It is envisaged that the Minister will consult with relevant fuel industry corporations and will consider any relevant information provided before making a direction under this section.

Subsection 12(8) provides the Minister with authority to vary the quantity of reserve supplies of liquid fuel as required by a direction under subsection 12(1) of the Act, where a particular temporary circumstance exist. These circumstances may vary widely, but could include a short-term supply disruption which is of insufficient scale to require the use of the Minister's powers under Section 16 of the Act (ie declaration of a national liquid fuel emergency). It is expected that a relevant fuel industry corporation will advise the Minister if there are impending temporary circumstances which warrant the short-term variation of the direction.

The Minister will provide the relevant fuel industry corporation with a notice of a direction under this Section, or a variation of a direction under this Section. The direction and /or variation will take effect from the time the notice is received.

A Direction made under section 12 of the Liquid Fuel Emergency Act 1984 will make reference to other relevant Directions that are in force at that time.

Legislative Authority
Subsection 12(6) of the Liquid Fuel Emergency Act 1984, requires the Minister to make Guidelines for the purposes of this section.

Consultation
The Guidelines have been developed under the auspice of the National Oil Emergency Supplies Committee (NOSEC) which is comprised of representatives of industry, State and Territory Governments and the Commonwealth Government.

Financial Implications
There are no financial implications
Date of Effect

The Guidelines will commence on the day after they are registered on the Federal Register of Legislative Instruments.

Notes on Provisions

Clause 4.1 – Guidelines for section 12 of the Act

Clause 4.1 outlines the authority for the Minister to direct a relevant fuel industry corporation to maintain or accumulate reserves of liquid fuel. A direction under Section 12 must be for the purpose of ensuring that in the event of a national liquid fuel emergency the relevant industry corporation would be in a position to comply with any direction made during that period.

A direction made under Section 12 of the Act must be in accordance with Guidelines in force at the time the direction is made.

Clause 4.2 – Reserve Supplies of liquid fuel

Clause 4.2 sets out the matters that the Minister must take into account when issuing a direction to hold specified quantities of reserves of a specified kind of liquid fuel.

The intent of the Guideline is to ensure that the Minister takes into account the expected nature of any prospective national liquid fuel emergency and considers the interests of the nation and the broader community as well as that of the relevant fuel industry corporation when making the direction.

Clause 4.2(2) requires the Minister to consult with the relevant fuel industry corporation(s) prior to issuing a Direction under Section 12 (1) of the Act.

Clause 4.2(3) outlines those matters that the Minister must consider in regards to the impact a Direction under section 12(1) may have on a relevant fuel industry corporation. Areas included relate to the fuel industry corporation's normal business activities, its stockholding capacity and ability to comply with the direction, and matters in relation to possible commercial and economic impacts.

Clause 4.3 – Quantity of reserve supplies

Clause 4.3 outlines the matters the Minister must take into account prior to giving a direction to a fuel industry corporation to maintain or accumulate and maintain a quantity of the specified kind of liquid fuel. These consist of the maximum amount of liquid fuel that can be maintained or accumulated and maintained in Australia, including the amount that a corporation could reasonably be expected to maintain, or to accumulate and maintain; the corporations relative share of the total supply to be held as an additional stock reserve; the expected time to accumulate any additional stocks and the expected time that certain quantities of additional stock reserves will reasonably be required.
Clause 4.4 – Places in Australia at which reserves supplies are to be maintained, or accumulated and maintained

In making a Direction for about where a fuel industry corporation will be required to store a specified kind of liquid fuel, the Minister must take into account the capacity and location of existing storage facilities and the extent that the fuel stocks can be distributed in the most efficient manner to bulk customers during a national liquid fuel emergency.
Part 5: Minister may direct relevant fuel industry corporations to develop bulk allocation procedures

General Outline
Section 13 of the Act grants the Minister the power to direct relevant fuel industry corporations to develop procedures that will enable the allocation of bulk supplies of fuel.

Under the Act, bulk customers have an important role to play in facilitating the Government's response to a national liquid fuel emergency. The purpose of the Guidelines under Section 13 is to ensure that a relevant fuel industry corporation's bulk allocation procedure will effectively facilitate the Government's response to a national liquid fuel emergency. Bulk allocation procedures developed under this section will rely on the identification of bulk customers under Section 10 and will help give effect to a direction made under Section 21 and 22 of the Act.

A critical element in preparing for and managing a national liquid fuel emergency is the extent to which the Minister can utilise existing fuel production, supply and distribution mechanisms across the country. The intent being to ensure that fuel supplies can reach essential users, and to the extent that additional fuel supplies are available, for that to be equitably shared among other fuel users.

It is recognised that fuel industry corporations have existing bulk fuel allocation procedures. Therefore where current allocation procedures are consistent with these Guidelines it is envisaged, where practical and appropriate, the relevant fuel industry corporation will use its procedure in the event of a national liquid fuel emergency.

Where the Minister has directed under subsection 13(1) of the Act that relevant fuel industry corporations provide their bulk allocation procedures they must be consistent with the requirements of these Guidelines. Subsection 13(5) of the Act requires the Minister to approve, in writing, the relevant fuel industry corporation's bulk allocation procedures if the Minister is satisfied that the procedures are in accordance with the Guidelines and will enable the effective allocation of bulk fuel supplies in the event of an emergency. If the Minister is not satisfied with the procedures, the Minister has the authority under subsection 13(6) of the Act to direct the relevant fuel industry corporation to make specific changes to those procedures within a specified timeframe.

It is envisaged that the Minister will consult with relevant fuel industry corporations and will consider any relevant information provided before making a direction under this section.

The Minister will provide notice of a direction under this Section, or a variation of a direction under this Section. The direction will take effect from the time the notice is received.

A Direction made under section 13 of the Liquid Fuel Emergency Act 1984 will make reference to other relevant Directions that are in force at that time.

Legislative Authority
Subsection 13(3) of the Liquid Fuel Emergency Act 1984, requires the Minister to make Guidelines for the purposes of this section.

Consultation
The Guidelines have been developed under the auspice of the National Oil Supplies Emergency Committee (NOSEC) which is comprised of representatives of industry, State and Territory Governments and the Commonwealth Government.
Financial Implications

There are no financial implications.

Date of Effect

The Guidelines will commence on the day after they are registered on the Federal Register of Legislative Instruments.

Notes on Provisions

Clause 5.1 – Guidelines for section 13 of the Act

Clause 5.1 outlines the authority for the Minister to direct a relevant fuel industry corporation to provide the minister with its procedures for allocating bulk supplies to its customers.

A direction made under Section 13 must be in accordance with Guidelines in force at the time the direction is made.

Clause 5.2 – Classes of relevant fuel industry corporations

This clause outlines two classes of relevant fuel industry corporations, which incorporates those organisations whose principle activities include refining as well as distribution and marketing.

Clause 5.3 – Kinds of refined liquid petroleum products

Clause 5.3 provides for biodiesel; compressed natural gas; liquefied natural gas and synthetic fuels to also be identified as a refined liquid petroleum product, as well as those products defined as a refined liquid petroleum product, under Section 13 of the Act.

Clause 5.4 – Bulk Allocation procedure

Clause 5.4 explains that a bulk allocation procedure must include a mechanism to enable the equitable allocation of the available product to bulk customers. 5.4(2) highlights that the mechanism must enable the reduction of the quantity of the customers future monthly supply; the ability to maintain the supply of the reduced amount to the customer; and further reductions and or increases of the future monthly supply, including the continuing supply of the varied volume during a period of a national liquid fuel emergency.

This is a necessary requirement enabling the Minister to make directions under Section 21 of the Act, in respect of restricting the amount of a specified liquid petroleum product allocated to a bulk customer.
Part 6: Minister may direct relevant fuel industry corporations and relevant persons to maintain statistical information.

General Outline
Section 14 of the Act, gives the Minister the power to require specific statistical information to be maintained by relevant fuel industry corporations or relevant persons.

The purpose of Section 14 is to enable the Minister to direct relevant fuel industry corporations and relevant persons to maintain specified statistical information relating to liquid fuels in their possession or under their control. The effective use of statistics is an important part of planning for, and managing, a prospective national liquid fuel emergency and ensuring Australia complies with its international obligations.

As a member of the IEA, Australia is required to provide a variety of statistics to the IEA. The IEA requires extensive statistical information on production, use and stockholding levels, in the event of an international supply disruption. Data is provided to the Department of Resources, Energy and Tourism by the Australian Bureau of Agricultural and Resource Economics (ABARE), who complete the majority of the IEA questionnaires on behalf of the Australian Government. In addition incorporated into the statistics are the trade (imports/exports) and trade by origin & destination data which is collected by the Australian Bureau of Statistics. The IEA seeks the data through a series of questionnaires that include but not limited to the:

- Monthly Government Reporting Form for Crude Oil Imports (SOM);
- Monthly Oil and Gas Questionnaire (MOS);
- Monthly Gas Questionnaire;
- Quarterly Gas Questionnaire;
- Joint Oil Data Initiative;
- Net Import Coverage (90 day) report;
- Emergency Response Exercise in Capitals, an Emergency Response Training and Oil Supply Disruption Response Simulation Exercise;
- Annual Oil Questionnaire; and
- Annual Gas Questionnaire.

These statistics are also used to develop the Australian Petroleum Statistics (APS) publication which focuses on production, refining, sales, stocks, import and export data for crude oil and refined petroleum products. APS is also used to provide Ministerial advice and as a key tool used in making policy decisions.

It is envisaged that the Minister, prior to making a direction under this section will consult with relevant fuel industry corporations and relevant persons, in order to confirm that a direction will be effective in achieving the Government's objectives.

A Direction made under section 14 of the Liquid Fuel Emergency Act 1984 will make reference to other relevant Directions that are in force at that time.

Legislative Authority
Subsection 14(4) of the Liquid Fuel Emergency Act 1984, requires that the Minister make Guidelines for the purposes of this section.
Consultation
The Guidelines have been developed under the auspice of the National Oil Supplies Emergency Committee (NOSEC) which is comprised of representatives of industry, State and Territory Government and the Commonwealth Government.

Financial Implications
There are no financial implications.

Date of Effect
The Guidelines will commence on the day after they are registered on the Federal Register of Legislative Instruments.

Notes on Provisions:
Clause 6.1 – Guidelines for Section 14 of the Act
Clause 6.1 outlines the authority for the Minister to direct relevant fuel industry corporations and relevant persons to maintain specified statistical information relating to the liquid fuels they possess and control.

A direction made under Section 14 must be in accordance with Guidelines in force at the time the direction is made.

Clause 6.2 - Classes of relevant fuel industry corporations
Clause 6.2 identifies the two classes of relevant fuel industry corporations, which incorporates those organisations whose principle activities include refining as well as distribution and marketing.

Clause 6.3 - Classes of relevant persons Clause
Clause 6.3 identifies that persons engaged in the distribution or marketing of liquid petroleum products as their principle activities as the specified class of a relevant person for the purpose of the Guidelines.

6.4 – Matters the Minister must consider
Clause 6.4 sets out the matters that the Minister must consider when issuing a direction to maintain specified statistical information. 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.
Part 7: Minister may direct relevant fuel industry corporations and relevant persons to make available statistical information

General Outline

Section 14A of the Act, enables the Minister to direct a relevant fuel industry corporation or relevant person to make available specific statistical information which was maintained as a result of a direction under Section 14 of the Act.

The effective use of statistics is an important part of planning for, and managing, a prospective national liquid fuel emergency.

Section 14A may also be invoked in order to meet Australia's commitments to the IEA. The IEA requires extensive statistical information on production and stockholding levels, both in the context of the 90-day commitment and in the event of an international supply disruption requiring the use of the IEA's Coordinated Emergency Response Measures (CERM).

All information obtained by the Government under this section will be treated confidentially, to the extent that doing so does not impede the effective management of a national liquid fuel emergency response.

The Minister will provide to the relevant fuel industry corporation or persons notice of a direction under this Section. The direction will take effect from the time the notice is received.

A Direction made under section 14A of the Liquid Fuel Emergency Act 1984 will make reference to other relevant Directions that are in force at that time.

Legislative Authority

Subsection 14A(4) of the Liquid Fuel Emergency Act 1984, requires that the Minister make Guidelines for the purposes of this section.

Consultation

The Guidelines have been developed under the auspice of the National Oil Supplies Emergency Committee (NOSEC) which is comprised of representatives of industry, State and Territory Governments and the Commonwealth Government.

Financial Implications

There are no financial implications.

Date of Effect

The Guidelines will commence on the day after they are registered on the Federal Register of Legislative Instruments.
Notes on Provisions:

Clause 7.1 – Guidelines for section 14A of the Act

Clause 7.1 outlines the authority for the Minister to direct relevant fuel industry corporations and relevant persons to make available to the Minister statistical information that the corporation or person is required to maintain under Section 14 of the Act.

A direction made under Section 14A must be in accordance with Guidelines in force at the time the direction is made.

Clause 7.2 – Matters which the Minister must consider

Clause 7.2 sets out the factors which the Minister must consider when issuing a direction to make specified statistical information available. The Minister will 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 competitors in that market.
Part 8: Minister may direct relevant fuel industry corporations to maintain reserves etc.

General Outline

Section 17 of the Act gives the Minister the power to direct relevant fuel industry corporations to maintain or accumulate reserves of a specified kind of liquid fuel at specified places. Whereas a direction to maintain reserves made under Section 12 of the Act can not be given during a period of national liquid fuel emergency, a direction made under Section 17 may only be given during a national liquid fuel emergency.

It is intended that a Direction under Section 12 of the Act will continue in force during a national liquid fuel emergency until such time as a Direction is issued under Section 17.

The purpose of Section 17 is to enable the Minister to direct relevant fuel industry corporations to maintain reserves during a national liquid fuel emergency. The power can only be exercised during a national liquid fuel emergency. In practice, a direction may require a corporation that is unaffected by a large but localised disruption to begin stockholding a proportion of its fuel in anticipation of that disruption spreading to other regions/markets.

A direction under Section 17 replaces a direction given under Section 12.

It is anticipated that the Minister in making a Direction under Section 17 will consult with, and consider any relevant information provided to him, by the relevant fuel industry corporation(s). It is recognised that given the similar nature of the powers under this section and Section 12 of the Act, the Minister will be mindful of the need for consistency, as appropriate, with a direction issued under this Section and Section 12.

Subsection 17(7)) provides the Minister with authority to vary the quantity of reserve supplies of liquid fuel as required by a direction under subsection 17(1) of the Act, where the Minister is satisfied that a particular temporary circumstance exist. It is expected that a relevant fuel industry corporation will advise the Minister if there are impending temporary circumstances which warrant the short-term variation of the direction.

The Minister will provide the relevant fuel industry corporation with a notice of a direction under this Section, or a variation of a direction under this Section. The direction and/or variation will take effect from the time the notice is received.

A Direction made under section 17 of the Liquid Fuel Emergency Act 1984 will make reference to other relevant Directions that are in force at that time.

Legislative Authority

Subsection 17(5) of the Liquid Fuel Emergency Act 1984, requires the Minister to make Guidelines for the purposes of this section.

Consultation

The Guidelines have been developed under the auspice of the National Oil Supplies Emergency Committee (NOSEC) which is comprised of representatives of industry, State and Territory Governments and the Commonwealth Government.
Financial Implications

There are no financial implications.

Date of Effect

The Guidelines will commence on the day after they are registered on the Federal Register of Legislative Instruments.

Notes on Provisions:

Clause 8.1 – Guidelines for section 17 of the Act

Clause 8.1 outlines the authority for the Minister to direct a relevant fuel industry corporation to maintain specified quantities of reserve supplies at specified places, or to accumulate by a particular date, a specific amount of a liquid fuel to be held in reserve.

Clause 8.2 – Reserve supplies of liquid fuel

Clause 8.2 sets out the matter that the Minister must consider before issuing a direction to hold specified reserves of a specified kind of liquid fuel. The intent of the Guideline is to ensure that the Minister takes into account the expected severity, type, impact and duration of the national liquid fuel emergency, as well as any stockholding arrangements already in place following a direction made under Section 12 of the Act. The Minister must also consider the interests of the nation and the broader community as well as that of the relevant fuel industry corporation when making the direction.

Clause 8.2(2) requires the Minister to consult with the relevant fuel industry corporation(s) prior to issuing a Direction under Section 12 (1) of the Act.

Clause 8.2 (3) outlines those matters that the Minister must consider in regards to the impact on relevant fuel industry corporations of a Direction under Section 17(1). Areas included relate to the fuel industry corporation's normal business activities in regards to the particular liquid fuel, such as its market share, distribution systems, stockholding, capacity, ability to comply with the direction, and matters in relation to possible commercial and economic impacts.

Clause 8.3 – Quantity of reserve supplies

Clause 8.3 outlines those matters that the Minister must take into account in determining the volume of a specified kind of liquid fuel that a relevant fuel industry corporation will be directed to maintain, or accumulate and maintain. These consist of the maximum amount of liquid fuel that can be maintained, or accumulated and maintained in Australia, including the amount that a corporation could reasonably be expected to maintain, or to accumulate and maintain; the corporation's relative share of the total supply to be held as an additional stock reserve; the expected time to accumulate the additional stocks and the expected time that certain quantities of additional stock reserves will reasonably be required.
Clause 8.4 – Places in Australia at which reserve supplies are to be maintained, or accumulated and maintained

In making a Direction to maintain reserves the Minister will take into account the capacity and location of existing storage facilities that may be used by the relevant fuel industry corporation, and the extent to which the location(s) will enable the fuel stock to be distributed in the most efficient manner to bulk customers during a national liquid fuel emergency (refer Section 21 and 23 of the Act).
**Part 9: Minister may give direction as to output from refineries**

**General Outline**
Section 20 of the Act gives the Minister the power to direct relevant fuel industry corporations engaged in producing or refining liquid fuel to produce or refine specific amounts of fuel during a national liquid fuel emergency.

The purpose of Section 20 is to give the Minister the power to direct refinery output during a national liquid fuel emergency. Refineries are the primary source of fuels in Australia under normal circumstances. In the event of a national liquid fuel emergency, some fuel products may be preferred over others and it therefore may be necessary to direct refinery output to those fuels which are most in need.

It is envisaged that the Minister will consult with relevant fuel industry corporations and will consider any relevant information provided before making a direction under this Section.

The Minister will provide the relevant fuel industry corporation with a notice of a direction under this Section. The direction will take effect from the time the notice is received.

A Direction made under section 20 of the *Liquid Fuel Emergency Act 1984* will make reference to other relevant Directions that are in force at that time.

**Legislative Authority**
Subsection 20(5) of the *Liquid Fuel Emergency Act 1984*, requires the Minister to make Guidelines for the purposes of this section.

**Consultation**
The Guidelines have been developed under the auspice of the National Oil Supplies Emergency Committee (NOSEC) which is comprised of representatives of industry, State and Territory Governments and the Commonwealth Government.

**Financial Implications**
There are no financial implications.

**Date of Effect**
The Guidelines will commence on the day after they are registered on the Federal Register of Legislative Instruments.
Notes on Provisions

Clause 9.1 – Guidelines for section 20 of the Act
Clause 9.1 outlines the authority for the Minister to direct a relevant fuel industry corporation to produce in Australia, during a specified period, a specified quantity of a particular liquid fuel.

A direction made under Section 20 must be in accordance with Guidelines in force at the time the direction is made.

Clause 9.2 – Matters which the Minister must consider
Clause 9.2 sets out the matters that the Minister must consider when exercising the power to direct refinery output during a national liquid fuel emergency. The intention of the Guideline is to ensure that when making the Direction, the Minister takes into account the expected severity, type, impact and duration of the national liquid fuel emergency, the impact on the relevant fuel industry corporation, interests of the nation and broader community as well as consistency with any other direction issued to the corporation under sections 12 and 17 of the Act.

Clause 9.2(2) requires the Minister to consult with the relevant fuel industry corporation(s) prior to issuing a Direction under Section 20 (1) of the Act.

Clause 9.2(3) outlines those matters that the Minister must consider in regards to the impact on relevant fuel industry corporations of a Direction under Section 20(1). Areas included relate to the fuel industry corporation's normal business activities in regards to the particular liquid fuel, such as its normal fuel production distribution systems, stockholding, capacity, and ability to comply with the direction, and matters in relation to possible commercial and economic impacts.
Part 10: Minister may give directions with respect to allocation by corporations of liquid fuel to bulk customers

General Outline

Section 21 of the Act gives the Minister the power to direct relevant fuel industry corporations to implement a bulk allocation procedure that is approved under Section 13 of the Act to ensure that certain amounts of a particular liquid fuel be made available to bulk customers identified under Section 10.

The purpose of Section 21 is to implement the procedures set out in Section 13. This will enable the Minister to restrict the amount of product that is supplied to bulk customers in the most equitable way possible. The Section gives the Minister the power to determine a proportion of normal supply that a relevant fuel industry corporation may pass on to its customers through a bulk allocation procedure approved under Section 13.

Under subsection 21(9) of the Act a relevant fuel industry corporation must not fail to provide fuel to a bulk customer without a 'reasonable excuse'. Subsection 21(10) outlines what constitutes a reasonable excuse, which includes but is not limited to situations where a person or organisation fails to produce a notice identifying them as a bulk customer or an essential user. However, if a relevant fuel industry corporation supplies fuel to a person or organisation who is not a bulk customer of that corporation this is considered a breach and there is no reasonable excuse for breaching this requirement.

It is envisaged that the Minister will consult with relevant fuel industry corporations and will consider any relevant information provided before making a direction under this section.

A Direction made under section 21 of the Liquid Fuel Emergency Act 1984 will make reference to other relevant Directions that are in force at that time.

Legislative Authority

Subsection 21(7) of the Liquid Fuel Emergency Act 1984 requires the Minister to make Guidelines for the purposes of this section.

Consultation

The Guidelines have been developed under the auspice of the National Oil Supplies Emergency Committee (NOSEC) which is comprised of representatives of industry, State and Territory Governments and the Commonwealth Government.

Financial Implications

There are no financial implications.

Date of Effect

The Guidelines will commence on the day after they are registered on the Federal Register of Legislative Instruments.
Notes on Provisions:

Clause 10.1 – Guidelines for section 21 of the Act
Clause 10.1 outlines the authority for the Minister to direct a relevant fuel industry corporation to provide a specific volume of a particular refined liquid petroleum product, in the course of its trading or commercial activities, for purchase by bulk customers.

A direction made under Section 21 must be in accordance with any bulk allocation procedures approved by the Minister under Section 13 of the Act and Guidelines in force at the time the Direction is given.

Clause 10.2 – Matters which the Minister must consider
Clause 10.2 sets out the matters that the Minister must consider when issuing a direction to a relevant fuel industry corporation to allocate a specific amount of fuel to bulk customers in accordance with approved bulk allocation procedures. The intention of the Guideline is to ensure that when making the direction, the Minister takes into account the expected severity, type, impact and duration of the national liquid fuel emergency, the interests of the nation and the broader community as well as that of the relevant fuel industry corporation. The Minister must also take into account whether essential users will be adequately provided for and the length of the planning period.

Clause 10.2(2) requires the Minister to consult with the relevant fuel industry corporation(s) prior to issuing a Direction under Section 21 (1) of the Act.

Clause 10.2(3) outlines those matters that the Minister must consider in regards to the impact on the relevant fuel industry corporation of a Direction under Section 21(1). Areas included relate to any matter that would adversely affect the corporation's ability to comply with the direction such as availability of transport, supply constraints outside the corporation's control, and matters in relation to possible commercial and economic impacts.
Part 11 Minister may give directions with respect to allocation by relevant persons of liquid fuel to bulk customers.

General Outline
Section 22 of the Act gives the Minister the power to direct relevant persons to implement a bulk allocation procedure to make certain amounts of fuel available to bulk customers identified under Section 10.

The purpose of Section 22 is to implement the procedures set out in Section 13. This will enable the Minister to restrict the amount of product that is supplied to bulk customers in the most equitable way possible. The section gives the Minister the power to determine a proportion of normal supply that a relevant person may pass on to its customers.

Under subsection 22(9) of the Act a relevant person must not fail to provide fuel to a bulk customer without a 'reasonable excuse'. Subsection 22(10) outlines what constitutes a reasonable excuse, which includes but is not limited to situations where a person or organisation fails to produce a notice identifying them as a bulk customer or an essential user. However, if a relevant person supplies fuel to a person or organisation who is not a bulk customer this is considered a breach and there is no reasonable excuse for breaching this requirement.

It is envisaged that the Minister will consult with relevant persons and will consider any relevant information provided before making a direction under this section.

A Direction made under section 22 of the Liquid Fuel Emergency Act 1984 will make reference to other relevant Directions that are in force at that time.

Legislative Authority
Subsection 22(7) of the Liquid Fuel Emergency Act 1984 requires the Minister to make Guidelines for the purposes of this section.

Consultation
The Guidelines have been developed under the auspice of the National Oil Supplies Emergency Committee (NOSEC) which is comprised of representatives of industry, State and Territory Governments and the Commonwealth Government.

Financial Implications
There are no financial implications.

Date of Effect
The Guidelines will commence on the day after they are registered on the Federal Register of Legislative Instruments.
Notes on Provisions:

Clause 11.1 – Guidelines for section 22 of the Act

Clause 11.1 outlines the authority for the Minister to direct a relevant person to provide a specific volume of a particular refined liquid petroleum product, in the course of its trading or commercial activities, for purchase in bulk.

A direction made under Section 21 must be in accordance with Guidelines in force at the time the direction is made.

Clause 11.2 – Matters which the Minister must consider

Clause 11.2 outlines the matters the Minister must consider when issuing a direction to a relevant person to allocate a specified quantity of fuel to bulk customers. The allocation would be made in accordance with the bulk allocation procedures specified in the direction. The intention of the Guideline is to ensure that when making the direction, the Minister takes into account the expected severity, type impact and duration of the national liquid fuel emergency, the interests of the nation and the broader community as well as that of the relevant person. The Minister must also take into account the whether essential users will be adequately provided for and the length of the planning period.

Clause 11.2(2) requires the Minister to consult with the relevant person(s) prior to issuing a Direction under Section 22 (1) of the Act.

Clause 11.2(3) outlines those matters that the Minister must consider in regards to the impact to relevant persons of a Direction under Section 22(1). Areas included relate to any matter that would adversely affect the person's ability to comply with the direction such as availability of transport, supply constraints outside the person's control, and matters in relation to possible commercial and economic impacts.
Part 12 Minister may give directions to corporations regulating or prohibiting supply of liquid fuel

General Outline

Section 23 of the Act gives the Minister the power to regulate or prohibit the supply of specific refined liquid petroleum products by relevant fuel industry corporations during a national liquid fuel emergency.

The purpose of Section 23 is to allow the Minister to ration fuel to consumers generally. Whereas Sections 21 and 22 allow the Minister to control the supply of fuel to bulk customers, a direction made under Section 23 can not deal with bulk customers exclusively.

Under this Section the Minister has the power to regulate supply through mechanisms including, but not limited to implementation of an odds and evens system; specified amounts of fuel that can be purchased, specified times of operation; identification of essential users; etc.

In issuing a direction under Section 23 the Minister will have considered issues of equity and fairness.

It is envisaged that the Minister will consult with relevant fuel industry corporations and will consider any relevant information provided before making a direction under this section.

A Direction made under section 23 of the Liquid Fuel Emergency Act 1984 will make reference to other relevant Directions that are in force at that time.

Legislative Authority

Subsection 23(7) of the Liquid Fuel Emergency Act 1984, requires that the Minister make Guidelines for the purposes of this section.

Consultation

The Guidelines have been developed under the auspice of the National Oil Supplies Emergency Committee (NOSEC) which is comprised of representatives of industry, State and Territory Governments and the Commonwealth Government.

Financial Implications

There are no financial implications.

Date of Effect

The Guidelines will commence on the day after they are registered on the Federal Register of Legislative Instruments.

Notes on Provisions:

Clause 12.1 – Guidelines for section 23 of the Act

Clause 12.1 provides the authority for the Minister during a national liquid fuel emergency to regulate or prohibit the supply of a particular refined liquid petroleum product by fuel industry corporations, in the course of their trading or commercial activities, to persons generally or to specified persons.
A Direction made under Section 23 will make reference to any other relevant Direction under the *Liquid Fuel Emergency Act 1984*, that is in force at that time.

**Clause 12.2 – Conditions to which a direction may be subject**

Clause 12.2 enables specific conditions to be placed on corporations as part of a Direction made under Section 23. These conditions may require fuel to be sold only to a customer who can demonstrate that they are entitled to purchase that fuel. The direction may also include conditions relating to the maximum amount (either volume or value) of fuel that can be purchased by a customer from a relevant fuel industry corporation at any one time or over a specified period. In addition a condition could also specify the time of day during which fuel sales can be made.

It is envisaged that a determination under section 23 of the Act would outline the evidentiary requirements that are specific to the particular customer entitled to purchase fuel.

**Clause 12.3 – matters which the Minister must consider**

Clause 12.3 sets out the matters that the Minister must consider when issuing a direction regulating or prohibiting the supply of a specific fuel. The intention of the Guideline is to ensure that when making the direction, the Minister takes into account the expected severity, type impact and duration of the national liquid fuel emergency, the interests of the nation and the broader community as well as that of the corporation. The Minister must also take into account the bulk allocation procedures approved under subsection 13 (5) or (7) of the Act, whether essential users will be adequately provided for, and the length of the planning period.

Clause 12.3(2) requires the Minister to consult with the relevant fuel industry corporation(s) prior to issuing a Direction under Section 23 (1) of the Act.

Clause 12.3(3) outlines those matters that the Minister must consider in regards to the impact on a corporation of a Direction under Section 23(1). Areas included relate to any matter that would adversely affect the corporation's ability to comply with the direction such as availability of transport, supply constraints outside the corporation's control, and matters in relation to possible commercial and economic impacts.
Part 13 Minister may give directions to relevant persons regulating or prohibiting supply of liquid fuel

General Outline
Section 24 of the Act grants the Minister the power to regulate or prohibit the supply of specific fuel products by relevant persons during a national liquid fuel emergency.

The purpose of Section 24 is to allow the Minister to ration fuel to consumers generally. Whereas Sections 21 and 22 allow the Minister to control the supply of fuel to bulk customers, a direction made under Section 24 can not deal with bulk customers exclusively.

Under this Section the Minister has the power to regulate supply through mechanisms including, but not limited to implementation of an odds and evens system; specified amounts of fuel that can be purchased, specified times of operation; identification of essential user vehicles; etc.

In issuing a direction under Section 23 the Minister will have considered issues of equity and fairness.

It is envisaged that the Minister will consult with relevant fuel industry corporations and will consider any relevant information provided before making a direction under this section. A Direction made under section 24 of the Liquid Fuel Emergency Act 1984 will make reference to other relevant Directions that are in force at that time.

Legislative Authority
Subsection 24(7) of the Liquid Fuel Emergency Act 1984, requires that the Minister make Guidelines for the purposes of this section.

Consultation
The Guidelines have been developed under the auspice of the National Oil Supplies Emergency Committee (NOSEC) which is comprised of representatives of industry, State and Territory Governments and the Commonwealth Government.

Financial Implications
There are no financial implications.

Date of Effect
The Guidelines will commence on the day after they are registered on the Federal Register of Legislative Instruments.

Notes on Provisions:

Clause 13.1 – Guidelines for section 23 of the Act
Clause 13.1 outlines the authority for the Ministers during a national liquid fuel emergency to regulate or prohibit the supply of a particular refined liquid petroleum product by relevant persons, in the course of their trading or commercial activities, to persons generally or to specified persons.
A direction made under Section 24 must be in accordance with Guidelines in force at the time the direction is made.

Clause 13.2 – Conditions to which a direction may be subject
Clause 13.2 enables specific conditions to be placed on relevant person(s) as part of a Direction made under Section 24. These conditions may include that fuel can only be sold to a customer who can demonstrate that they are entitled to purchase that fuel. The direction may also include conditions relating to the maximum amount (either volume or value) of fuel that can be purchased by a customer from a relevant fuel industry corporation at any one time or over a specified period. In addition a condition could also specify the time of day during which fuel sales can be made.

It is envisaged that a determination under section 24 of the Act would outline the evidentiary requirements that are specific to the particular customer entitled to purchase fuel.

Clause 13.3 – Matters which the Minister must consider
Clause 13.3 sets out the matters that the Minister must consider when issuing a direction regulating or prohibiting the supply of a specific fuel. The intention of the Guideline is to ensure that when making the direction, the Minister takes into account the expected severity, type impact and duration of the national liquid fuel emergency, the interests of the nation and the broader community as well as that of the relevant person. The Minister must also take into account whether the supply needs of essential users will be adequately provided for and the length of the planning period.

Clause 13.2(2) requires the Minister to consult with the relevant persons prior to issuing a Direction under Section 24 (1) of the Act.

Clause 13.3(3) outlines those matters that the Minister must consider in regards to the impact a Direction under Section 24(1). Areas included relate to any matter that would adversely affect the person's ability to comply with the direction such as availability of transport, supply constraints outside the person's control, and matters in relation to possible commercial and economic impacts.