



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

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

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

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

Overview

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

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

The Act is supported by the *Liquid Fuel Emergency Guidelines 2019*, the *Liquid Fuel Emergency (Activities - Essential Users) Determination 2019* and an *Inter-Governmental Agreement 2006* (IGA). The IGA sets out the parameters for the co-operative response of the Commonwealth, States and Territories in the event of an emergency.

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

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

Essential Users in a national Liquid Fuel Emergency

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

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

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

Liquid Fuel Emergency (Activities – Essential Users) Determination 2019

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

The purpose of the [Liquid Fuel Emergency \(Activities – Essential Users\) Determination 2019](#) is to provide a predetermined list of Essential User activities. This allows for greater planning and preparation, so that if an LFE does occur, there will be an existing strategy to prioritize the needs of these Essential Users.

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

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

NLFERP Framework and Objectives

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

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

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

Current Approach to Essential Users

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

- Users in the Determination are those who contribute to the provision of goods or services which, if reduced in supply or availability, would be likely to seriously damage the health, safety or welfare of the community;
- Essential User fuel supply is to be restricted to those cases in which the fuel allocation is essential for providing the service. Fuel will be essential to the provision of the service where there is a DIRECT connection between the service being provided and the supply of fuel; and
- Only vehicles that are readily identifiable as belonging to an Essential User category will be entitled to fuel as an Essential User during a period of retail rationing.

It should be noted that it is unlikely that fuel supply would ever be restricted to only users listed in the Essential Users Determination. It is likely that during an emergency users not listed on the *Liquid Fuel Emergency (Activities – Essential Users) Determination 2019* will continue to receive a proportion of their normal fuel supply depending on the particular LFE circumstances and the available fuel supply.

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

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

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

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

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

Business Continuity Planning

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

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

- Business continuity plans should identify current fuel supply arrangements and assess how the organisation would manage a reduction of 10%, 30% or 50% to normal fuel supply for 30 days. The assessment should include a break down by fuel type.
 - The key question is how will the business continue to deliver goods and services (particularly essential ones) with a lower level of fuel supply?
 - This will likely involve a different mode of business operation as compared to business as usual (BAU).
- Business continuity plans should identify internal priorities for fuel use.
 - Business activities should be categorised from highest to lowest priority and fuel use for each activity needs to be understood, quantified and monitored (including differences in fuel use between BAU and peak or emergency times, the impact of seasonal factors etc).
 - Non-essential activities (eg. maintenance) should be cancelled or deferred during times of supply shortage or rationing
- Business continuity plans for publicly funded organisations should not rely on an increased budget to cover additional fuel costs without good reason (such as work directly related to the LFE). This is because similar assistance is not available to the broader community who may be feeling the impact of significantly increased fuel prices.
- Business continuity plans should take into account internal transport movements, both for employees and goods and services, along with vehicle fleet issues. For example determining how critical staff will get to and from work. Business or agency plans may wish to consider the provision of its own transport or car pooling arrangements.

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

A useful source of additional information on business continuity planning is the publication [*Diesel Fuel & Back-Up Generation: Issues for CEOs, Risk Managers and Diesel Users*](#)