



Australian Government

Department of Climate Change, Energy,
the Environment and Water

Australian Government response to the Fuel Quality Standards Act 2000 Independent Review



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Acknowledgement of Country

Our department recognises the First Peoples of this nation and their ongoing connection to culture and country. We acknowledge Aboriginal and Torres Strait Islander Peoples as the Traditional Owners, Custodians and Lore Keepers of the world's oldest living culture and pay respects to their Elders past, and present.

RESPONSE

The Australian Government welcomes the release of the *Fuel Quality Standards Act 2000* (FQS Act) Independent Review (the Review).

The FQS Act provides a framework to regulate fuel quality in Australia and provides a platform for establishing fuel quality standards and fuel quality information standards.

Ernst and Young was engaged to undertake the Review and consider the definitions, regulation of different fuels, along with the effectiveness of the FQS Act.

The Review conducted stakeholder consultation as its primary source of information on how the FQS Act is functioning, with stakeholders asked questions relating to the effectiveness of the FQS Act.

Overall, the Review finds that the FQS Act is relevant and fit for purpose in achieving its policy objectives. However, it also identifies several areas of improvement where it recommends consideration of amendments to improve the FQS Act.

The Review makes 18 recommendations for improvements to the FQS Act. The government has provided responses to the Review's recommendations below.

The Review is available for download here on the Department of Climate Change, Energy, the Environment and Water's (the department's) website.

RECOMMENDATION 1 *Overall evaluation*

Given that the FQS Act remains relevant, it should continue to be enforced in Australia. Consideration should be given to subsequent recommendations for amendments that can improve its functioning.

Response

Support. The government agrees the FQS Act remains relevant and should continue to be enforced. The government is open to considering areas of regulatory improvement for the FQS Act. Policy options to support the objects of the FQS Act and improve fuel quality, engine function and emission control technology are currently under consideration by the government. Proposed options are set out in the [Better fuel for cleaner vehicles](#) draft Regulation Impact Statement (2022).

RECOMMENDATION 2 *Aviation fuel*

No changes are recommended to include aviation fuel within the FQS Act. Because it is adequately regulated by the industry, no changes are recommended to include aviation fuel within the FQS Act.

Response

Support. The government agrees no changes are required to include aviation fuel in the FQS Act.

RECOMMENDATION 3 *Automotive diesel and non-road diesel usage*

It is recommended to retain the status quo but give consideration to improving Government visibility of non-road diesel usage. This allows the department to start collecting information on the overall impact of extending the scope of the definition and standard for all uses of diesel.

Response

Noted. Further analysis is required to determine the policy and legal implications of this recommendation. The recommendation aims to improve the monitoring of the quality of diesel used for non-road purposes such as mining, agriculture, and manufacturing. The department will need to confirm whether establishing an information collection regime would fit within the objects of the FQS Act, which are to:

- regulate the quality of fuel to:
 - reduce the level of pollutants and emissions caused by fuel;
 - facilitate the adoption of better engine technology and emission control technology; and
 - allow the more effective operation of engines; and
- ensure information about fuel is provided when fuel is supplied (where appropriate).

The department would also need to consider whether the power to undertake the recommended monitoring exists in the *Petroleum and Other Fuels Reporting Act 2017*, or whether legislative changes are required to enable collection of information.

Further investigation is also required to determine the potential regulatory burden on stakeholders of collecting additional information on non-road diesel usage, weighed against the benefits to government and the Australian population.

RECOMMENDATION 4 *Racing fuels*

Based on stakeholder feedback, the section 13 exemption process should be maintained to regulate the supply of racing fuels.

Response

Support. The section 13 variation process provides a low-cost administrative option to allow the supply of racing fuels in specific circumstances.

RECOMMENDATION 5 *Renewable diesel*

On the basis of engagements with industry, but without the necessary analysis to confirm the full implications of regulatory changes, we recommend further investigation be done into the following:

- Assessing whether the definition of renewable diesel is fit for purpose and does not restrict supply or technical innovation. Consideration could be given to the merits of having a more technologically neutral definition.
- Determining the costs and benefits of altering the density measures in the Automotive Diesel Standard to cater for renewable diesel products not requiring a section 13 exemption.
- Developing a bespoke renewable diesel standard to cover the supply of renewable diesel.

More information on these topics can help inform a policy approach that encourages domestic investment into renewable diesel, while also ensuring the smooth and safe adoption of emerging fuels into the market.

Response

Support – in progress. Supply of renewable diesel is regulated under the *Fuel Quality Standards (Automotive Diesel) Determination 2019* (diesel standard). However, due to its lower density, neat renewable diesel does not meet the requirements of the diesel standard. To supply neat renewable diesel in Australia (and most renewable diesel/mineral diesel blends), suppliers need a variation to the diesel standard under section 13 of the FQS Act. Renewable diesel/mineral diesel blends that comply with the minimum density specification in the diesel standard can be supplied legally in Australia without the need for a section 13 variation.

The Minister for Climate Change and Energy, the Hon Chris Bowen MP, has approved the commencement of work by the department to investigate legislative changes which would enable the supply of renewable diesel without the need for a section 13 variation.

The government agrees that analysis is required to examine whether this would be best facilitated through amendments to the diesel standard or by creating a new renewable diesel standard. This work is underway – further information is available at

<https://www.dcceew.gov.au/climate-change/emissions-reduction/regulating-fuel-quality>.

RECOMMENDATION 6 *Hydrogen as a transport fuel*

Due to other parallel reviews conducted by Government, this review does not make any recommendation on regulating hydrogen fuel quality and defers to the Government’s parallel review on this issue. We encourage policy makers to consider and make use of this review’s stakeholder feedback and policy analysis on regulating hydrogen fuel quality.

Response

Support. The National Hydrogen Strategy is progressing a range of initiatives, including regulatory reform of legislation relevant to the regulation of hydrogen as a zero emissions fuel, to encourage the introduction of hydrogen fuelled vehicles, vessels and supporting infrastructure in support of the transport sector achieving net zero emissions. The department is conducting national consultations to ensure accurate, relevant, and up-to-date stakeholder consultation in relation to hydrogen. The department expects to complete the review of the National Hydrogen Strategy by the first quarter of 2024.

RECOMMENDATION 7 *Fuel Standards Consultative Committee*

To further improve the effectiveness of the FSCC (Fuel Standards Consultative Committee), we recommend that the FSCC takes a more collaborative approach towards complex issues such as proposed changes to standards. This could be achieved through 2 changes:

- The reintroduction of regular meetings to create a more collaborative process that ensures the group’s expertise is not underutilised on important topics.
- A review of the membership of the FSCC to ensure collaborative discussions on key issues both in terms of breadth and depth for key issues.

These changes will work to improve confidence in the FSCC's decision making and ensure that it is an influential committee on important subject matter related to the FQS Act.

Response

Support – in progress. The FSCC Secretariat is reviewing and improving governance arrangements for the FSCC, including establishing formal procedures. Members have been appointed to the Committee for a period of 3 years (see [Fuel Standards Consultative Committee | Directory](#)). A forward work plan and a schedule of meetings (two standing and supplementary meetings, if required, per year) have been distributed to members. The FSCC will retain the ability to decide on matters out of session in response to unplanned/new section 13 applications to support our fuel market.

RECOMMENDATION 8 *The section 13 exemption process*

Stakeholder feedback suggests that further improvements to the current process are worthy of consideration. Examples of improvements to the current process for section 13 exemptions include:

- *Extending the length of renewals:* For instances where the usage of fuel does not change, a longer renewal period will help to decrease the administrative burden to process application extensions, without significantly increasing the risks.
- *Streamline exemptions for similar products:* To ensure stakeholders continue to benefit from application streamlining on an ongoing basis, it is important that processes are consistent, and bulk applications are considered wherever possible.

Response

Noted. The government is supportive of reducing regulatory burden on industry where possible. Section 13 processes must consider the unique circumstances and risks of each application. Consideration will be given to whether administrative improvements can be made.

RECOMMENDATION 9 *Terminology and definitions*

It is recommended to standardise the terminology for petrol between the Fuel Quality Standards Act and the Fuel Security Act, in order to reduce confusion borne by industry.

Response

Support in principle. The government supports standardising the terminology for petrol across the FQS Act and the Fuel Security Act, wherever appropriate, to simplify compliance for industry and other users of the Acts. Further consideration will be given to options to best achieve this intent.

RECOMMENDATION 10 *Register of Prohibited Additives*

It is recommended that the Register of Prohibited Additives (the Register) be removed from the FQS Act to avoid the risks associated with using the Register. Because it is not currently used, removing it will not have an impact on the regulation of fuel quality.

Response

Support in principle. The government will need to undertake further analysis to fully understand the implications of removing the Register. This will include a consultation process with affected stakeholders. Consultation will assess whether the Register could have any useful purposes that the department is currently unaware of, and whether there are any anticipated adverse impacts of its removal.

RECOMMENDATION 11 *Fuel labelling*

This review recommends that the department consider investigating the merits of a consistent labelling regime across states and retailers, which is similar to the 2014/94/EU Directive in the Eurozone. This would ensure transparency for consumers in their purchasing decisions and ensures consistency for those who frequently travel across borders or use multiple vehicles.

Response

Noted. The government will consider whether an information standard to mandate a consistent fuel labelling regime across all retailers and all jurisdictions is warranted, with consideration of the expected benefit to consumers and level of regulatory burden to industry.

RECOMMENDATION 12 *Infringement notices and penalties*

No changes are recommended to the infringement notice or penalty system.

Response

Support. The government agrees the current infringement notice and penalty system remains appropriate.

RECOMMENDATION 13 *Emergency law exemptions*

It is recommended that sections 12 and 12AA be amended to ensure that all parties along the supply chain are protected from civil and criminal penalties in a situation where a national fuel emergency were to be declared, as this would support administration of the policy objectives of the Liquid Fuel Emergency (LFE) Act.

Response

Support. The government supports clarifying the policy intent to ensure all entities along the supply chain, including those that are not strictly subject to an order or direction under the LFE Act but who nevertheless are involved in giving effect to an order or direction, are protected from the offence and penalty provisions of the FQS Act. The government plans to amend the FQS Act, with an exposure draft planned for 2024.

RECOMMENDATION 14 *Fuel sampling consent*

This review recommends that no legislative changes are necessary for current fuel sampling consent, as the existing requirements to gain consent before testing are reasonable.

Response

Noted. The government notes the legislative requirement of gaining consent before testing is reasonable. We also note the review did not consider any legislative limitations around gathering samples at unmanned sites. Unmanned sites pose unique challenges to fuel sampling and confirming consent. As part of implementing these review findings, there may be merit in developing specific processes for ensuring consent in these circumstances within Fuel Quality legislation.

RECOMMENDATION 15 *Data publishing provisions*

This review supports the principle of publishing an aggregated and de-identifiable set of fuel testing results. However, this is based on the department ensuring that individual suppliers are not able to be identified in remote and regional areas where there may only be a few suppliers operating.

Response

Support. The department commenced publishing aggregated and de-identified data on key parameters as per section 71 of the Act as part of the 2021-22 Department of Industry, Science, Energy and Resources' annual report. The 2022-23 report is available at <https://www.dcceew.gov.au/sites/default/files/documents/annual-report-2022-23.pdf> (refer to page 230).

RECOMMENDATION 16 *Annual statements under the FQS Act*

It is recommended that the annual statement be replaced by an alternative data submission that is less frequent and imposed only on an as-needed basis. This balances the needs of regulators and mitigates the burden on industry in a business-as-usual setting. If the department were to require data, the following guidelines could be used:

- statements are to be received on a frequency no greater than once a year
- submissions must be confined to information on fuel quality only
- the Secretary must communicate the intended uses of data and timelines where appropriate. An example of this could be the development of new fuel quality standards.

In implementing these guidelines, the department will be able to maintain their collaborative relationship towards industry and minimise the regulatory burden as much as possible, while still sourcing critical information for policy making purposes should it be required.

Response

Support in principle. The government, through the department, will need to further investigate the benefits and feasibility before committing to an 'as needed' approach. The department will need to consider the optimal frequency for statements, including:

- how this might impact regulatory burden for the sector,

- industry's support for voluntarily providing fuel quality data to the department on an ongoing basis,
- the mechanism to be used,
- information to be included in the statement, and
- any necessary further industry consultation, which should be undertaken prior to the finalisation of guidelines for the 'as needed' data collection.

RECOMMENDATION 17 *Consumer complaints*

Given the rarity of fuel quality complaints by consumers and the existing channels for consumers to pursue quality issues, it is not considered necessary to introduce specific consumer protections under the FQS Act. Instead, we recommend that consideration be given to providing more clarity to consumers on the procedures available to them in the event that they are exposed to contaminated fuel.

There is capacity for state and territory governments to improve their communications towards customers and also between branches and departments, but this is ultimately a question of resourcing and not something that can be remedied through legislative amendment. It is recommended that the department works with the states and territories to ensure that consistent and accurate materials are presented to consumers on both the process for lodging complaints and their rights in the case of a contaminated fuel event.

Response

Support – in progress. To support the government's fuel quality monitoring program, the department has adjusted its communication to the public. The website now better outlines the delineation between consumer protections and complaints handling by states and territories, and the reporting of suspected contaminated fuel.

RECOMMENDATION 18 *Internal review interval*

It is recommended to increase the independent review period from every 5 years to 10 years.

Response

Support. The review found the FQS Act is functioning well. Given the small amount of stakeholder engagement and feedback and the longer review intervals in other comparable pieces of legislation, the government agrees to increase the interval to 10 years. This will not impact the regularity of the department's reviews of the legislative instruments made under the FQS Act. These tend to occur more often in response to market and policy issues that arise.