Department for Transport

Summary of responses to:

Consultation on proposals to implement Articles 7a to 7e of the EU Fuel Quality Directive (FQD) (Directive 98/70/EC as amended by 2009/30/EC) requiring suppliers to reduce the lifecycle greenhouse gas intensity of transport fuels and introducing sustainability criteria for biofuels

Contents

1. Foreword

This document sets out a summary of the responses received to the Department for Transport's "Consultation on proposals to implement Articles 7a to 7e of the EU Fuel Quality Directive (FQD) (Directive 98/70/EC as amended by 2009/30/EC) requiring suppliers to reduce the lifecycle greenhouse gas intensity of transport fuels and introducing sustainability criteria for biofuels".

Directive 2009/30/EC was adopted on 23 April 2009 and amends the Fuel Quality Directive (FQD) (Directive 98/70/EC) on the quality of petrol, diesel and gas oil.

The consultation covered proposals to implement Articles 7a to e of the FQD.

This consultation sought views on outline proposals for new Regulations to implement the greenhouse gas (GHG) saving elements of the Directive. The options presented were intended to stimulate discussion about the proposals, and our objective was to obtain consultees' views to help us fully understand the impacts of the proposals, particularly on obligated suppliers.

The consultation period began on 10 March 2011 and ran until 2 June 2011. The consultation was published on the Department for Transport website:

http://www.dft.gov.uk/consultations/dft-2011-04

This consultation ran in parallel with the consultation on the Renewable Energy Directive (RED) 'Consultation on the implementation of the transport elements of the Renewable Energy Directive', which can be found at:

http://www.dft.gov.uk/consultations/dft-2011-05

We would like to thank all those who took the time to respond to this consultation, and the consultation on the RED that ran in parallel. It is crucial that we had this opportunity to understand the concerns of not only those involved in the biofuels industry, the fossil fuel market and the related supply chains, but also environmental groups and the wider public.

Biofuels policy is a complex and controversial area that has developed quickly over a relatively short time with biofuels winning

and losing supporters along the way. Now, with GHG emission reduction targets, the development of advanced biofuels and better understanding of issues such as indirect land use change (ILUC) we can expect this area to go through yet more change. As Government, we have to be able to take advantage of the opportunities these changes will bring while always ensuring that biofuels are developed, produced and supplied in a sustainable manner.

A number of responses, both those from members of the public and from environmental groups, called for all biofuel targets to be scrapped. The UK must, in law, comply with the FQD, which requires suppliers to deliver a 6% reduction in lifecycle GHG emissions from many transport and related fuels by 2020, and the RED, which requires the UK to increase its use of renewable energy. Moreover, sustainable biofuels play a key role in our efforts to tackle climate change and reduce GHG emissions from the transport sector which is why we are committed to delivering the targets set out in the FQD and RED.

However, the Government fully accepts that there are legitimate concerns about the sustainability of some biofuels and there is some uncertainty about how best to deploy biofuels across transport sectors. We also recognise that there are understandable concerns that increased use of some biofuels may lead to an increase in GHG emissions rather than a reduction. This effect is due to ILUC. We take the issue of ILUC very seriously and have called on the European Commission to work with Member States to develop detailed options to address ILUC which can be subjected to full impact assessments. We expect the European Commission to make its decision on options for addressing ILUC soon.

The nature and range of these issues demonstrate why it is so important that we continue to engage with the full range of people and organisations interested in biofuels and why we value the useful comments made on this consultation. We look forward to this dialogue continuing.

2. Executive Summary

2.1. Summary of respondents

There were 50 responses received from a cross section of industry, individuals and organisations that are interested in the policy area. Table 1 provides a summary of those who responded.

Table 1. Summary of those who responded

Category of interest	Number of responses
Academic	4
Agriculture	3
Connected with the biofuel industry	20
Members of the public	3
NGOs	5
Connected with the oil industry	6
Rail	1
Road	2
Maritime	3
Other	3
Total	**50**

Part One of this document summarises the responses to the questions posed in the consultation.

Part Two summarises more general comments that were received outside of the formal structure of the consultation questionnaire.

Part Three provides a list of those organisations that responded to the consultation.

2.2. Timing to implementation

The responses to the consultation confirmed a very wide range of views. Taking account of the comments and additional information/evidence received, we are reviewing and revising our draft assessments of the likely impacts on industry.

We will respond to the consultation responses and publish a final impact assessment in due course. At the same time, we will clearly set out our final proposed approach for implementing both the RED and FQD.

2.3. Contact details

If you have any questions regarding this response, please contact:

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3. Introduction

3.1. The Fuel Quality Directive

The FQD introduces the requirement for suppliers of fuel/energy for use in land-based transport, other non-road mobile machinery (NRMM[1]) to reduce the lifecycle GHG emissions per unit of energy (the "GHG intensity") of the fuel they supply by 6% by 2020 relative to the EU wide 2010 fossil fuel baseline.

The FQD envisages that the reduction is achieved through:

- The increased supply of sustainable biofuels and alternative fuels/energy with lower GHG intensity; and
- Reductions in the emissions associated with the extraction and refining of fossil fuels.

3.2. The Renewable Energy Directive

The RED requires the UK to ensure that 15% of the energy used in electricity, transport, heating and cooling is from renewable sources in 2020. The RED also requires all Member States to ensure that the share of energy from renewable sources in all forms of transport is at least 10% in 2020.

If biofuels are to count towards the RED targets, they must meet minimum sustainability criteria. These criteria address issues such as the minimum GHG savings delivered by biofuels and ensure that biofuels are not produced from areas of high carbon stock or high biodiversity.

The RED also aims to incentivise the supply of biofuels produced from wastes, residues, non-food cellulosic material and ligno-cellulosic material. Such biofuels are counted twice towards the RED transport target.

[1] "NRMM" is used to collectively refer to the FQD specified end uses, namely: road vehicles; non-road mobile machinery (including inland waterway vessels when not at sea); agricultural and forestry tractors; and recreational craft when not at sea

3.3. Links between the Fuel Quality Directive and the Renewable Energy Directive

There are many links between the FQD and the RED.

Our analysis presented in consultations on proposals to implement both the FQD and RED suggests that, given the practical constraints on the contribution of other sources of GHG reduction in the timeframe to 2020, the reduction in GHG intensity of fuels required by the FQD will come largely from the increased supply of the same sustainable biofuels that will simultaneously make up the majority of the renewable energy required to meet the transport target imposed by the RED. We recognise that the two Directives have a slightly differing scope, with the FQD not covering aviation. However, it has been our intention that implementation measures for these two Directives should mirror each other as far as possible which, in practice, means implementing them both through an amended Renewable Transport Fuel Obligation (RTFO) where possible.

Proposals for transposition of the RED were the subject of a separate consultation, which also ended on 2 June 2011. That consultation can be found on the Department's website at:

http://www.dft.gov.uk/consultations/dft-2011-05.

That consultation proposed that the RED is implemented into UK legislation through amendments to the RTFO Order, which regulates the supply of biofuels in the UK.

A summary of responses to the consultation on proposals to implement the RED can also be found at the above web address.

3.4. High level overview of proposals to implement the FQD

In our consultation, we set out our preferred approach for implementing the FQD. We proposed to:

- Set a 6% GHG reduction obligation for 2020;
- Require suppliers to report on the GHG performance of the fuels/energy the supply (on an annual basis);

- Establish rules for grouping and the participation of electricity providers for electric vehicles;
- Appoint an administrator to administer the scheme;
- Introduce a suite of civil penalties for failure to comply with the new regulations (aligned with those of the current RTFO);
- Rely on an amended RTFO, in combination with the minimum GHG savings required by the common sustainability criteria to deliver GHG savings until 2014; and
- Put an obligation on the Secretary of State for Transport to propose at a later date measures necessary to ensure the delivery of the FQD for the period 2014 to 2019, once there is a greater evidence base regarding biofuel sustainability and deployment issues.

4. Part One: Summary of responses to specific questions

4.1. Proposed approach

Summary of proposal

We proposed to put in place a 6% 202 GHG saving obligation and delay setting intermediate mandatory targets.

Under this proposal we would rely on the RTFO to deliver the required GHG savings up to 2014 and other measures would then be introduced to deliver the FQD requirements for the period 2014–2020.

In the consultation we suggested three high-level approaches for implementing the FQD. These are summarised here to aid interpretation of the responses that are presented in this document.

Approach A: do nothing;

Approach B: set a trajectory of GHG savings up to 2020;

Approach C: put in place a 6 % 2020 GHG saving obligation and delay setting trajectory/intermediate mandatory targets.

4.1.1. Question 1: Do you have any comments on our analysis of the three proposed approaches?

Summary of responses

Yes:	36
No:	1

Main messages from respondents

Of those respondents that made comments, nine supported Approach C, six supported Approach B and none supported Approach A.

Nine respondents from across the supply chain commented that our preferred approach did not incentivise the use of “better” biofuels enough. Four of these (both fuel suppliers and biofuel producers) also disagreed with our analysis that it would be more cost effective to supply greater volumes of lower GHG saving biofuel rather than supplying lesser volumes of higher GHG saving biofuel.

Five respondents (representing both fuel suppliers and biofuel producers) wanted a certificate trading scheme based on GHG savings.

Three environmental groups and one non-departmental public body emphasised the importance of accounting for GHG emissions from the extraction and refining processes for fossil fuels and suggested that GHG savings from these processes should be encouraged.

Two biofuel producers raised the blend wall issue; one asked for more work to be done in this area, the other mentioned that the blend wall could be resolved through the use of biofuel with greater GHG savings and/or advanced biofuels.

Individual responses/detailed points

- One fuel supplier commented that because the RTFO will only have targets out to 2014, it would be more sensible not to set targets beyond 2014 under the FQD.

- A biofuel interest group commented that our analysis did not sufficiently take into account that the biofuels industry needs certainty in order to grow and expand.

- A biofuel producer stated that our analysis omitted consideration of the option of requiring higher GHG savings than the RED under Approach B and the impact of not incentivising better biofuels under Approach C.

- A biofuel producer representative group warned that Approach C could end up being the most expensive option as costs would be delayed until targets were eventually set.

- A fuel retailer association felt that the Impact Assessment did not consider the impact of proposals on fuel retailers.

4.1.2. Question 2: Do you have any additional evidence you would like to share with the Department?

Summary of responses

Yes: 18
No: 8

Main messages from respondents

One biofuel producer and one biofuel producer representative group made reference to the recent Committee on Climate Change review of renewable energy[2] and suggested that omitting evidence from this review in the Impact Assessment resulted in our assessments being unbalanced.

A fuel supplier requested that the 2009 work by LowCVP, which recommended a dual certificate scheme be taken forward, should be reconsidered in implementing the FQD and RED. A biofuel producer, fuel supplier and fuel supplier representative group pointed towards the JEC Biofuels Programme report[3] that outlined various ways to meet the 10% RED target.

A local transport provider stated that, from their experience, they estimate that if B30 was used in all freight transport, the 10% RED transport target would be met. This comment was supported by a biofuel producer representative group that thought that heavy goods vehicle (HGV) fleets and NRMM users would be instrumental as they do not face the same blend wall issues as other road transport users.

A fuel supplier thought that more work is necessary to tackle blend wall issues and that a common approach to this issue should be developed at a European level. An agricultural sector representative requested information on why the blend wall is an issue in the UK but not other Member States.

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[2] http://www.theccc.org.uk/reports/renewable-energy-review

[3] http://ies.jrc.ec.europa.eu/uploads/jec/JECBiofuels%20Report_2011_PRINT.pdf

A biofuel producer and a biofuel producer representative group pointed to their own analysis that 80% of the UK biofuel target could be met using biofuel produced in the UK.

Individual responses/detailed points raised

- A biofuel producer noted that if the UK adopted clear GHG reduction targets the industry would respond and pointed to recent policy decisions and actions in the United States.
- A biofuel producer thought that the Impact Assessment underestimated current UK ethanol GHG savings and that the Department for Energy and Climate Change (DECC) oil price projections were too low.
- One fuel supplier thought that only renewable electricity should count under the FQD and that any buy out paid for missing the GHG criteria under the FQD should be equal to the ETS average price for that year rather than equal to the cost of abatement through supply of biofuel.
- A fuel supplier estimated that the double counting for wastes and residues (under the RED) would lead to a reduction of about 30% in the overall volumes of biofuel being produced/supplied which would then have an impact on the GHG savings achieved.
- A biofuel producer representative group provided details of their own analysis that concluded that there is sufficient biofuel feedstock available to meet the 2020 FQD and RED targets.

4.1.3. Question 3: Do you agree with our proposal to do the minimum necessary to implement the FQD now whilst continuing to improve our evidence base?

Summary of responses

Yes:	22
No:	12

Main messages from respondents

Those that agreed were mainly fuel suppliers, environmental groups and groups representing transport users that thought that the evidence and methodologies available now are not sufficient to set future targets.

Those that disagreed were mainly biofuel producers and their representative organisations. In addition, one fuel supplier objected to Approach C, suggesting that this approach was overly cautious and would lead to missed opportunities to deliver GHG savings.

Five fuel suppliers and a representative group stated that, while they supported our approach, we should provide more information on: what evidence we will be gathering; what the Secretary of State for Transport's obligation to review entails; and how we will tackle blend-wall issues.

Four biofuel producers and a biofuel producer representative group stated that the RED sustainability criteria are sufficient to guarantee that the biofuel supplied is sustainable and therefore the UK should not delay setting intermediate GHG reduction targets.

Two biofuel producers and a biofuel producer representative group thought that by pursuing Approach C the UK would not fully introduce the FQD's requirement that GHG savings are made "as gradually as possible".

A number of respondents also focussed on the need for incentives to promote biofuels with higher GHG savings.

Two biofuel producers, a fuel supplier, a retail representative organisation and an interest group warned that Approach C would reduce investment in the biofuels sector.

A biofuel producer representative group thought our proposed approach did not take into account GHG reductions that would take place as a result of the EU Emissions Trading Scheme and stated that the GHG performance of fossil fuels should be reported as well as that of biofuels.

Individual responses/detailed points raised

- A biofuel producer asked us to consider the evidence within the E4Tech[4] and Committee on Climate Change reports.
- A biofuel producer commented that the industry in the United States has experience in producing ethanol on a large scale without experiencing issues related to ILUC.
- A local transport provider stated that more research to encourage waste-derived biofuels was necessary and that more focus should be put on biomethane.
- One biofuel supplier commented that under Approach C, it would be challenging for industry to make long-term investment decisions in the knowledge that the legislation will be reviewed within 2 years.

4.2. Potential impact on resilience and security of supply in the UK market

4.2.1. Question 4: What are the potential impacts of pursuing Approach C on the resilience and security of the UK market?

Summary of responses

Commented: 25

Main messages from respondents

Four biofuel producers and a biofuel producer representative group stated that our preferred approach risks discouraging investment in the biofuel industry. A fuel supplier mentioned that as the legislation will be in force for only 2 years before a review is undertaken it will be challenging for those wishing to make long-term investment decisions.

Two transport user representative groups, three fuel suppliers and their representative group thought Approach C would be beneficial in terms of security of supply in the UK. However, a biofuel

[4] http://www2.dft.gov.uk/pgr/roads/environment/research/biofuels/

interest group thought that Approach C would reduce the stability of the UK biofuels market because of the absence of future targets. In addition an agricultural sector representative and biofuels interest group thought that Approach C would weaken UK resilience because the biofuel industry would shrink and so reliance on biofuel imports would increase.

One fuel supplier, though supporting Approach C, thought it imperative that the current uncertainties regarding the FQD be resolved as soon as possible at the European level.

One biofuel producer raised concerns that Approach C would lead to creation of fewer "green" jobs in the UK.

Individual responses/detailed points raised

- One fuel supplier commented that the contribution of biofuels to the current UK fuel supply decreased the UK's market exposure to supply shortages, price volatility and carbon intensive fuels. The fuel supplier thought that our proposed approach would send a negative signal to biofuel investors making it more difficult to improve the GHG intensity of fuel production (both biofuel and fossil fuel) and to improve the traceability of fossil fuel supply chains; in addition, they believed that our preferred approach would reduce investment in sustainable agriculture and make it difficult to develop supply chains for waste-derived biofuel.

- An environmental group stated that it is imperative to follow our proposed approach until sustainability issues such as ILUC are addressed. The group also made comments related to the accounting of GHG emissions from fossil fuels and thought that obligatory reporting on transport fuel feedstocks should be implemented in order to gain information about upstream emissions.

- One trade representative group thought that Approach C would allow new biofuels (that are yet to be developed) onto the market more easily.

- A biofuel producer representative group reiterated comments made in response to the consultation on proposals to implement the RED, focussing on proposed verification requirements under the amended RTFO.

4.3. Determining who is obligated under the FQD

Summary of proposal

We proposed to obligate suppliers of fuel/energy for the following specified end uses:

- Road vehicles;
- Non-road mobile machinery (including inland waterway vessels when not at sea);
- Agricultural and forestry tractors;
- Recreational craft when not at sea.

4.3.1. Question 5: Do you agree with our proposal to mirror the RTFO approach in determining who is an obligated supplier?

Summary of responses

Yes:	20
No:	0

Main messages from respondents

Most respondents agreed with our proposal, and commented that it made sense to align implementation of the FQD with implementation of the RED through an amended RTFO. It was felt that this approach would reduce administrative burden and maintain consistency between implementation of the FQD and RED.

Individual responses/detailed points raised

- An industry representative group commented that while it is necessary to align who is obligated under the FQD and RED, it will be important to ensure that this action does not result in unnecessary complication and administrative burden for the downstream supply of liquefied petroleum gas (LPG).

4.4. Minimum Threshold

Summary of proposal

As part of our consultation on proposals to implement the RED, we wanted to understand the opportunities and impacts of changing the RTFO minimum threshold. As part of the consultation on proposals to implement the FQD we wanted to understand the possible impact of introducing a minimum threshold to any regulations transposing the FQD.

We invited comments from stakeholders in order to develop our evidence base regarding this issue.

4.4.1. Question 6: Would the application of the same minimum threshold to both the RED and FQD significantly reduce the burden on the industry?

Summary of responses

Yes:	15
No:	4

Main messages from respondents

The majority of respondents that provided an answer to the question agreed that introducing the same minimum threshold to both the RED and the FQD would reduce the burden on industry, in particular on small suppliers.

Eight respondents, comprising fuel suppliers and transport users, commented that it is logical to align the FQD with the RTFO and suggested that the same minimum threshold should apply under both obligations.

A fuel supplier, a fuel supplier representative group and a biofuel producer all thought that there should be a minimum level or other mechanism to ensure that fuel additive producers are excluded from the obligation. The same group, and an additional fuel supplier, disagreed that the application of the minimum threshold would reduce the burden on the industry.

4.4.2. Question 7: Would the introduction of a minimum threshold set at 450,000 litres introduce any significant perverse impacts?

Summary of responses

Yes:	1
No:	14

Main messages from respondents

Fourteen respondents, from all parts of the supply chain, thought that the introduction of a 450,000 litre minimum threshold would not introduce significant perverse impacts. Three of these respondents pointed out that the FQD does not allow for a minimum threshold to be set. Other respondents reiterated comments that were made in response to the consultation on proposals to implement the RED.

A group representing small biofuel producers thought that setting the minimum threshold at this level would introduce significant perverse impacts and that, therefore, the threshold should be set at 10 million litres.

Individual responses/detailed points raised

- One fuel supplier reiterated comments made in response to the consultation on proposals to implement the RED. Specifically, that respondent reiterated that applying a minimum threshold could reduce the burdens associated with non compliance of small companies that are not part of the mass fuel market; and that raising the threshold could allow the RTFO administrator to be more targeted in their approach to enforcement/compliance while having little effect on the overall impact of the RTFO and delivered GHG savings.

4.4.3. Question 8: Would the introduction of a minimum threshold set at 10,000,000 litres introduce any significant perverse impacts?

Summary of responses

Yes:	11
No:	6

Main messages from respondents

Six respondents comprising two biofuel producers, two respondents with an interest in the marine/inland waterway sector and a fuel retailer representative body thought that putting in place a 10 million litre minimum threshold would not introduce any significant perverse incentives. Two of these respondents thought the adoption of a 10 million litre minimum threshold would only have a minimal impact on the total amount of GHG emission reductions delivered under the FQD.

Eleven respondents from across the supply chain believed that introduction of a 10 million litre minimum threshold would result in significant perverse impacts. Nine of these respondents thought that such a high minimum threshold would lead to suppliers splitting their operations into small businesses just below the threshold thereby avoiding their obligation to reduce the GHG intensity of the fuels they supply. One respondent commented that a 10 million litre threshold would lead to missed opportunities to deliver GHG savings.

Individual responses/detailed points raised

- One biofuel representative organisation expressly requested that the minimum threshold be set at 10 million litres.
- A fuel supplier thought that this higher threshold could deter small biofuel businesses from starting up, particularly those thinking of producing biofuel from wastes and residues.

4.5. Fuels that would fall under the FQD obligation

Summary of proposal

We proposed that the reporting requirements and obligation are applied to the supply of all road-grade automotive petrol, diesel, low sulphur gas oil (irrespective of its end use), compressed natural gas (CNG), liquefied petroleum gas (LPG) and biofuel unless the supplier can prove that the fuel was supplied for uses other than use in the specified end uses (road vehicles and NRMM).

4.5.1. Question 9: Do you agree with our proposal to obligate GHG reductions for all road-grade diesels and all low-sulphur gas oil?

Summary of responses

Yes:	17
No:	7

Main messages from respondents

Seventeen respondents agreed with our proposal to obligate GHG reduction for all road-grade diesels and all low-sulphur gas oil. Three respondents requested that the Department work with industry to define what would constitute proof that fuel was not used in road vehicles or NRMM. One respondent suggested that delivery notes stating the fuel standard (e.g. BS2869 for heating/category D use) could be sufficient. Another respondent suggested that the exclusion of low-sulphur gas oil used in non NRMM applications should be set out in legislation.

Eight respondents (mainly biofuel producers and maritime industry representatives) were concerned about the possible lack of biofuel free gas oil for NRMM uses and requested that the Department made clear to suppliers that it would be permissible to supply biofuel free gas oil under the framework of the FQD.

Seven respondents did not agree with our proposed approach. These respondents comprised two fuel suppliers, a fuel retailer representative group, a biofuel producer, an agricultural representative organisation and organisations representing the

marine/inland waterway and rail sectors. Two respondents raised concerns regarding long-term storage of gas oil containing biofuel and the risk of microbial contamination. Two other respondents commented that we should not oblige suppliers to blend biofuel with diesel/gas oil, citing concerns related to the sustainability of biodiesel and issues with the storage of blended products.

Individual responses/detailed points raised

- A fuel supplier commented that the RED only obligates gas oil used in rail and inland waterways rather than gas oil used in all NRMM and that this difference should be retained.
- Storage capabilities were a concern with a fuel supplier representative group suggesting that more work should be done to ensure that all blended fuels have a minimum storage life of two years.
- One maritime industry representative group requested that the Department make it clear to suppliers that they are not mandated to supply gas oil blended with biofuel and that low-sulphur gas oil for sea-going marine use should not be included in the obligation due to safety risks.
- A transport provider representative group emphasised the extra burden this would place on the rail sector.

4.6. Partially Renewable Fuels

Summary of proposal

We proposed to recognise fuels that are made partly from fossil feedstocks and partly from renewable feedstocks under the FQD and that only the renewable portion of these fuels must meet the biofuel sustainability criteria.

We also proposed that only biofuels produced from biodegradable renewable feedstocks will be required to meet the sustainability criteria (though the GHG intensity of fuels made from non-biodegradable renewable feedstocks will still be accounted for).

4.6.1. Question 10: Do you agree with our proposals regarding partially renewable fuels?

Summary of responses

Yes: 19
No: 1

Main messages from respondents

Those that agreed with our proposals were spread across the range of respondents.

Three respondents (a biofuel producer, a fuel supplier and one agricultural sector representative) agreed with our proposed approach but noted that this proposal was not inline with that of the RED and as such could lead to unnecessary administrative burden.

An agricultural sector representative reiterated comments made in response to our consultation on proposals to implement the RED and urged the Department to press the Commission to deal with this issue at the European level to ensure consistency across all Member States.

Only one respondent (a biofuel producer representative group) disagreed with our proposed approach.

Individual responses/detailed points raised

- A biofuel producer supported our proposal stating that it would enable a wide range of fuels to be rewarded on the basis of their actual GHG intensity.

4.6.2. Question 11: Does our proposed approach to biofuels produced from non-biodegradable feedstocks present any significant difficulties?

Summary of responses

Yes: 6
No: 13

Main messages from respondents

The majority of respondents that answered this question did not think our approach posed any significant problems. Those that did were two fuel suppliers, one fuel supplier representative group,

one biofuel producer and a biofuel producer representative group, and a biofuel interest group.

Four comments made by those that agreed recognised that difficulties with this proposal remained due to the slight difference of approach between the RED and the FQD.

Two fuel suppliers and a fuel supplier representative organisation disagreed with our proposal as they felt it goes beyond the requirements of the RED. Specifically, this group thought that fuel produced from non-biodegradable feedstock should not be eligible for Renewable Transport Fuel Certificates (RTFCs) which are awarded per litre of biofuel supplied in the UK in order to demonstrate compliance with the RTFO. However, one of these stated that if the Department convinced the European Commission and other Member States to adopt this approach then they would not object further.

Individual responses/detailed points raised

- A biofuel interest group was concerned that the practical difficulty associated with identifying the fraction of non-biodegradable renewable feedstock in mixed waste would be disproportionate.

- One fuel supplier commented that differentiating between biodegradable and non-biodegradable feedstocks would be difficult and could not be achieved by the carbon-14 physical testing method that can be used to asses the renewable portion of a partially renewable fuel.

- An environmental group emphasised that they would agree with our proposal but only if the non biodegradable feedstocks were co-products or waste from other production chains.

4.7. Accounting of biofuel that does not meet the sustainability criteria

Summary of proposal

We proposed to treat any biofuel supplied that does not meet the sustainability criteria as fossil fuel, except where the GHG performance of those biofuels is shown to be worse than the EU-wide 2010 fossil fuel baseline ('the baseline').

We proposed that any biofuel that does not fulfil the requirements of the sustainability criteria, but is demonstrated to have a GHG intensity less than the baseline, would be assigned a GHG intensity equivalent to the baseline.

Any biofuel that does not fulfil the requirements of the sustainability criteria but has GHG intensity greater than the baseline would be assigned the actual GHG intensity in order that the supplier of that unsustainable and GHG intensive biofuel would have to account for those GHG emission increases.

4.7.1. Question 12: Do you agree with our proposed approach for the accounting of unsustainable biofuel?

Summary of responses

Yes:	18
No:	6

Main messages from respondents

The majority of respondents that answered this question agreed with our proposed approach for the accounting of biofuel that failed to meet the sustainability criteria. Those that agreed were mainly biofuel producers and their representative groups, transport user groups and biofuel interest groups.

Five fuel suppliers and a fuel supplier representative group disagreed with part of our proposals. All these respondents suggested that any biofuel that failed to meet the sustainability criteria should be treated as fossil fuel and, as such, the GHG intensity of that unsustainable biofuel should accounted as equal

to the fossil fuel it would have replaced or the EU-wide fossil fuel baseline.

Individual responses/detailed points raised

- A biofuels interest group felt that our proposal had merit; however, the group was concerned that the approach had the potential to restrict development of new biofuels that might initially not meet the sustainability criteria, but have the potential to meet the criteria as further developments are made.

- A non-departmental government body with an interest in environmental issues agreed with our proposal and suggested that there should be a limit to the level of net GHG emissions for biofuels and that poor performing biofuels (with respect to GHG emission) should be discouraged.

4.8. Verification of reported information

Summary of proposal

We proposed that all data in suppliers' annual reports should be verified by an independent auditor; this requirement would extend to verification of the volumes/amounts of fuel/energy supplied.

Verification reports will be considered of an adequate standard provided that the verifier and the report comply with the International Standard on Assurance Engagements 3000 limited assurance standard promulgated by the International Auditing and Assurance Standards Board.

4.8.1. Question 13: Do you agree that the International Standard on Assurance Engagements 3000 limited assurance standard is a suitable standard for verification under the proposed scheme?

Summary of responses

Yes:	18
No:	0

Main messages from respondents

Those who responded (from across the supply chain) agreed that the International Standard on Assurance Engagements (ISAE) 3000 is suitable.

Two fuel suppliers, a fuel supplier representative group and a biofuel producer thought information verified according to other Member State requirements should also be accepted under the UK's implementation of the FQD.

Three fuel suppliers and a fuel supplier representative suggested that a list of verifiers would be helpful and three of these respondents asked for a check list of "key points" that verifiers should check.

Several respondents commented that the verification requirements under the FQD should be aligned with those of the RED. A biofuel producer representative group and a fuel supplier commented that the FQD proposal did not allow other equivalent standards to be used (as was the case in the RED proposals). The biofuel producer representative group suggested that the legislative requirements for verification should be aligned with those of the amended RTFO and that the legislation should make clear that alternative, equivalent, standards of verification would be accepted.

Individual responses/detailed points raised

- A fuel supplier stated that recourse and appeal procedures ought to be clear and that an independent, non departmental authority/ombudsman should be responsible for administering the appeal process.

4.8.2. Question 14: Are there any other assurance standards that we should consider?

Summary of responses

Yes:	2
No:	14

Main messages from respondents

Only two respondents answered “yes” to this question and these respondents requested that consideration was given to other standards accepted by other Member States and that ISAE 3410[5], AA1000[6] and ISO 19011[7] were other suitable standards.

Four comments, from fuel suppliers and a fuel supplier representative group emphasised the importance of there being a consistent approach across Member States but did not suggest any other specific standards.

4.8.3. Question 15: Do you foresee any difficulties in verifying data (including volumes of fuel/energy supplied, sustainability data, and GHG intensity)?

Summary of responses:

Yes:	11
No:	5

Main messages from respondents

Three fuel suppliers, a fuel supplier representative group and a biofuel producer thought that each operator should be exclusively responsible for their own operations, with operators providing verified sustainability data at the point of transfer to the obligated supplier. The same group also stressed the importance of all Member States accepting biofuel as compliant where it has met the carbon and sustainability criteria of other Member States (the principle of mutual recognition).

Three fuel suppliers and a fuel supplier representative group also suggested that there could be a UK national verification scheme where all fuels would be accepted as verified where provided under this scheme, while keeping the option of self-verification

[5] This is a proposed standard dealing with both limited and reasonable assurance engagements on greenhouse gas reporting.
[6] AccountAbility’s AA1000 series are principles-based standards for helping organisations become more accountable, responsible and sustainable.
[7] International Organisation for Standardisation standard related to conformity audits for environmental management systems, greenhouse gas emission validation and verification, and product certification systems

open. The same group also warned that there will not be sufficient time for suppliers to prepare between publication of the sustainability criteria and introduction of the legal requirement to meet those criteria. The same group also commented that there is a risk that there will not be enough verifiers in the UK as many of the current UK verifiers will be in demand in other Member States that have not required verified sustainability information in the past.

Three fuel suppliers mentioned that it was difficult to take a view on this until more details are known (one respondent commented that Member States are still awaiting implementing measures related to the reporting of GHG emissions for fuels other than biofuels) while a biofuel producer and biofuel producer representative group thought that the baseline fossil fuel comparator needed to be established by the European Commission without further delay.

Individual responses/detailed points raised

- A biofuel producer suggested there may be difficulties in GHG accounting for some advanced biofuels derived from wastes, when mixed waste feedstocks are used.

- A maritime industry representative thought that the verification and reporting of exact fuel content is important information to be passed on to those that use the fuel.

- A biofuels interest group thought that there would be no difficulty in obtaining this data as long as the FQD Technical Guidance was detailed enough.

- One respondent commented that effective verification of biofuel sustainability and GHG intensity is a near impossibility, especially given the lack of a methodology for taking account of ILUC.

- A fuel supplier viewed the RED timeframe for verification as too short, and was concerned about penalties for non-compliance.

- A maritime industry representative group mentioned that the process should be the least burdensome possible; this was echoed by a trade organisation

- A biofuel producer thought the costs assigned to verification were too low in the Impact Assessment.

- One fuel supplier raised concerns regarding the possible GHG accounting methodology for fossil fuels. The fuel supplier believed that the FQD is the wrong instrument to use to regulate GHG intensity in the production and refining of fossil fuels. Furthermore, the fuel supplier felt that the methods suggested by the European Commission to obtain the GHG intensity data were unviable and would lead both to distortion across the market and potential carbon leakage.

4.9. Coming into force date

Summary of proposal

We proposed that the regulations transposing the FQD will commence on the same day that the amended RTFO comes into force (i.e., the 15 day of the earliest month possible) though the FQD reporting cycle will run on a calendar year basis.

4.9.1. Question 16: Do you support the proposal for the FQD GHG Regulations to come into force on the same date as the amended RTFO comes into force?

Summary of responses

Yes:	22
No:	0

Main messages from respondents

Those that supported the proposal were from across the supply chain.

Four fuel suppliers, a fuel supplier representative group and a biofuel producer asked that the reporting years for the RTFO and FQD were aligned to avoid administrative burden. One fuel supplier suggested that they should be aligned to both begin in April 2012; others thought that they should be aligned to cover calendar years.

One fuel supplier, two biofuel producers and a biofuel producer representative group asked that the draft legislation is published to allow public scrutiny. Two of this group added that the Department should make it clear that it will not be acceptable to simply not comply with the GHG reductions required by the FQD until 2020 and then pay a civil penalty.

Individual responses/detailed points raised

- One fuel supplier supported the proposal subject to their concerns over implementing the Directive at all while so many uncertainties remain.

- A biofuel producer supported the proposal and asked that the Directive is implemented as soon as possible to ensure that UK and European biofuel companies are not disadvantaged.

4.10. Impact Assessment

We invited comments on the analysis of costs and benefits provided in the Impact Assessment, giving supporting evidence wherever possible.

4.10.1. Question 17: Do you agree that the Impact Assessment correctly identifies the likely economic impacts?

Summary of responses

Yes:	2
No:	11

Main messages from respondents

Those that agreed comprised a fuel supplier and a biofuel producer representative group. Those that disagreed comprised biofuel producers, a biofuel producer representative group, an agricultural sector representative, three maritime representative groups, two respondents with an interest in energy and one fuel supplier.

Two maritime sector representatives thought that the costs of our proposals on operators in the inland waterway and maritime sectors could be much higher if biofuel free gas oil does not

remain available for use in these sectors. Another respondent representing similar interests stated that the possibly significant costs of dealing with microbial contamination were not taken into account in the Impact Assessment.

Several comments were made regarding assumptions made about likely GHG savings of biofuels. One biofuel producer suggested that likely GHG savings from current UK wheat–ethanol plants should be used in the Impact Assessment. Another biofuel producer commented that adjustment of the ratio of bioethanol to biodiesel blended into fossil fuels could deliver greater reductions in overall GHG intensity and that bioethanol has higher GHG savings than biodiesel (through having a lower ILUC impact).

Individual responses/detailed points raised

- A biofuel producer commented that the value of domestic biofuel production was not monetised in the Impact Assessment (this view was supported by a biofuel producer representative group that commented on the potential impacts in terms of UK trade balance and employment). This fuel supplier provided additional, more detailed information, regarding the potential benefits to UK trade of meeting the 2020 target. The biofuel producer also raised concerns regarding assumptions made as to the amount of biofuel that could be imported into the UK in the future.

- A fuel supplier commented that the Impact Assessment did not use the most recent biofuel supply data and believed that use of these data would enable better estimates of the likely impacts of double counting of waste-derived biofuels under the RED and consequential impacts on costs and sustainability.

- A biofuel producer representative group raised concerns that the Impact Assessment did not draw on recent cost estimates made by the International Energy Agency (the same criticism was made of impact assessments that accompanied our consultation on proposals to implement the RED). The respondent continued by noting that, by not establishing trajectories now, the up-take of biofuels is likely to have to happen at an accelerated rate at the end of the decade which will cost more than if a gradual trajectory was established now.

- A biofuel producer thought that the assessment for Approach C should include a greater price for biofuels than for Approach B. The respondent argued that Approach C would lead to the UK being reliant on more expensive imports owing to this approach leading to a lack of investment in UK biofuel production.

- An energy interest group disagreed with the assumption that the FQD targets will mainly be met through biofuel use.

- An agricultural sector representative reiterated concerns raised regarding the likely impacts of including low sulphur gas oil in the obligation to reduce GHG intensity and requested that further work was undertaken to ensure unwanted impacts are avoided.

- An energy interest group thought the Impact Assessment should have considered the option of sequestering carbon dioxide from fossil fuel or first or second generation biofuels.

- A fuel supplier commented that it was difficult to judge the accuracy of the Impact Assessments as they were based on fuel prices that are very volatile.

- One biofuel producer provided eighteen detailed comments on specific paragraphs in the Impact Assessment; these are not summarised here, but have been taken into account.

4.10.2. Question 18: Do you have any further evidence you would like the Department to consider in relation to the Impact Assessment?

Summary of responses

Yes:	10
No:	10

Main messages from respondents

The following comments were received:

- A local transport operator suggested that the link between fossil fuel emissions and air quality should be considered.

- An environmental group requested that the carbon emissions associated with producing fossil fuels is taken into account under the FQD, as well as similar emissions from biofuels.

- A fuel supplier suggested that assumptions regarding the GHG savings of biofuels were too low when compared to preliminary data reported under the 2010/2011 RTFO obligation year.

- Respondents from the marine/inland waterway sectors raised concerns that the presence of biofuels in marine fuel could present a significant safety risk and that this issue is not addressed in the Impact Assessment. These respondents were also concerned that the risks associated with microbial contamination of fuel were not sufficiently accounted for.

- An energy think tank did not support the GHG accounting methodology for biofuels and asked that the Department consider a discussion paper produced by the think tank that provided details of an alternative methodology.

- A trade association representing fuel distributors stated that social impacts needed to be included as part of the Impact Assessment.

5. Part Two: General responses

Outside of the formal structure of the consultation questionnaire, respondents offered comments on both the wider debate around the sustainability of biofuels, and issues of FQD implementation and administration. These comments are summarised below.

5.1. Wider debate on biofuel sustainability

- Biofuel producers and trade bodies were concerned that it was not proposed to increase biofuel obligation levels through the setting of biofuel supply and GHG reduction trajectories (annual obligations) up to 2020.

- There was a perception that the above risked inhibiting investment in new biofuel technologies, and hindered both the development of low carbon energy supply for transport and compliance with the Directives.

- It was also suggested in this context that the proposals for implementing the FQD and further analysis should concentrate on how best to incentivise higher performing biofuels in terms of their contribution to GHG reductions, and encourage the supply of biofuels going beyond the mandatory sustainability requirements.

- Conversely Non-Governmental Organisations and other environmental advisory and campaigning organisations warned against too rapid an expansion of biofuel supply and generally supported adoption of Approach C (see questions 1 to 3). Similar concerns around the environmental and social sustainability of biofuels were raised by three members of the public.

- Concerns were also raised regarding the effects of use of biofuel on food security, land rights of local people, biodiversity and their wider environmental impact.

- Some respondents suggested that other sustainable means of reducing GHG emission should be explored, such as reducing car use.

- There was general support for the Government's position that strong sustainability criteria and a robust lifecycle GHG

analysis are necessary to ensure that biofuels deliver real GHG reductions.

- An advisory group and fuel suppliers commenting on the longer-term strategy the Government should adopt in decarbonising road transport suggested that a variety of transport fuel solutions and policy interventions would be needed. In this context it was also noted by one fuel supplier that the proposed revisions in Approach C would encourage LPG production.

- It was also suggested by a trade body that rapid change in biofuels policy may not be helpful. The trade body stated that clarity was needed around biofuel blend specifications in order that vehicles could be correctly calibrated to accept the new fuels. In addition, harmonisation across Europe was urgently needed as fuels are marketed across Europe. The Government was urged to take the opportunity to learn from the good and bad experiences of introducing new biofuel products in other Member States.

- A fuel supplier and a trade body were of a view that there is a need for coordinated action at EU level to align both biofuel specifications and the implementation schemes of all Member States. These respondents suggested that further work at EU level was needed before committing to a firm plan for the UK out to 2020 for the FQD.

- Several respondents raised concerns about the ILUC impact of biofuels and the need for quick resolution across Europe.

5.2. FQD administration

- There was broad agreement that the methodology used by the administrator of the FQD in assessing GHG emissions associated with feedstocks and energy sources should be comprehensive, and consistent with other schemes.

- An energy provider also explained that a consistent methodology should ensure that fair comparisons of emissions can be made for all vehicle types, including electric vehicles, in a way that can be understood by consumers.

- Some fuel suppliers queried whether the projected costs associated with audits required for verification were too conservative.

- An advisory body and biofuel supplier supported a certificate trading scheme and opposed “grouping” under which companies may agree to achieve targets jointly.

6. Part Three: List of organisations that responded

Argent Energy (UK) Ltd

Association of Train Operating Companies

biofuelwatch

BP Oil UK Limited

British Association for Chemical Specialities and UK Cleaning Products Industry Association

British Sugar

Butamax Advanced Biofuels LLC

Cargill

Conidia Bioscience Ltd

ConocoPhillips Limited

Downstream Fuel Association

E3 Foundation

EcoNexus

EDF Energy

Ensus

Esso Petroleum

European Biodiesel Board

Federation of Petroleum Suppliers

Friends of the Earth

Greenergy Fuels Ltd

Greenpeace

GreenSpeed

Ineos Refining

Low Carbon Vehicle Partnership

Mabanaft UK Ltd

Merseytravel

National Farmers Union

Northeast Biofuels

Nuffield Council on Bioethics

Oil Firing Technical Association

Passenger Boat Association

Renewable Energy Association

Royal Society for the Protection of Birds

Scottish Environment Protection Agency

Scottish Natural Heritage

Shell UK

Society of Motor Manufacturers and Traders

The Cruising Association

Total UK Ltd

UK Petroleum Industry Association

UK Renderers' Association also representing the Foodchain & Biomass Renewables Association

UK Sustainable Biodiesel Alliance

UKLPG

United Kingdom Major Ports Group and British Ports Association

Vireol Bio-Industries PLC

Vivergo Fuels Ltd

Wyton Energy Consulting