

# Regulatory Position Statement

## The environmental regulation of the production and use of processed fuel oil (PFO) from waste lubricating oils

### Purpose of this position statement

A Quality Protocol setting out end-of-waste criteria for the production and use of processed fuel oil (PFO) from waste lubricating oils is available from our website [www.ni-environment.gov.uk](http://www.ni-environment.gov.uk). As compliance with the non-statutory Quality Protocol is voluntary, the purpose of this statement is to advise our staff and customers on our approach to PFO from waste lubricating oils and to provide guidance on the arrangements for transfer from the interim position (issued April 2008) to this position statement.

By complying with the Quality Protocol, producers will have certainty that we regard the PFO they produce from waste lubricating oils to have ceased to be waste and that it can be used without the need for waste management controls.<sup>1</sup>

The main purposes of the Quality Protocol are:

- clarifying the point at which waste management controls are no longer required;
- providing holders with confidence that the PFO from waste lubricating oils conforms to an approved standard;
- protecting human health and the environment by setting standards for the production and use of PFO from waste lubricating oils in designated applications, and describing acceptable good practice for its use.

Full details of the requirements are set out in the Quality Protocol and in summary, the following criteria must be met:

- the PFO is produced using only those waste oil input streams specified in Appendix B of the Quality Protocol;
- the PFO from waste lubricating oils complies with the specification in Appendix C;
- the PFO from waste lubricating oils can only be sold or supplied for use in any application as a direct substitute for its virgin fuel comparator where it is allowed and appropriate as listed in the Quality Protocol.

This position statement provides clarity on how we will regulate:

- the collection and processing of waste lubricating oils destined for the production of PFO;

- PFO that meets the requirements of the Quality Protocol; and
- PFO that does not meet the requirements of the Quality Protocol.

### **Implementation Stage**

With effect from 1<sup>st</sup> July 2010 (i.e. midnight on 30<sup>th</sup> June) supplies of PFO meeting the specification in the Quality Protocol will be regarded by us as having ceased to be waste (in Northern Ireland). However, the interim position statement will continue to have effect until midnight on 31<sup>st</sup> July 2010.

Although the Quality Protocol sets limits for metals, the proposed test methods<sup>2</sup> may not have been finalised at that time so, the limit for metals will not apply initially. When the test methods have been finalised we will publicise this, with a date when both the limit and test methods will come into force and will update this position statement.

The Quality Protocol fully replaces the current interim position statement from 1<sup>st</sup> August 2010, when the interim position will be revoked.

Fuel meeting the interim statement will continue to be regarded by us as having ceased to be waste until 1<sup>st</sup> August 2010, i.e. from midnight on 31<sup>st</sup> July 2010, any fuel derived from waste lubricating oils which does not meet the requirements of the Quality Protocol will normally be regarded by us as a waste subject to waste management regulation.

### **The management of users' stockholdings (transitional period)**

We realise that holders and users of waste-derived fuels meeting the interim standard, but not the Quality Protocol, may need time to use existing stocks, and that there are complex issues of stock usage and its potential value. It is partly for this reason that we are providing advance notice of the entry into force of the Quality Protocol.

Users holding stocks of fuels meeting the interim standard on 1 July 2010 may continue to burn these as "non waste" fuels until midnight on 30<sup>th</sup> September 2010. Where PFO complying with the Quality Protocol is added to a stock tank containing interim standard fuel, the user will need to be able to demonstrate (normally by mass balance calculations of stocks and deliveries) that the concentration of interim specification material in the stock tank is less than 10% by 1<sup>st</sup> October 2010.

**Note that if you intend to export PFO outside Northern Ireland please be aware that the receiving country may still consider the material to be waste.**

### **How we regulate the collection, processing and storage of waste lubricating oils for the production of PFO**

The Quality Protocol does not change the regulatory requirements that apply to:

- the **delivery** and **storage** of waste lubricating oils for processing;
- the **processing** of waste lubricating oils to produce PFO.

The waste lubricating oils must be:

- handled in accordance with the Duty of Care requirements;
- transported by a person who is registered as a waste carrier;
- consigned as hazardous waste under the Hazardous Waste (Northern Ireland) Regulations 2005
- taken to a suitably permitted, licensed or exempt waste facility.

### **How we regulate PFO that meets the requirements of the Quality Protocol**

Fuels derived from waste lubricating oils are not obliged to comply with the Quality Protocol. If they do, they will benefit because we will not regulate the PFO as waste. This means they can be used without the need for waste management controls. Furthermore, the Waste Incineration Directive (WID) will not apply to their combustion.

However, burning PFO in an appliance rated at >0.4 MW (thermal) will still require a permit under the Regulations, even though the WID will not apply, as it is a fuel manufactured from waste.

Where an operator proposes to burn PFO on a permitted installation, it may be necessary to vary the permit to ensure that the PFO is included in the list of permitted fuels.

Producers of Quality Protocol-compliant PFO should store this in a clearly defined area separate to that used for feedstocks, material undergoing processing and other waste materials. Producers of PFO should also note that by producing a fully recovered product they may be subject to further legal obligations, e.g. the registration of substances under REACH<sup>3</sup>.

### **How we regulate PFO that does not meet the requirements of the Quality Protocol**

If PFO does not comply with the Quality Protocol, we will normally regulate it as waste, in which case the following waste management controls continue to apply:

- it must be stored in accordance with a waste management licensing regulations;
- handled in accordance with the Duty of Care requirements;
- it must be transported by a registered waste carrier and consigned as hazardous waste under the Hazardous Waste (Northern Ireland) Regulations 2005;
- it must be used under and in accordance with a PPC permit which will ensure that the burning complies with the requirements of the WID.

### **Enforcement**

If the activity is likely to cause pollution or harm to human health, is being carried out without the appropriate licence or permit, or there is a breach of waste management licence/permit conditions, we will take action in line with our enforcement and prosecution policy.

It should be noted that offences under Article 4 of the Waste and Contaminated Land (NI) Order 1997 as amended (such as treating or keeping waste without a licence or in a manner likely to cause environmental pollution) are classed as

serious crime under the Serious Crime Act 2007 and that NIEA has powers to carry out investigations under the Proceeds of Crime Act 2002 as amended in the event that offending has resulted in financial gain.

### **Further advice**

Detailed guidance on regulatory controls can be obtained from our website [www.ni-environment.gov.uk](http://www.ni-environment.gov.uk) or from the NetRegs [www.netregs.gov.uk](http://www.netregs.gov.uk) website.

<sup>1</sup> Waste management controls are not required from the point at which the PFO is produced to the standard required by the Quality Protocol.

<sup>2</sup> IP PM DZ, IP PM ED and IP PM EB listed in Tables 1 and 2 of Appendix C to the Quality Protocol

<sup>3</sup> Registration, Evaluation, Authorisation and Restriction of Chemicals (Regulation (EC) No 1907/2006).