



Notification Number: 2009/473/UK

## Draft Quality Protocol: End of waste criteria for the production and use of processed fuel oil from waste lubricating oils

Date received : 27/08/2009

End of Standstill : 30/11/2009

Issue of comments by : Austria, Commission

### Message

Message 001

Communication from the Commission - SG(2009) D/51981

Directive 98/34/EC

Notificación - Oznámení - Notifikation - Notifizierung - Teavitamine - Γνωστοποίηση - Notification - Notification - Notifica - Pieteikums - Pranešimas - Bejelentés - Notifika - Kennisgeving - Zawiadomienie - Notificação - Hlásenie-Obvestilo - Ilmoitus - Anmälan - Нотификация : 2009/0473/UK - Notificare.

No abre el plazo - Nezahtuje odklady - Fristerne indledes ikke - Kein Fristbeginn - Viivituste perioodi ei avata - Καμία έναρξη προθεσμίας - Does not open the delays - N'ouvre pas de délais - Non fa decorrere la mora - Neietekmē atlikšanu - Atidėjimai nepradedami - Nem nyitja meg a késések - Ma' jiftaħ il-perijodi ta' dawmien - Geen termijnbegin - Nie otwiera opóźnień - Nao inicia o prazo - Neotvorí oneskorenia - Ne uvaja zamud - Määräaika ei ala tästä - Inleder ingen frist - Не се предвижда период на прекъсване - Nu deschide perioadele de stagnare - Nu deschide perioadele de stagnare.

(MSG: 200901981.EN)

#### 1. Structured Information Line

MSG 001 IND 2009 0473 UK EN 30-11-2009 27-08-2009 UK NOTIF 30-11-2009

#### 2. Member State

UK

#### 3. Department Responsible

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#### 3. Originating Department

Department for Environment, Food and Rural Affairs



#### 4. Notification Number

2009/0473/UK – N40E

#### 5. Title

Draft Quality Protocol: End of waste criteria for the production and use of processed fuel oil from waste lubricating oils

#### 6. Products Concerned

Processed fuel oil (PFO)

#### 7. Notification Under Another Act

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#### 8. Main Content

In 2007 the UK Court of Appeal was asked to consider whether it was possible for waste lubricating oil which was to be used as fuel to cease to be waste before it was burned. The Appeal Court concluded that waste lubricating oil was no different from any other waste and that it might cease to be waste if it had been completely recovered. The Appeal Court considered the point at which complete recovery would occur taking account of case law established by the European Court of Justice on the definition of waste in Article 1(1)(a) of the Waste Framework Directive (WFD) ((2006/12/EC). In its judgment, the Appeal Court proposed the following three-part test: "It should be enough that the holder has converted the waste material into a distinct, marketable product, which can be used in exactly the same way as an ordinary fuel, and with no worse environmental effects." The Appeal Court suggested that the UK Government and the Environment Agency should provide practical guidance for those affected by this question. The draft end-of-waste protocol for PFO has been produced in response to the Appeal Court's judgment. PFO will be regarded as having been fully recovered and to have ceased to be waste provided (a) it requires no further processing before use; (b) it has been produced using only those input materials specified in Section 2 of the draft protocol; and (c) it meets the requirements of an approved standard (Section 2). Producers must demonstrate that these criteria have been met in the ways set out in Section 3 of the draft protocol.

#### 9. Brief Statement of Grounds

The reasons for making the draft protocol are set out in paragraph 8 above. Article 6(4) of the revised WFD (2008/98/EC) provides that, where end-of-waste criteria have not been set at Community level in accordance with Articles 6(1) and (2), Member States may decide case by case whether certain waste has ceased to be waste taking into account the applicable case law. No end-of-waste criteria have been set at Community level for waste lubricating oil in accordance with Articles 6(1) and (2) of the revised WFD.

#### 10. Reference Documents - Basic Texts

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#### 11. Invocation of the Emergency Procedure

NO

#### 12. Grounds for the Emergency



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**13. Confidentiality**

NO

**14. Fiscal measures**

NO

**15. Impact assessment**

The impact assessment is attached.

**16. TBT and SPS aspects**

TBT Aspect

YES

SPS Aspect

NO

The draft is not a sanitary or phytosanitary measure in the sense of Annex A of the SPS Agreement.

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