

## The environmental regulation of the production and use of biodiesel

### Purpose of this position statement

A Quality Protocol setting out end-of-waste criteria for the production and use of biodiesel derived from waste cooking oil and rendered animal fat (tallow) is available from our [website](#). As the Quality Protocol (QP) is voluntary, the purpose of this statement is to advise our staff and customers on the legal obligations that apply to those who decide not to comply with the QP.

This position statement provides clarity on how we will regulate:

- the collection and processing of waste cooking oil (WCO) and rendered animal fat;
- biodiesel produced from WCO and rendered animal fat that meets the requirements of the QP ('quality biodiesel');
- biodiesel produced from WCO and rendered animal fat that does not meet the requirements of the QP.

By complying with the QP, producers will have certainty that the 'quality biodiesel' they produce will cease to be waste and can be used without the need for waste management controls.<sup>1</sup>

The main purposes of the QP are:

- clarifying the point at which waste management controls are no longer required;
- providing users with confidence that quality biodiesel conforms to an approved standard;
- protecting human health and the environment by setting standards for the production and use of quality biodiesel as automotive or heating fuel, and describing acceptable good practice for its use.

In summary, the following criteria must be met:

- The biodiesel is produced via a chemical process in accordance with the requirements of the Quality Protocol and in compliance with either BS EN 14213: 2003 for heating fuels or BS EN 14214: 2003 for automotive fuels.
- Producers must keep copies of supply documentation to customers which include a statement of conformance to the QP.
- Final product storage and conditions must be fully compliant with the Control of Pollution (Oil Storage) (England) Regulations 2001.<sup>2</sup>

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

<sup>2</sup> In order for organisations in England and Wales to meet the requirements of the Quality Protocol, they must be fully compliant with the requirements of the Control of Pollution (Oil Storage) (England) Regulations 2001.

## How we regulate the collection and processing of waste cooking oil and rendered animal fat for the production of biodiesel

The QP does not change the regulatory requirements that apply to:

- the **delivery** and **storage** of WCO and rendered animal fat for processing;
- the **treatment/processing** of WCO and rendered animal fat to produce biodiesel.

The WCO and rendered animal fat must be:

- handled in accordance with the Duty of Care requirements;
- transported by a person who is registered as a waste carrier;
- taken to a suitably permitted or exempt waste facility.

The Environmental Permitting (England and Wales) Regulations 2010 (EPR10) introduced a new set of exemptions. These are subject to transitional provisions so if you had an exemption registered on 5 April 2010, it will be valid for between 18 months and 3.5 years from that date depending on what you are actually doing. More information on these transitional periods can be found on our [website](#).

### Exempt activities registered before 5 April 2010

An exempt waste operations registered before 5 April 2010 will be registered under the Environmental Permitting (England and Wales) Regulations 2007 (EPR07).

The **storage** of up to 500 tonnes of WCO for a maximum period of 12 months prior to processing can take place with an EPR07 Paragraph 17 exemption from permitting.

The **treatment** of rendered animal fat or more than 250 litres of WCO at anytime for the production of biodiesel could only take place with an environmental permit. The processing of less than 250 litres of WCO was covered by a low risk position (LRW 003).

There are **no transitional provisions** for moving from a low risk position to the new exemptions regime so if you were relying on one of these you need to register an exemption straight away. LRW 003 has been replaced by the new **T19** exemption in the EPR10, which allows the physical treatment WCO and fat. More information on the new exemptions can be found on our [website](#).

### Exempt activities started since 5 April 2010 and covered by EPR 2010

The **storage or physical treatment** of up to 5000 litres of WCO can take place with a Paragraph **T19** exemption from permitting. You can store waste for up to 3 months. Defra have recently consulted on amending this exemption to allow chemical treatment of up to 250 litres of WCO but until that amendment is made and brought into force (which we anticipate will be October 2011), any chemical **treatment** of rendered animal fat or the physical treatment of more than 5000 litres of WCO at anytime for the production of biodiesel can only take place with an environmental permit.

**How we regulate biodiesel that meets the requirements of the QP**

Producers and users are not obliged to comply with the QP. If they do they will benefit from the certainty that we will not regard the quality biodiesel they produce as waste. This means it can be used without the need for waste management controls.

Combustion of quality biodiesel in a combustion plant may require a permit under the Environmental Permitting Regulations.<sup>3</sup>

QP compliant material should be stored in a clearly defined area separate to that used for feedstock and other waste materials.

**How we regulate biodiesel that does not meet the requirements of the QP**

If producers do not comply with the QP, the material will usually be regarded as waste. If the biodiesel remains waste, the following waste management controls continue to apply:

- where the biodiesel has been generated as a result of chemical treatment it must be stored on the processor's site in accordance with an environmental permit;
- where the biodiesel has been generated as a result of physical treatment it may be produced and stored on the producing site under a T19 exemption;
- it must be transported by a registered waste carrier;
- it must be stored and used on user's site in accordance with an environmental permit or an exemption from permitting (Paragraph 5 or U5 depending on when the activity started);
- if combusted in a combustion plant, you may require a permit under the Environmental Permitting Regulations<sup>3</sup> and the operation will be subject to the Waste Incineration Directive.

**Other circumstances**

Please note that where biodiesel is used as an automotive fuel or as a heating fuel in a domestic situation, its use would not be subject to the Environmental Permitting Regulations whether the biodiesel complies with the Quality Protocol or not.<sup>4</sup>

**Enforcement**

If the activity is likely to cause pollution or harm to human health, or there is a breach of waste management controls, we will take action in line with our **Enforcement and Sanctions Statement**. This can be found on the 'How we regulate you' page in the Business & Industry section of our website.

<sup>3</sup> Burning fuel manufactured from waste in an appliance with a thermal input greater than 0.4MW requires a permit under Schedule 1, Part A(1) (b)(iii) or Part B(1)(c).

<sup>4</sup> Environmental Permitting (England and Wales) Regulations 2010, Schedule 1, Part 1, Paragraph 3.

**Further advice**

Detailed guidance on regulatory controls can be obtained from our National Customer Contract Centre on 08708 506 506, from our [website](#) or from the [NetRegs](#) website.

This regulatory position statement will be reviewed by 31 March 2011.

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