

Brussels, 4th September 2017

FuelsEurope, the voice of the European petroleum refining industry

FuelsEurope represents with the EU institutions the interest of 41 companies operating refineries in the EU. Members account for almost 100% of EU petroleum refining capacity and more than 75% of EU motor fuel retail sales.

FuelsEurope aims to promote economically and environmentally sustainable refining, supply and use of petroleum products in the EU, by providing input and expert advice to the EU institutions, Member State Governments and the wider community and thus contributing in a constructive and proactive way to the development and implementation of EU policies and regulations.

Current state of play

The European Parliament report on the WFD revision, adopted on 13 March 2017 includes provisions mandating an unconditional separate collection of waste oils as well as the achievement of an 85% regeneration target by 2025.

The Council position adopted in Coreper on 19 May 2017 mandates the Commission to perform a data collection exercise before considering the feasibility of setting measures for the treatment of waste oils, including quantitative targets on regeneration of waste oils. A report accompanied by a proposal, if appropriate, shall be sent to the European Parliament and the Council by 31 December 2024.

FuelsEurope position regarding the approaches taken by the EU institutions

FuelsEurope supports the implementation of responsible management practices for waste oils to protect public health and the environment. Our assessment of the approaches taken by the EU institutions is that:

- The European Parliament amendments are likely to provoke structural changes and unintended consequences for the whole waste oil management particularly when considering the specifics of well-established markets in various EU countries. **European Parliament amendments 59, 193, 194, 195, 196 and 197 should be rejected.**
- The Council approach recognises the need for a better understanding of the current market structure (i.e. flows, operations and calculation methods at stake) and for a robust impact assessment before any targets can be set. **Council amendments related to the articles 21(4) and 37(1) are welcome.**

FuelsEurope recommendation

FuelsEurope recommends the adoption of the Council approach (i.e. conduct a feasibility study first) - in line with the better regulation principles - as a reasonable compromise between the initial proposal of the Commission and the European Parliament report.

The completion of a thorough impact assessment - involving the consultation of all interested parties - prior to the establishment of any technically, environmentally and economically achievable collection, regeneration, recycling and/or recovery targets is warmly recommended.

FuelsEurope and its members are committed to actively participate in any data gathering processes as well as to provide all necessary inputs into any feasibility studies regarding the setting of measures or targets on waste oils.

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Background

The article 21 of the Waste Framework Directive (2008/98) includes provisions regarding waste oils that ensure that - where technically feasible and economically viable - they are separately collected with a view to maximising their treatment. To achieve this goal, Member States have the possibility of applying measures such as technical requirements, producer responsibility, economic instruments or voluntary agreements. Member States also have the possibility, where waste oils are subject to requirements of regeneration, of stipulating that such waste oils be regenerated if technically feasible and restrict the transboundary shipment of waste oils from their territory to incineration or co-incineration facilities in order to give priority to the regeneration of waste oils.

When reviewing the implementation of this Directive, the European Commission neither collected specific data regarding waste oils nor conducted any impact assessment with a view to making a proposal for the revision of the WFD article 21. Hence no targets for waste oils (regeneration) were envisaged.

Setting a regeneration target 'ex-abrupto' is contrary to the better regulation principle that calls for an ex-ante feasibility study supported by a thorough impact assessment

FuelsEurope is very concerned about the amendments adopted by the European Parliament. Neither the pre-requisites that would ensure their achievability nor their potential consequences have been checked or assessed. Amongst the questions that can be raised are the following:

- Can technical feasibility and economic viability barriers to the separate waste oils collection be removed? Can the separate collection always be applied - and everywhere?
- Have the existing or required technical capabilities - taking the unequal geographical distribution of regeneration capacities across the EU into account - been thoroughly analysed?
- Have the associated costs (e.g. related to significant energy inputs) and the capacity to meet the required high quality standards that regenerated base oils would need to meet in view of producing lubricants of second generation been evaluated?
- Has giving priority to the regeneration of waste oils irrespective of the availability of cost effective and environmental friendly recycling or recovery options been checked against all sustainability criteria referred to in article 4 §2 of the Waste Framework Directive?

Reference

The [API-Sponsored Life-Cycle Assessment Study of Used Oil Management in California](#) (completed in consultation with the State of California as follow-up to their earlier waste oil LCA) appraises waste oil generation in California in 2010. Its key lessons and findings are also relevant to other time periods, states and countries. The study concludes that **“policies that encourage a healthy portfolio of waste oil treatment options and that may lead to an increase in the overall market demand for waste oil, are likely to deliver increased collection rates, resulting in an overall significant reduction in environmental impacts”**.

Our proposal

Before setting any targets FuelsEurope recommends that a **thorough impact assessment** involving the consultation of all interested parties be conducted. Only when this has been done, can **setting up technically and economically achievable goals be envisaged**. Then FuelsEurope could potentially support **sound and achievable collection, regeneration, recycling and/or recovery targets** which do not hamper the development of alternative methods where their **achievability has been demonstrated**.

In this respect we welcome the Council approach as a reasonable compromise (see annex).

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Compromise supported by FuelsEurope

Commission proposal	Waste oils amendments
Feasibility study Article 1 - paragraph 1 - point 12b (new) Article 21 - paragraph 4	
	<p>(12b) The following paragraph is added to Article 21:</p> <p>(4) By 31 December 2024 the Commission shall examine data on waste oils provided by Member States in accordance with Article 37(1) with a view to considering the feasibility of setting measures for the treatment of waste oils, including quantitative targets on regeneration of waste oils and any further measures to promote the regeneration of waste oils. To this end, a report of the Commission, accompanied by a proposal, if appropriate, shall be sent to the European Parliament and the Council.</p>
Reporting data on waste oils Article 1 - paragraph 1 - point 21 Article 37 - paragraph 1	
<p>(21) Article 37 is replaced by the following: 'Article 37 Reporting 1. Member States shall report the data concerning the implementation of Article 11(2)(a) to (d) and Article 11(3) for each calendar year to the Commission. They shall report this data electronically within 18 months of the end of the reporting year for which the data are collected. The data shall be reported in the format established by the Commission in accordance with paragraph 6. The first reporting shall cover the data for the period from 1 January 2020 to 31 December 2020.</p>	<p>(21) Article 37 is replaced by the following: 'Article 37 Reporting 1. Member States shall report the data concerning the implementation of Article 11(2)(a) to (d) and Article 11(3) for each calendar year to the Commission. Member States shall also report the data on [...] waste oils separately collected and treated. They shall report this data electronically within 18 months of the end of the reporting [...] period consisting of two years for which the data are collected. The data shall be reported in the format established by the Commission in accordance with paragraph 6. The first reporting on waste oils set out in Article 21(4) and the targets set out in Article 11(2) (c) and (d) and Article 11(3) shall start in the first full calendar year after the adoption of the implementing act that establishes the format, in accordance with 37(6), and shall cover the data for [...] that reporting period.</p>