

Promulgation of the Directive to Promote Processing of Waste Oil into Base Oil

of 1 October 2001

The purpose of this attachment is to promulgate the Directive to Promote Processing of Waste Oil into Base Oil.

Please note that, for budgetary reasons, applications for an indemnity for the year 2001 must be addressed to the Federal Office of Economics and Export Control by 15 November 2001 at the latest.

More information (in German) on the indemnities procedure can be obtained on the Internet under www.bmu.de (links Themen A-F, Abfallwirtschaft, right pull-down – Förderrichtlinie/Altölaufbereitung).

Bonn, 1 October 2001
WA II 5 (B)-32034/4

For the Federal Ministry for the Environment,
Nature Conservation and Nuclear Safety
Dr Karl Biedermann

Directive to Promote Processing of Waste Oil into Base Oil

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Article 1 Purpose

In the interest of a viable and sustainable management of quality mineral oil products and in the light of the limited availability of fossil resources, as well as for reasons of environmental protection, it is necessary to increase the proportion of processed waste oils in accordance with the requirements of Council Directive 75/439/EEC of 16 June 1975 as amended by Council Directive 87/101/EEC of 22 December 1986 on the disposal of waste oils, in spite of a relatively high proportion of processed waste oil compared to other member states of the European Union. To achieve this goal, market penetration with efficient, energy-saving processes suitable for the manufacture of high-quality base oils must be improved. This will require an economic incentive for the operators of plants processing waste oil into base oil.

For this reason, the Federal Government is promoting the increased use of suitable advanced technologies in the aforementioned area by means of allowances, in accordance with the said directives and the Provisional Administrative Regulations based on Article 44 of the Federal Budget Code (*Bundeshaushaltsordnung* – BHO). One central goal of funding in accordance with this Directive is to create economic incentives for operators to make the necessary investment with a view to reducing costs and thus improving the profitability of their plants. Funding shall be based on a degressive system and be limited to seven years.

Article 2
Prerequisites for the granting of allowances

1. The base oil must be produced from waste oil generated in Germany, using refinery processes that ensure in particular the removal of any contaminants, oxidation products and additives.

Any waste oils stemming from any German or foreign vessels anchoring in German ports or from any vessels of the German Navy, or from German free ports or from any foreign troops deployed in Germany, shall be deemed to have been generated in Germany.

2. The base oil must be used for the production of lubricants in accordance with Article 1a (3) of the Amendment of the Ordinance on Waste Oils or, if this Amendment has not yet entered into force, in accordance with Nos. 1 to 11 of the list of lubricants issued by the Federal Office of Economics and Export Control (hereinafter referred to as "Federal Office") in January 1999.
3. There shall be no legal claim to payment of such an allowance. The approval authority shall take its decision after due assessment of the circumstances. The granting of allowances shall be subject to availability of funds budgeted for that purpose.

Article 3
Recipients of allowances

1. Recipients of allowances must be commercial businesses operating plants in Germany that meet the conditions laid down in Article 2 No. 1.
2. Applicants whose property is to be or has become the subject of any insolvency, judicial composition, bankruptcy, sequestration or collective enforcement proceedings shall not qualify for an indemnity. The same shall apply to any applicants who have made an affidavit pursuant to Article 807 of the Code of Civil Procedure Rules.

Article 4
Type, scope and volume of funding

1. Funding takes the form of project funding through non-refundable indemnities to compensate for any losses suffered during the process of producing base oil from waste oil. Such losses shall be calculated according to the Guidelines for Cost-Based Pricing (*Leitsätze für die Preisermittlung aufgrund von Selbstkosten – LSP* (Annex to Ordinance PR 30/53)) and measured against revenue from sales of base oil. The amount of the indemnity shall be determined by the amount of the loss calculated for the year preceding the year for which the indemnity is approved. The maximum amount payable per ton of base oil shall be DM 50 for the year 2001; this rate shall be reduced by DM 5 in each of the following years. A deductible of DM 20 is calculated per ton. The funding shall be discontinued when the budgeted funds have been spent.

The funding shall expire in 2007.

2. Notwithstanding No. 1 above, the following formula shall apply to the calculation of the deductible:

The first 3000 tons per year and plant shall not be subject to a deductible.

The deductible for any additional quantity produced up to a volume of 10,000 tons per year and plant shall be DM 5 per ton.

The deductible for any additional quantity produced up to a volume of 20,000 tons per year and plant shall be DM 10 per ton.

3. If any additional funds, in particular any indemnities or tax exemptions lost, are granted for other reasons relating to structural policy, the indemnities shall be reduced accordingly.

Article 5 Procedure

1. The approval authority is the
Bundesamt für Wirtschaft und Ausfuhrkontrolle
Frankfurter Straße 29 – 35
65760 Eschborn

Telephone: 0 61 96 / 9 08-0
Fax: 0 61 96 / 9 08-8 00
2. The parties entitled to submit an application may apply to the Federal Office for an indemnity once a year, but no later than 30 June of that year (and for 2001, no later than 15 November 2001).
3. A copy or photocopy of the licence issued for the plant to process waste oil and of any modifications thereto shall be attached to any first-time application.
4. A subsequent calculation for the previous year shall be attached to the application. The Federal Office shall examine this calculation. It may correct it where it finds any errors in the execution of the calculation or where any prices quoted do not correspond to current market prices.
5. The application shall contain the following:
 - 5.1 Quantity and origin of the waste oil, quantity of base oil produced and location of plant.
 - 5.2 Specification of base oil category and name of the base oil in accordance with Article 1a (3) of the Amendment of the Ordinance on Waste Oils or, until this ordinance enters into effect, in accordance with Nos. 1 to 11 of the list of lubricants issued by the Federal Office, and specification such as viscosity index or any other technical requirements compliance with which was required by the buyer.
 - 5.3 Name and seat of the supplying lubricant producer and date of supply to his premises.

- 5.4 Declaration of consent stating that unlimited rights concerning auditing activities and ascertainment of information with regard to any facts and documents related to the granting of the indemnity are granted to the Federal Office, the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (BMU) and the Federal Court of Audit and their authorised personnel at the premises of the company filing the application in Germany.
6. The indemnities shall be granted by the Federal Office when a complete application has been submitted.
7. Payment of the indemnity shall be subject to presentation of proof that the base oil is used to produce lubricants in accordance with Article 1a (3) of the Amendment of the Ordinance on Waste Oils or, until this ordinance enters into effect, in accordance with Nos. 1 to 11 of the list of lubricants issued by the Federal Office in January 1999. The amount of funding shall be calculated on the basis of the loss determined in accordance with Article 4 No. 1 for the year preceding the year of approval.
8. Approval, payment and accounting of the allowance, proof and verification of the required use and the revocation, if necessary, of the notice awarding the allowance as well as the reclamation of the granted allowance shall be subject to the Provisional Administrative Regulations concerning Article 44 of the Federal Budget Code (*Bundeshaushaltsordnung* - BHO) and to Articles 48 to 49a of the Administrative Procedure Act, unless any deviations are provided for in this Directive.

Article 6

Provision of information, right of verification and relevance to subsidies

1. The applicant shall provide the requested information and allow verification of the documents to be carried out. The right of verification may be exercised on the spot or at the premises of the body carrying out the verification tests.
2. The representative of the BMU shall upon request be provided with all the required information, be given access to books and documents and be enabled to make any verification necessary. The Federal Court of Audit is authorised to carry out verification tests in accordance with Articles 91 and 100 of the Federal Budget Code.
3. In his application for an indemnity, the applicant shall declare his consent to the BMU disclosing to the Budget Committee of the *Bundestag*, and subsequently, on request, to other committees of the *Bundestag*, the name of the applicant and the amount of the indemnity on a confidential basis, if the Budget Committee makes a request to that effect.
4. The information provided by the applicant pursuant to Article 5 Nos. 3 to 5 shall be deemed to be relevant to subsidies as defined by Article 264 of the Penal Code in conjunction with Article 2 of the Subsidies Act.

Article 7

Entry into force

This Directive shall enter into force on 1 January 2001.