

Comments from FuelsEurope on the ordinance offsetting upstream emission reduction against the greenhouse gas quota

(TRIS notification 2017/423/D)

Brussels, 4th December 2017

Dear Sir or Madam,

You will find in this letter a contribution of FuelsEurope representing the European Oil Refiners and their retail activities to the notification procedure registered under TRIS number **2017/423/D, which was posted on 5 September 2017 and with a standstill period until 6 December 2017**. The act notified by the German authorities concerns a legislation on offsetting upstream emission reductions against the greenhouse gas quota. The act is a result of the requirement to transpose Directive 2015/652 into national legislation.

Our industry is concerned about the conditions set under §1 (2) of the act, whereby that emission reductions coming from an upstream site that is under the ETS, can't be considered as an upstream emission reduction (UER). An upstream emission reduction is one of the compliance mechanisms available to fuel suppliers to comply with a reduction of the greenhouse gas (GHG) intensity by 6% in 2020 versus 2010 for all road fuels sold in the Union market. This obligation is set in the Fuel Quality Directive (FQD) under article 7, which we will further designate as FQD/7a

We are of the opinion that this approach is questionable:

- To our knowledge the base directive 2015/652 has no provisions that excludes sites under ETS as being out of scope as a possible UER project.
- Upstream units are under the EU ETS only because of their combustion plants, no other equipment and emission from other sources fall under the scope of ETS.
- There are currently already examples which do not exclude overlap with the FQD/7a
 - o There are some bioethanol plants which are considered as an ETS-installation. However if the plant reduces their GHG footprint, this reduced footprint can also be considered under the FQD/7a.
 - o Directive 2015/1513, article 1 (2) (a) allows Member States to consider that fuel suppliers can make biofuels, used in the aviation sector, count as compliance towards the FQD/7a. Aviation falls also under the EU-ETS system.

Based on the above we consider that not being able to allow GHG reductions from an upstream installation that is under the ETS, to become eligible as UER under the FQD/7a is not justified and constitutes a non-proportional measure. We would therefore propose that the restriction to exclude GHG reductions from upstream installations falling under the ETS for producing eligible UER GHG reductions, should be eliminated

Our association is at your disposal for any further information and thank you in advance for your attention.

Yours sincerely,



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