

Allegation 1: Biodiesel Production Facility Violates Rule 210

Company has not applied for or obtained a Renewable Operating Permit (ROP) despite being a major source of hazardous air pollutants with a potential to emit of methanol in excess of 10 tons in a 12 month period since at least December 2015. Actual emissions of methanol are estimated to be more than 10 tons.

Company Response to Allegation 1:

The Company continues to rely on the Rule 290 (R336.1290) exemption with actual and potential emissions of methanol less than ten tons per year. Because actual and potential methanol emissions remain below major source thresholds, the facility is not a "major" Title V source requiring a Renewable Operating Permit under Rule 210 (R336.1210).

The stack testing conducted on the biodiesel processing equipment vent (a.k.a. absorber vent) indicated emissions during processes ranged from 0.014 to 0.083 pounds of methanol per hour. These rates correlated to a vegetable oil feed rate to the absorber tower of 20 to 22 gallons per minute for the rate of 0.14 lbs/hour to an oil feed rate of zero for the emission rate of 0.083 lbs. per hour. At 24 hours per day and 31 processing days per month maximum, the worst case stack test indicates 61.75 pounds per month of methanol emissions.

Allegation 2: Base-Catalyzed Esterification Process Violates Rule 201

No permit to install (PTI). A PTI application was submitted in December 2006 but the process was erroneously determined to be exempt from permitting since information in the permit application about the control device was not accurate. Also, the vacuum pump that was installed to move methanol vapor through the absorber is much larger and used more often than described in the application increasing the potential emissions. The facility became operational in August 2007 and was owned and operated by Biofuels Industries [G]roup, LLC until July 28, 2011 when the current ownership took control.

Company Response to Allegation 2:

The site specific testing indicates the maximum potential emissions without running any oil to the absorber tower are far less than the 1,000 pounds per month allowed by the exemption. Therefore, the Company continues to assert that the original Rule 290 exemption granted to the facility is valid and no Rule 201 PTI has been necessary.

Allegation 3: Enzymatic Batch Reactors (#1300 and #2200) Violate Rule 201

No PTI. Enzymatic reactor #1300 installed 11/23/2015 and reactor #2200 installed on 9/5/16. Both reactors vent unknown quantities of methanol directly to the atmosphere. Reactors regularly reach temperatures of 120 degrees F. that further increases the likelihood of excessive methanol emissions.

Company Response to Allegation 3:

The configuration and reconfiguration of process and processing equipment does not require prior approval for exempt processes under Rule 290. The changes made provide better efficiencies and utilization of the methanol (or yield per pound of methanol input) which actually reduces methanol emissions.

The Company has updated the emissions calculation sheets associated with past activities to reflect the site-specific testing results which indicate emissions did not exceed the exemption thresholds.

The revised and updated emission summary sheets (enclosed as Attachment 1) for each month (and summarized for the 2016 calendar year and 2017 through October) demonstrates the enzymatic process has emissions rates that comply with the Rule 290 emissions limitations. As stated in W2Fuel's March Letter, the Company asserts that several other cited exemptions likely apply to the Company's equipment, as well.

Allegation 4: Temporary Non-Use of Absorber Tower Violated Rule 910

Piping that carried the liquid solvent (soybean oil) into the absorber to scrub the methanol airstream was modified on 8/24/2016 to by-pass the control device due to plugging rendering it ineffective. (A temporary system that bubbles methanol into a water tote container is not a suitable control device). Furthermore, there is evidence that soybean oil used in the absorber is not a suitable solvent to be used for methanol recovery.

Company Response to Allegation 4:

As we described in our March Letter, the absorber tower collects unused methanol and exposes to incoming feedstock, a step integral to the manufacturing process. The exemption calculations established pursuant to Rule 290 were provided without consideration for air pollution control equipment. As indicated in the original PTI application and acknowledged by AQD's permitting division, the referenced spray tower is process equipment and not air pollution control equipment. On that basis, the Company asserts an air pollution control unit was not "bypassed" and therefore the provisions of Rule 910 do not apply.

To further demonstrate that no excess emissions occurred during absorber tower downtime, stack testing conducted on the absorber tower was conducted while no oil was piped to the absorber which indicated emissions were approximately 6% of the exemption level with no oil running in the absorber unit.

Allegation 5: Biodiesel Production Facility Violates Rule 225

Rule 225 is likely not being complied with due to excessive methanol emissions from the by-passed absorber, from the uncontrolled enzymatic reactors, and other related federal leak detection regulations.

Company Response to Allegation 5:

The Company and its predecessor have relied on the exemptions provided in the MDEQ-AQD rules. As explained above, absorber tower down-time did not result in emissions in excess of exemption thresholds as confirmed by site-specific testing. As a result W2Fuel's operation did not exceed Rule 290 allowed emissions and thus no violation of Rule 225 has occurred.

Allegation 6: The Company Does Not Comply with All Requirements in 40 CFR Part 60, Subpart VVa

Company conducts leak detection for safety reasons but has not complied with all the requirements of the subpart and other related federal leak detection regulations.

Company Response to Allegation 6:

In addition to the defenses asserted in its March Letter, the Company monitors for leaks in the processing area using electronic monitoring equipment and sensory equipment. When leaks are detected, the process equipment with the potential leak is isolated and repaired, in keeping with the regulatory requirement for leak detection and repairs.

Allegation 7: The Company Does Not Comply with 40 CFR Part 60, Subpart RRR

Company is out of compliance with the requirement of this federal regulation including a general 98% air emissions control standard.

Company Response to Allegation 7:

The biodiesel process is operated on a batch reactor process basis, and for the transesterification process that may be viewed as a flow through cell, it has no vent. As described in the process description in the PTI application submitted today, this regulation does not apply to batch reactors (see §60.700(c)(1)). Further, per the exemption described in 40 CFR § 60.700(c)(4), those reactors with vent stream flow less than 0.011 scm/min are not subject to the emissions performance requirements. For these reasons, 40 CFR Part 60, Subpart RRR does not apply to this facility.

Allegation 8: The Company Does Not Comply with 40 CFR Part 63, Subpart FFFF

Company is out of compliance with the requirement of this federal regulation.

Company Response to Allegation 8:

Under 40 CFR, §63.2435(a), NESHAP Subpart FFFF only applies to miscellaneous organic chemical manufacturing process at major sources of hazardous air pollutants. The site-specific testing confirms the facility is and remains an area (minor) source of HAPs and is not subject to 40 CFR Part 63 provisions for HAP major sources.

Allegation 9: The Company Does Not Comply with 40 CFR Part 63, Subpart DDDDD

Company is out of compliance with the requirement of this federal regulation.

Company Response to Allegation 9:

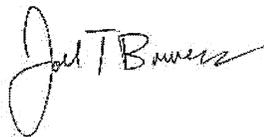
Under 40 CFR, §63.7485, NESHAP Subpart DDDDD only applies to industrial, commercial or instructional boilers and process heaters that are located at major sources of hazardous air pollutants. Additionally, under Subpart DDDDD no emissions requirements are designated for these small, natural gas fired boilers (two 5 million BTU/hour natural gas boilers) located at Company's facility. The site specific testing confirms the facility is and remains an area (minor) source of HAPs and is not subject to 40 CFR Part 63 provisions for HAP major sources.

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To summarize, after careful review of the facility's processes, equipment and emissions, including site-specific stack testing, the Company asserts that it has not violated any of the requirements referenced in the VN. The Company asserts that the facility's emission units remain exempt under Rule 290 (R336.1290) from construction permitting requirement in Rule 201 (336.1201) and that overall source potential and actual methanol emissions have remained well below major source thresholds. Without waiving the Company's established defenses, W2Fuel is working cooperatively with AQD permitting staff to apply for a permit-to-install that better memorializes the facility's emissions in a way that both the Company and AQD can feel comfortable. Please feel free to contact me at (574) 237-1287 or joel.bowers@btlaw.com if you have any questions or believe further discussion would be helpful.

Sincerely,

BARNES & THORNBURG LLP



/s/ Joel T. Bowers

JTB:clu

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Attachments List

Attachment 1 – Emission Summary for 2016 & 2017

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