



## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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Matthew J. Frank, Secretary  
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April 16, 2008

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

FID 154144540

Mr. David Cramer  
President - CEO  
United Ethanol, LLC  
N7160 Raceway Rd.  
Beaver Dam, Wisconsin 53916

Subject: Letter of Noncompliance

Dear Mr. Cramer:

The Department of Natural Resources (Department) has reason to believe that United Ethanol, LLC (UE) is in non-compliance with its construction permit, Permit # 06-DCF-094, issued on Aug. 31, 2006, and Wisconsin's air pollution control regulations at its plant located at 1250 Chicago St., Milton, WI. More specifically, the Department believes that United Ethanol is not in compliance with the following permit conditions, Wisconsin Administrative Codes and Wisconsin Statutes related to the most recent RTO (Stack S09; Controls C06, C07 (multiclone, RTO); Processes P33, P34; - DDGS Dryers, DDGS Cooling Cyclone; P42, P43; Truck Loading Rack and Railcar Loading Rack.) compliance stack testing.

**Section NR 406.10, Wis. Adm. Code. – NR 406.10** Any owner or operator who fails to construct and operate in accordance with conditions imposed by the department shall be considered in violation of s. 285.60, Wis. Stats.

**1) Particulate Mater (PM) - Air Pollution Control Operation Permit 06-DCF-094, Condition I.K.1.a.(1).** – PM emissions from stack S09 are limited to no more than 5.1 pounds per hour to protect the ambient air standard in accordance with s. NR 404.05(6), Wis. Adm. Code and ss. 285.65(3) and 285.65(7), Wis. Stats. Particulate mater emissions are 22 pounds per hour as determined by emissions testing on Oct. 12, 2007. The Department alleges that UE is not in compliance with s. NR 406.10 Wis. Adm. Code and s. 285.60, Wis. Stats.

**2) Volatile Organic Compounds (VOC) - Air Pollution Control Operation Permit 06-DCF-094, Condition I.K.3.a.(3).** – VOC emissions from stack S09 are limited to no more than 8.4 pounds per hour as elected by the permittee in accordance with s. 285.65(7), Wis. Stats. to avoid major source requirements. VOC emissions are 17.6 pounds per hour as determined by emissions testing on Oct. 12, 2007. The Department alleges that UE is not in compliance with s. NR 406.10 Wis. Adm. Code and s. 285.60, Wis. Stats.

**3) Nitrogen Oxides (NOx) - Air Pollution Control Operation Permit 06-DCF-094, Condition I.K.5.a.(1).** – NOx emissions from stack S09 are limited to no more than 8.4 pounds per hour as elected by the permittee in accordance with s. 285.65(7), Wis. Stats. to avoid major source requirements. NOx emissions are 8.8 pounds per hour as determined by emissions testing on Oct. 12, 2007. The Department alleges that UE is not in compliance with s. NR 406.10 Wis. Adm. Code and s. 285.60, Wis. Stats.

**4) Stack Testing – s. NR439.03(1)(a), Wis. Adm. Code** - When requested by the department, a person shall furnish to the department information to locate and classify air contaminant sources according to the type, level, duration, frequency and other characteristics of emissions and such other information as may be necessary. The information shall be sufficient to evaluate the source's effect on air quality and compliance with chs. NR 400 to 499. Currently, stack test results indicate that UE remains out of compliance and UE has not demonstrated that the existing facility equipment can comply with the applicable limitations. UE's letter dated March 6, 2008, indicates that the Department's interpretation of Method 202 sampling may lead to contested interpretation of the compliance stack emission testing results. As previously notified, UE must re-test the existing RTO to demonstrate that the existing equipment can achieve compliance. The Department's letter of Feb. 27, 2008, requested that UE submit a test plan for re-testing the RTO and boilers within 2 weeks of the date of the letter. On March 6, 2008, UE sent the Department a letter stating that the test plan would be submitted by March 12, 2008. On March 12, 2008, UE sent the Department a letter stating that United Ethanol was unable to submit a test plan due to late receipt of natural gas meters, and therefore, an inability to set a firm testing date. UE's previous test plan was submitted with the knowledge that it was incomplete. UE has not yet submitted the stack test plan. The Department alleges that UE is not in compliance with s. NR 439.03(1)(a), Wis. Adm. Code.

Please be aware that the Department can not accept the limited diagnostic testing results as an indication of compliance. Therefore, the Department is again stating that the existing RTO VOC emissions must be quantified at this time by re-testing. A test plan must be submitted within 14 days of the date of this letter and testing performed immediately if United Ethanol intends to contest the Department's assertion of a VOC emission rate of 17.6 pounds of VOC per hour.

In lieu of re-testing the existing RTO, the Department will accept UE's acknowledgment that the Oct. 12, 2007, PM, VOC and NOx emissions test results are 22 pounds per hour, 17.6 pounds per hour, and 8.8 pounds per hour respectively. These emission rates will be used in the 2007 air emission inventory that requires UE certification.

Whether or not UE chooses to acknowledge the VOC data from the earlier test as discussed above, UE is required to perform compliance emission testing of the new RTO after installation. A test plan for the new RTO is required within 30 days of start of construction.

If you have any questions regarding this letter, please feel free to call me at 608-743-4843.

Sincerely,

Brian E. Barbieur, P.E.  
Air Management Engineer  
South Central Region - Janesville Service Center

cc: South Central Region - Janesville Service Center - Air Management  
Bureau of Air Management - AM/7 (Enforcement)  
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