

October 13, 2023

Philip Murphy
Tax Vice President
Calumet Specialty Products – Montana Renewables
Great Falls, MT 59404

RE: Montana Renewables Tax Certification Application Submitted December 23, 2022

Dear Mr. Murphy: Sent via email to: philip.murphy@calumetspecialty.com

On September 25, 2023, the Montana Department of Environmental Quality-Air Quality Bureau (DEQ) hosted an Informal Conference under the Administrative Rules of Montana (ARM) 17.80.106. The purpose of the meeting was to continue the process of reaching a final decision on the tax status of the Montana Renewables' facility producing bio-fuels relative to Montana Code Annotated (MCA) 15-6-135 Class Five Property -- description -- taxable percentage -- exemption. Specifically at issue, is the definition and interpretation of "Air and water pollution control and carbon capture equipment," as defined in § 15-6-135(2)(a), MCA. Montana Renewables requested the meeting in an April 17, 2023, correspondence as a follow-up to a DEQ letter requesting additional details on potential equipment which separately may be approvable as pollution control equipment.

1. Entire Montana Renewables Facility as Class 5 Property

DEQ upholds its previous decision that the entire facility cannot be certified as pollution control equipment for the following reasons.

- a. The entire facility does not meet the definition of pollution control and carbon capture equipment under § 15-6-135(2)(a), MCA. The entire facility was not constructed or operated for the purpose of removing or disposing of air pollution that, except for the use of the item, would be released to the environment. The entire facility was designed to produce renewable fuels.
- b. Carbon Dioxide (CO₂) became part of the tax certification process when enhanced oil recovery (EOR) and the associated CO₂ pipelines were added to the definition section of § 15-6-135(2)(a), MCA expanding the definition with "and carbon capture equipment." DEQ sees the addition of the capture of CO₂ plainly as carve-outs for add on processes that physically capture the CO₂, thru the transport of the CO₂ thru dedicated pipelines and finally discharged into underground formations to bind some portion of the CO₂, effectively preventing it from re-release to the atmosphere.

- c. If taken to its logical conclusion, Montana Renewable's argument advanced here would mean that any project that avoids greenhouse emissions is eligible for Class 5 designation. For instance, under this argument, an owner or operator of a wind generating facility could argue its facility should be designated as pollution control equipment because the facility avoids emissions that might otherwise occur through fossil fuel electricity generation. Such an outcome is inconsistent with the intent of § 15-6-135(2)(a), MCA, and Montana Renewable's proposed interpretation of this statute fails to place a reasonable limitation on the scope of equipment that could potentially qualify as Class 5 property.
- d. The existence of Class 14 property designation for biodiesel production facilities in § 15-6-157, MCA indicates that the Montana Legislature intended the type of tax abatement requested by Montana Renewables to be provided as Class 14 property rather than Class 5 property.

DEQ will not be moving forward to certify the entire facility as Class 5 Property.

2. Individual Breakdown of Equipment for Traditional Criteria Pollutants

- a. As noted in the April 10, 2023, DEQ letter, previous asset numbers which were approved as pollution control equipment at the Calumet Refinery, are eligible for direct transfer to Montana Renewables, maintaining their pollution control certification, provided those assets are still in operation.
- b. New equipment, and not previously certified as pollution control equipment.

Montana Renewables submitted the information in the first four columns in the below Table in response to the April 10, 2023, DEQ letter. DEQ has added two new columns including those elements which should be able to be certified, as well as those items which cannot be certified at this time. Those items identified as "need breakdown of detail" will need an explanation of how the components identified relate to pollution control equipment. Without further information, those items will not be certifiable as pollution control equipment.

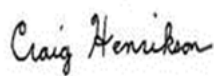
Identified Equipment	Equipment Status	Component Equipment	Cost	Initial DEQ Determination on Approvability	Follow-Up Needed
Renewable Diesel Unit (RDU)	Modified	Flare Systems to Control VOCS	\$1,630,385	100% Eligible	
		Technology Transfer	\$11,691,430		Need Breakdown of detail
		Off-gas Treaters (Sour Gas)	\$2,888,190	100% Eligible	
		Pad Expansions and Drains Lower RDU	\$987,180		Need Breakdown of detail
#3 Hydrogen Plant 15 MM	New Equipment	Atmospheric Vent of H ₂	\$148,659		Need Breakdown of detail
#4 Hydrogen Plant 21 MM	New Equipment	Atmospheric Vent of H ₂	\$147,728		Need Breakdown of detail
		ULNB for NO _x and CO	\$400,000	100% Eligible	

		Pad/Drains	\$1,567,681		Need Breakdown of detail
		Off-gas Recycle to Hydrogen Plant Feed	\$3,825,166		Need Breakdown of detail
Biomass Pretreatment Unit	New Equipment	ULNB for NOx and CO	\$167,100	100% Eligible	
		Pad/Drains	\$615,300		Need Breakdown of detail
		PTU Blowdown Drum VOC Carbon Control	\$73,554	100% Eligible	
Associated Tanks		Pads	\$2,513,872		Need Breakdown of detail
		VOC control via submerged fill for tanks 301, 302, 303, 305, 306, 307, 308, and 801	\$800,000	100% Eligible	
		VOC Carbon Control for Tanks 50, 102, 301 and 4201	\$294,214	100% Eligible	
		Tank 304 External Floating Roof	\$1,240,000	100% Eligible	
		Total	\$7,493,443		

As stated above, DEQ is not certifying the entire renewables plant as pollution control equipment but instead moving to approve those elements able to be certified, more consistent with the historical basis of the program. Please explain why those items identified as “need breakdown of detail” should be treated as pollution control equipment. Once DEQ receives the additional information requested, DEQ will issue a final summary of the elements able to be certified, and the associated total.

If you have any questions or concerns, please contact me by phone at (406) 444-6711 or by e-mail at chenrikson@mt.gov.

Sincerely,



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