



**Walter Wright, Jr.**  
wwright@mwlaw.com  
(501) 688.8839

# Air/Wastewater Enforcement: U.S. Department of Justice/New York and Delaware County Protein Powder Manufacturer Enter into Consent Decree

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The United States Department of Justice (“DOJ”), State of New York and Frieslandcampina Ingredients (“FI”) entered into an August 2nd Consent Decree (“CD”) addressing alleged violations of federal and New York air and water regulations. See United States District Court for the Northern District of New York (“NDNY”) Civil Action No. 23-Civ.

The CD provides that FI operates a hydrolyze protein powder manufacturing facility (“Facility”) in Delaware County, New York.

The Facility is stated to operate a batch manufacturing process that involves mixing raw material protein sources with water and enzymes. The mixture is then heated so the large protein chains are cut into smaller protein fragments. Additional described processes are stated to be performed to produce a finished protein hydrolysate product.

Toluene is stated to be emitted into the air from the Facility. The Facility is stated to hold a Title V Clean Air Act Permit as a major source of hazardous air pollutants due to toluene emissions. Further processed wastewater is stated to be discharged from the Facility’s wastewater treatment plant into the Village of Delhi’s publicly owned treatment works.

DOJ and New York alleged that the Facility:

- Failed to obtain a modification of its Title V Clean Air Act Permit before it became a major source of VOC emissions
- Failed to perform a Reasonably Available Control Technology demonstration and implement RACT before commencing operation of a major source of VOC emissions
- Constructed a new, modified or existing air contamination source at the Facility without first obtaining a registration or permit
- Failed to accurately record its toluene emissions to the NYSDEC in annual emission statements
- Failed to maintain annual reports of its toluene emissions for at least five years
- Failed to comply with its New York State Pollutant Discharge Elimination System Permit
- Introduced total suspended solids into the Village of Delhi’s publicly owned treatment works in quantities that caused pass through and/or interference with the treatment works

- Failed to comply with its New York State Pollutant Discharge Elimination System Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity

The Facility is stated to have completed and/or is in the process of completing additional updates to achieve Facility-wide reductions of toluene emissions. A Title V Permit Modification is also stated to have been submitted. In addition, the Facility is stated to have modified its wastewater pretreatment plant to prevent pass through and/or interference with the Village of Delhi's publicly owned treatment works.

A civil penalty of \$2,880,000 is assessed.

A copy of the CD can be downloaded [here](#).