

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)
)
Bunge Milling) NOTICE OF VIOLATION AND
Danville, Illinois) FINDING OF VIOLATION
)
) EPA-5-02-IL-14
Proceedings Pursuant to)
Section 113(a)(1) and (a)(3))
of the Clean Air Act, 42)
U.S.C. § 7413(a)(1) and (a)(3))

NOTICE AND FINDING OF VIOLATION

The Administrator of the United States Environmental Protection Agency (U.S. EPA) is issuing this Notice of Violation and Finding of Violation under Section 113(a)(1) and (a)(3) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a)(1) and (a)(3). U.S. EPA finds that Bunge Milling (Bunge) is violating Part C of the CAA and the Illinois State Implementation Plan (SIP), and Sections 502 and 503 of the Clean Air Act, 42 U.S.C. § 7661a-7661b, as follows:

Statutory and Regulatory Background

Prevention of Significant Deterioration

1. On June 19, 1978, U.S. EPA promulgated the prevention of significant deterioration (PSD) of air quality standards pursuant to Subtitle I, Part C of the Act. The PSD regulations were revised on August 1, 1980 (45 Fed. Reg. 52676). These regulations are codified at 40 C.F.R. § 52.21 (43 Fed. Reg. 26403).
2. Part C of Title I of the Act and the PSD regulations implementing Part C, at 40 C.F.R. § 52.21, prohibit a major stationary source from constructing a modification without first obtaining a PSD permit if the modification is major in that it will result in a significant net increase in emissions of a regulated pollutant and if the source is located in an area which has achieved the National Ambient Air Quality Standards (NAAQS) for that pollutant. Part C and its implementing regulations further require that a source subject to PSD regulations install Best Available Control Technology (BACT). 40 C.F.R. § 52.21(j).
3. 40 C.F.R. § 52.21(b)(1)(i)(b) defines a "major stationary

source" as any stationary source which emits, or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under the Act.

4. 40 C.F.R. § 52.21(b)(2)(i) defines a "major modification" as any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the Act.
5. 40 C.F.R. § 52.21(b)(3)(i) defines "net emissions increase" as "the amount by which the sum of the following exceeds zero:
 - (a) Any increase in actual emissions from a particular physical change or change in method of operation at a stationary source; and
 - (b) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable."
6. In reference to ozone, significant net emissions increase means an emissions rate of 40 tons or more per year of volatile organic compounds. 40 C.F.R. § 52.21(b)(23)(i).
7. An applicant for a permit to modify a stationary source is required to provide all relevant information to allow the permitting authority to perform an analysis or make the determination required in order to issue the appropriate permit. 40 C.F.R. § 52.21(n).
8. The PSD regulations were incorporated into the Illinois SIP on August 7, 1980. 40 C.F.R. § 52.738 (45 Fed. Reg. 52741, August 7, 1980, as amended at 46 Fed. Reg. 9584, January 29, 1981).

Requirements for Construction and Operating Permits

9. On May 31, 1972, U.S. EPA approved Illinois Pollution Control Board (PCB) Rules 103(a)(1), 103(b)(1) and 103(b)(2) as part of the federally enforceable SIP for Illinois. 37 Fed. Reg. 10842. Due to renumbering of the Illinois PCB Rules, Rules 103(a), 103(b)(1) and 103(b)(2), as approved by U.S. EPA, are currently set forth at Ill. Admin. Code Title 35, §§ 201.142, 201.143 and 201.144, respectively.
10. Section 201.142 prohibits the construction of any new emission source or air pollution control equipment, or the modification of any existing emission source or air

pollution control equipment, without first obtaining a construction permit from the State of Illinois.

11. Section 201.143 prohibits the operation of any new emission source or new air pollution control equipment of a type for which a construction permit is required by Section 201.142 without first obtaining an operating permit from the State of Illinois.
12. Section 201.144 prohibits the operation of any emission source constructed or modified prior to April 14, 1972, without first obtaining an operating permit.
13. The Illinois SIP requirements identified in paragraphs 9-12 are federally enforceable under Sections 110 and 113 of the CAA, 42 U.S.C. §§ 7410 and 7413.
14. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), provides that no source may operate without a Title V permit after the effective date of any permit program approved or promulgated under Title V of the CAA.
15. Section 503(d) of the CAA, 42 U.S.C. § 7661b(d), sets forth the requirement to timely submit an application for a permit, including required information.
16. 40 C.F.R. § 70.5(a) provides that an owner or operator shall submit a timely and complete permit application in accordance with Part 70 requirements.
17. 40 C.F.R. § 70.7(b) provides that no source subject to Part 70 requirements may operate without a permit as specified in the CAA.
18. U.S. EPA promulgated final interim approval of the Illinois Title V program on March 7, 1995 (60 Fed. Reg. 12478), and the program became effective on that date.

Bunge's Facility

19. Bunge owns and operates a soybean processing facility at 321 East North Street, Danville, Illinois.
20. Bunge's facility is subject to the PSD regulations in the Illinois SIP, and to the requirements to obtain PSD construction permits, and operating permits incorporating such PSD requirements, as required by the CAA and the Illinois SIP rules.

21. Bunge's facility is subject to Title V of the CAA (Sections 502 and 503) because it is a major source (as defined in Section 501(2) of the CAA) with the potential to emit more than 100 tons per year of VOCs.

Violations

1991-1992 Soybean Processing Capacity Increase

22. In 1991 to 1992, Bunge performed a soybean processing expansion project which increased plant VOC emissions at its Danville, Illinois facility.
23. The soybean processing expansion project included installation of an Escher Wyss fluid bed dryer and a soy dehuller operation.
24. Bunge constructed a major modification to a major source which increased VOC emissions above the significance level without applying for and obtaining a PSD permit, and undergoing PSD review, including applying BACT, in accordance with the Act, violating the Illinois SIP rule, 40 C.F.R. § 52.21.
25. Bunge failed to provide the permitting authorities with all relevant information necessary for the permitting authorities to perform an analysis of whether Bunge's proposed changes were a "major modification", or make the determination required in order to issue the appropriate permit, resulting in an erroneous determination in violation of the CAA, and the Illinois SIP rule.
26. Bunge has operated and continues to operate its facility without obtaining a PSD permit for the 1991-1992 expansion project, violating the Illinois SIP rules and 40 C.F.R. § 52.21.
27. Bunge has operated and continues to operate its facility without an operating permit which incorporates PSD requirements, violating the Illinois SIP rules.
28. Each of these violations exists from at least the date of start of construction and continues until the appropriate permits are obtained and the necessary pollution control equipment is installed and operated.
29. Bunge has failed to submit a timely and complete Title V

permit application with information pertaining to the 1991-1992 major modification, violating Section 503 of the CAA and the regulations at 40 C.F.R. §§ 70.5(a) and 70.7(b), thereby violating Section 502 of the CAA.

30. These violations exist from March 7, 1995, and continue until Bunge submits a complete Title V permit application.

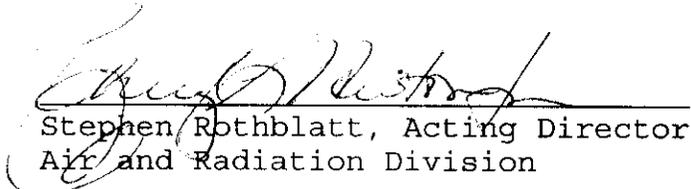
1994-1995 Soybean Processing Capacity Increase

31. In 1994 to 1995, Bunge performed a soybean processing expansion project which increased plant VOC emissions at its Danville, Illinois facility.
32. The soybean processing expansion project included speed changes to conveyors within the Esher Wyss system, additional bean cleaning equipment, an additional cracking roll and impactor, two additional flakers, replacement of a second effect evaporator, modifications to the dehulling system, and replacement of conveyors and cyclones.
33. Bunge constructed a major modification to a major source which increased VOC emissions above the significance level without applying for and obtaining a PSD permit, and undergoing PSD review, including applying BACT, in accordance with the Act, violating the Illinois SIP rule, 40 C.F.R. § 52.21.
34. Bunge failed to provide the permitting authorities with all relevant information necessary for the permitting authorities to perform an analysis of whether Bunge's proposed changes were a "major modification", or make the determination required in order to issue the appropriate permit, resulting in an erroneous determination in violation of the CAA, and the Illinois SIP rule.
35. Bunge has operated and continues to operate its facility without obtaining a PSD permit for the 1991-1992 expansion project, violating the Illinois SIP rules and 40 C.F.R. § 52.21.
36. Bunge has operated and continues to operate its facility without an operating permit which incorporates PSD requirements, violating the Illinois SIP rules.
37. Each of these violations exists from at least the date of the start of construction and continues until the appropriate permits are obtained and the necessary pollution

control equipment is installed and operated.

- 38. Bunge has failed to submit a timely and complete Title V permit application with information pertaining to the 1994-1995 major modifications, violating Section 503 of the CAA and the regulations at 40 C.F.R. §§ 70.5(a) and 70.7(b), thereby violating Section 502 of the CAA.
- 39. These violations exist from March 7, 1995, and continue until Bunge submits a complete Title V permit application.

6/12/02
Date


Stephen Rothblatt, Acting Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Betty Williams, certify that I sent a Notice and Finding of Violation, EPA-5-02-IL-14, by Certified Mail, Return Receipt Requested, to:

Loren Polak, Environmental Compliance Officer
Safety, Health, & Environment Department
Bunge Milling
P.O. Box 28500
11720 Borman Drive
St. Louis, Missouri 63146-1000

I also certify that I sent copies of the Notice and Finding of Violation by first class mail to:

Julie Armitage, Acting Manager
Compliance and Enforcement Section, Bureau of Air
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62702

James M. Lay, Plant Manager
Bunge Milling
321 East North Street
P.O. Box 571
Danville, Illinois 61834-0571

on the 14th day of June, 2002.


Betty Williams, Secretary
AECAS, (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 7099 3400 000095868318