



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 18 2015

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Brian Wanzenried, Director of Environmental
The Gavilon Group, LLC
1331 Capitol Avenue
Omaha, Nebraska 68102-1106

Re: Administrative Order EPA-5-15-113(a)-IL-13

Dear Mr. Wanzenried:

Enclosed is an executed original of the Administrative Consent Order regarding the above captioned case. If you have any questions about the Order, please contact me at 312-886-3850.

Sincerely,

A handwritten signature in black ink, appearing to read "Nathan Frank", with a long horizontal line extending to the right.

Nathan Frank, P.E
Chief
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure: Administrative Consent Order EPA-5-15-113(a)-IL-13

cc: Eric Jones, Manager
Bureau of Air-Compliance Unit
Illinois Environmental Protection Agency

Steve Case, Attorney
McGrath North
First National Tower, Suite 3700
1601 Dodge Street
Omaha, NE 68102

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	EPA-5-15-113(a)-IL-13
)	
)	
Gavilon Global Ag Holdings, LLC)	Proceeding Under Sections 113(a)(1),
Joliet, Illinois)	114(a)(1) of the Clean Air Act
)	42 U.S.C. §§ 74113(a)(1) and 7414(a)(1)
)	
)	
)	

Administrative Consent Order

1. The Director of the Air and Radiation Division, U.S. Environmental Protection Agency, Region 5, is issuing this Order to Gavilon Global Ag Holdings LLC (Gavilon) under Sections 113(a)(1) and 114(a)(1) of the Clean Air Act (CAA), 42 U.S.C. §§ 7413(a)(1), (a)(3) and 7414(a)(1).

2. This Order applies to the grain elevator and ingredient transloading facility located at 1955 Patterson Road, Joliet, Will County, Illinois 60436, owned and operated by Gavilon (the Facility).

Statutory and Regulatory Background

3. Each state must submit to the Administrator of EPA a plan for attaining and maintaining the National Ambient Air Quality Standards under Section 110 of the CAA, 42 U.S.C. § 7410.

4. On May 31, 1972, EPA approved Illinois Pollution Control Board (IPCB) Rule 103(a)(1) and (b)(1), as part of the federally-enforceable State Implementation Plan (SIP) for the State of Illinois. 37 Fed. Reg. 10842. Illinois has since revised and recodified IPCB Rule 103(a)(1) and (b)(1) at 35 Ill. Admin. Code §§ 201.142 and 201.143, respectively.

5. The Illinois SIP at Rule 103(a)(1) [35 Ill. Admin. Code § 201.142] provides that “[n]o person shall cause or allow the construction of any new emission source or any new air pollution control equipment, or cause or allow the modification of any existing emission source of air pollution equipment, without first obtaining a construction permit from the [Illinois Environmental Protection Agency (IEPA)].” The Illinois SIP at Rule 103(b)(1) [35 Ill. Admin. Code § 201.143] provides that “[n]o person shall cause or allow the operation of any emission source or new air pollution control equipment, for which a construction permit is required . . . , without first obtaining an operating permit from [IEPA].”

6. On February 21, 1980, EPA approved IPCB Rule 203 as part of the federally enforceable SIP for the State of Illinois. 45 Fed. Reg. 11493. IPCB Rule 203 is codified, in part, at 35 Ill. Admin. Code §§ 212.461 and 212.462.

7. The Illinois SIP at Rule 203(d)(9)(A) [35 Ill. Admin. Code § 212.461(b)] sets forth certain housekeeping practices (hereinafter “Housekeeping Practices”) that all grain-handling and grain-drying operations must implement regardless of size. These include:

- A. Air pollution control devices shall be checked daily and cleaned as necessary to insure proper operation.
- B. Cleaning and Maintenance.
 - i. Floors shall be kept swept and cleaned from boot pit to cupola floor. Roof or bin decks and other exposed flat surfaces shall be kept clean of grain and dust that would tend to rot or become airborne.
 - ii. Cleaning shall be handled in such a manner as not to permit dust to escape to the atmosphere.
 - iii. The yard and surrounding area, including but not limited to ditches and curbs, shall be cleaned to prevent the accumulation of rotting grain.
- C. Dump pit.
 - i. Aspiration equipment shall be maintained and operated.

- ii. Dust control devices shall be maintained and operated.
 - D. Head House. The head house shall be maintained in such a fashion that visible quantities of dust or dirt are not allowed to escape to the atmosphere.
 - E. Property. The yard and driveway of any source shall be asphalted, oiled, or equivalently treated to control dust.
 - F. Housekeeping Check List. Housekeeping checklists to be developed by the Agency shall be completed by the manager and maintained on the premises for inspection by Agency personnel.
8. The Illinois SIP at Rule 203(d)(9)(B) [35 Ill. Admin. Code § 212.462] provides that new and modified grain operations (for which construction or modification commenced on or after June 30, 1975) with an annual grain through-put of 300,000 bushels or greater, shall, *inter alia*, apply for construction and operating permits pursuant to Rule 103 [35 Ill. Admin. Code §§ 201.142 and 201.143], and comply with the control equipment requirements of Rule 203(d)(9)(B) [35 Ill. Admin. Code § 212.462].
9. On May 31, 1972, EPA approved IPCB Rule 101 [35 Ill. Admin. Code § 201.102] as part of the federally-enforceable SIP for the State of Illinois. 37 Fed. Reg. 10862. The Illinois SIP at Rule 101 [35 Ill. Admin. Code § 201.102] defines “construction” as, “commencement of on-site fabrication, erection or installation of an emission source or of air pollution control equipment.”
10. The Illinois SIP at Rule 203(d)(9)(B) [35 Ill. Admin. Code § 212.462] requires subject grain elevators to adhere to the following requirements:
- A. Apply induced draft to major dump pits and associated equipment (including, but not limited to, boots, hoppers and legs) to such an extent that a minimum face velocity is maintained, at the effective grate surface, sufficient to contain particulate emissions generated in unloading operations. The minimum face velocity at the effective grate surface shall be at least 200 feet per minute which shall be determined in accordance with the formula provided. Illinois SIP at Rule 203(d)(9)(B)(ii)(a)(1) [35 Ill. Admin. Code § 212.462(b)(1)(A)]

- B. Induced draft air stream shall be confined and conveyed through air pollution control equipment, which has an overall rated and actual particulate collection efficiency of not less than 90%, by weight. Illinois SIP at Rule 203(d)(9)(B)(ii)(a)(2) [35 Ill. Admin. Code § 212.462(b)(1)(B)]. The induced draft air stream for grain-handling sources having a grain through-put exceeding 2 million bushels per year and located in a major population area shall be confined and conveyed through air pollution control equipment, which has an overall rated and actual particulate collection efficiency of not less than 98%, by weight. Illinois SIP at Rule 203(d)(9)(B)(ii)(a)(3) [35 Ill. Admin. Code § 212.462(b)(1)(C)].
- C. Means or devices (including, but not limited to, quick-closing doors, air curtains or wind deflectors) shall be employed to prevent a wind velocity in excess of 50% of the induced draft face velocity at the pit; provided, however, that such means or devices do not have to achieve the same degree of prevention when the ambient air wind exceeds 25 mph. Illinois SIP at Rule 203(d)(9)(B)(ii)(a)(4) [35 Ill. Admin. Code § 212.462(b)(1)(D)]

11. Truck and hopper car loading must “employ socks, sleeves or equivalent devices which extend six inches below the sides of the receiving vehicle, except for topping off. Choke loading shall be considered an equivalent method as long as the discharge is no more than 12 inches above the side of the receiving vehicle.” Illinois SIP at Rule 203(d)(9)(B)(i)(b) [35 Ill. Admin. Code § 212.462(d)(1)].

12. Box car loading must “employ means or devices to prevent the emission of particulate matter into the atmosphere to the fullest extent which is technologically and economically feasible.” Illinois SIP at Rule 203(d)(9)(B)(iv)(b) [35 Ill. Admin. Code § 212.462(d)(2)].

13. Under Section 113(a)(1) of the CAA, 42 U.S.C. § 7413 (a)(1), the Administrator of EPA may issue an order requiring compliance to any person who has violated or is violating a SIP. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

14. The Administrator of EPA may require any person who owns or operates an emission source to make reports; install, use and maintain monitoring equipment; sample

emissions; and provide information required by the Administrator under Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1). The Administrator has delegated this authority to the Director of the Air and Radiation Division.

Permit Background

15. On July 28, 2010, IEPA issued to Gavilon a construction permit, #10050023, for a grain and ingredients transloading facility. On July 26, 2013, IEPA issued to Gavilon a construction permit #13040004, for a grain and ingredients transloading facility.

16. Paragraph 2e. of Permit #10050023 and paragraph 2e. of Permit #13040004 provide that, pursuant to 35 Ill. Admin. Code § 212.461(b), all grain handling operations at the Facility, regardless of size, must implement and use the housekeeping practices listed in 35 Ill. Admin. Code § 212.461(b).

17. Paragraph 2f. of permit #10050023 and paragraph 2f. of permit #13040004 provide that, pursuant to 35 Ill. Admin. Code § 212.462(b), (c), and (d), unless otherwise exempted pursuant to 35 Ill. Admin. Code § 212.461(b) or (d), or allowed to use alternate control according to 35 Ill. Admin. Code § 212.461(g), new or modified grain-handling operations for which construction or modification commenced on or after June 30, 1975 and with a total annual grain through-put of 300,000 bushels or more shall demonstrate compliance with the requirements of 35 Ill. Admin. Code § 212.462(b), (c), and (d).

18. Paragraph 6e. of permit #10050023 and paragraph 6f. of permit #13040004 provide that, "The Permittee shall, in accordance with manufacturer(s) and/or vendor(s) recommendations, perform periodic maintenance on the dust collector and bin vents such that the dust collector and bin vents are kept in proper working condition and not cause a violation of the Environmental Protection Act or regulations promulgated therein."

19. Paragraph 12a. of permit #10050023 and paragraph 12a. of permit #13040004 state: “The Permittee shall maintain records of the following terms so as to demonstrate compliance with the conditions of this permit:

- A. Records of housekeeping checklists
- B. ...
- C. Records addressing use of good operating practices for the dust collector and bin vents;
 - i. Records for periodic inspection of the dust collector and bin vents with date, individual performing the inspection, and nature of the inspection; and;
 - ii. Records for prompt repair of defects, with identification and description of defect, effect on emissions, date identified, date repaired, and nature of repair...”

Findings

- 20. The Facility is in Joliet, Will County, Illinois, which is a Major Population Area.
- 21. The Facility receives, transfers, handles, stores and loads soybeans, DDG, corn gluten meal (CGM) and other grain and feed ingredients with the aid of trucks, dump pits, belt conveyors, load-outs, and storage containers in a manner that creates particulate matter.
- 22. Gavilon completed construction of the Facility in or around May or June of 2011.
- 23. The Facility has a grain throughput of greater than 300,000 bushels per year.
- 24. At all times relevant to this Order, the Facility has been subject to the provisions of the Illinois SIP at Rule 203(d)(9)(A) [35 Ill. Admin. Code § 212.461(b)] and 35 Ill. Admin. Code § 212.462.

25. On July 9, 2012, EPA personnel performed an inspection of the Facility. During the July 9, 2012 inspection, EPA representatives observed the following:

- A. Dump pit area: The dump pit sheds were open at both ends and did not utilize quick-closing doors, air curtains or wind deflectors. There were visible emissions to the air while trucks were unloading. Grain was adhering to the grate and was present in piles on the floor of the dump pit shed.

- B. Intermodal Container Loading area. There was a tarp over Loading Dock #1 and no tarp on Loading Dock #2. During the loading of corn meal gluten, particulate matter was observed coming out from under the tarp at Loading Dock #1.
- C. Facility Cleaning and Housekeeping: Loose grains and particulate matter were scattered on the yard and surrounding area of the Facility and on exposed flat surfaces; some of the loose grains and dust were in piles; the gravel driveways were dusty; visible emissions were present while trucks were driving on the internal roadways; and the facility did not have any housekeeping records.
- D. The Facility provided copies of its "Dust System Inspection" report which it uses to document monthly inspections of the dust system (baghouse). The checklists did not show the air pollution control system (baghouse) being checked daily.

26. In response to observations made during the July 9, 2012 inspection and information received from Gavilon, EPA issued an NOV to Gavilon on March 26, 2013, alleging violation of Permit #10050023, the Illinois SIP at Rule 203(d)(9)(A) [35 Ill. Admin. Code § 212.461(b)], and Rule 203(d)(9)(B) [35 Ill. Admin. Code § 212.462]. On April 17, 2013, and subsequent dates, representatives of Gavilon and EPA discussed the March 26, 2013 NOV.

27. Gavilon neither admits nor denies the Findings and allegations set forth above, and agrees to be bound by the terms of this Order. Gavilon waives any right to judicial or administrative review of this Order and any jurisdictional defenses to EPA's enforcement of it.

Control Program

28. Gavilon has submitted to EPA a PM Control Plan, dated July 2, 2015 (Attachment A), that will result in reducing and controlling PM emissions from all three of the Facility's dump pits and from its intermodal container loadout, using two baghouses and associated ancillary equipment and operations, as specified below.

- A. Dump Pit 3 is and will be controlled at all times that it is in operation by Baghouse 1. Baghouse 1 was manufactured by MAC Equipment, Inc. and is Model 144 MCF153 Style III. Baghouse 1 has been tested when connected to Pit 3 and met the 98 percent removal efficiency requirement and the effective face velocity requirements at the time of testing.

- B. Dump Pits 1 and 2 will be controlled at all times that they are in operation by a second baghouse, Baghouse 2. Baghouse 2 will be manufactured by MAC Equipment, Inc. and will be Model 144MCF153 Style III. Baghouse 2 will be the same or substantially the same as Baghouse 1. Dump Pits 1 and 2 have previously been controlled by Baghouse 1. During that time, Baghouse 1 was tested and shown to meet 98 percent control and the effective face velocity requirements at the time of testing.
- C. The intermodal container loadout will be control by either Baghouse 1 or Baghouse 2 at all times that the intermodal container loadout is in operation. Baghouse 1 will be used when grain is loaded out. Baghouse 2 will be used when ingredients are loaded out.
- D. Gavilon has installed and will use quick closing doors on all three pits.
- E. Gavilon will install and operate differential pressure monitoring devices on each baghouse.

29. Gavilon neither admits nor denies the Findings and allegations set forth above, and agrees to be bound by the terms of this Order. EPA hereby approves the submitted July 2, 2015 PM Control Plan, which is included as Attachment A, with the item 28.E., above.

30. Within 30 days of the effective date of this Order, Gavilon shall seek from IEPA a construction permit or other federally enforceable permit to incorporate the limitations and requirements of the PM Control Plan, including the installation and operation of the air pollution control equipment so that all three dump pits are controlled, and the installation of pressure gauges and/or other monitoring equipment to evaluate the performance of the air pollution controls required by this Order at the Facility. To the extent that the PM Control Plan provisions are already incorporated for the Facility in Construction Permit Number 1304004, they need not be repeated in the new permit.

31. Within 180 days from the date of IEPA's issuance of the permit required by paragraph 30 of this Order, and no later than 350 days after the effective date of this Order, whichever comes first, Gavilon shall implement the PM Control Plan for the Facility. If Gavilon

believes that IEPA has not issued the construction and operating permits with sufficient time for the company to build and operate the air pollution control equipment, Gavilon must promptly inform EPA.

Periodic Reporting and Monitoring

32. For one year, Gavilon agrees to submit a total of four electronic quarterly reports to EPA. Three of them shall be submitted by the following dates: December 30, 2015; March 30, 2016; and June 30, 2016. The fourth quarterly report, the final report, shall be submitted one year after the effective date of this Order. The reports shall include:

- A. The status of the IEPA permit application(s) to incorporate the limitations and requirements of the approved PM Control Plan as set forth above;
- B. The status of construction of the pollution control devices for the dump pits and intermodal container loadouts required by this Order; and
- C. Operational status of the baghouse systems at the Facility, including a list of periods of baghouse inoperation and their cause.

33. Gavilon must submit required reports and information under an authorized signature with the following certification:

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to section 113(c)(2) of the Act, and 18 U.S.C. §§ 1001 and 1341.

34. Gavilon must send all electronic reports required by this Order to the following: rosen.linda@epa.gov and r5airenforcement@epa.gov. Paper documents must be submitted to:

Attention: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

General Provisions

35. This Order resolves only Respondents' compliance responsibility for the violations alleged in the NOV issued to the facility by EPA dated March 26, 2013.

36. This Order does not affect Gavilon's responsibility to comply with other federal, state and local laws and requirements.

37. This Order does not restrict EPA's authority to enforce the Illinois SIP or any other section of the CAA.

38. Nothing in this Order limits the EPA's authority to seek appropriate relief, including penalties, under Section 113 of the CAA, 42 U.S.C. § 7413, for Gavilon's violation of the Illinois SIP.

39. Failure to comply with this Order may subject Gavilon to penalties of up to \$37,500 per day for each violation under Section 113 of the CAA, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

40. The terms of this Order are binding on Gavilon, its assignees and successors. Gavilon must give notice of this Order to any successors in interest prior to transferring ownership of the Facility.

41. Gavilon may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information it submits to EPA. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R.

Part 2, Subpart B. If Gavilon fails to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it. Emission data provided under Section 114 of the Act, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. "Emission data" is defined at 40 C.F.R. § 2.301.

42. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq., because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. To aid in our electronic recordkeeping efforts, please furnish documents as an electronic copy on CD or thumb drive. If not possible, provide your response to this Order without staples; paper clips and binder clips, however, are acceptable.

43. EPA may use any information submitted under this Order in an administrative, civil judicial or criminal action.

44. Gavilon agrees to the terms of this Order and further agrees that it will not contest the basis or validity of this Order. Gavilon waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Gavilon may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review of this Order under 42 U.S.C. § 7607(b)(1) or 5 U.S.C. §§ 701-706.

45. This Order is effective on the date of signature by the Director of the Air and Radiation Division.

9-11-15
Date

B. Z... VP Ops
Name
Title
Gavilon Global Ag Holdings, LLC

9/18/15
Date

George T. Czerniak
George T. Czerniak
Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

Gavilon Global Ag Holdings, LLC (Gavilon)
Joliet, Illinois facility (Facility)
PM Control Plan

The following is the plan for reducing and controlling PM emissions (PM Control Plan) from all three of the dump pits and from the intermodal container loadout at the Facility, using two baghouses and associated ancillary equipment, as provided below.

Dump Pit 3

Dump pit 3 is controlled by a baghouse (Baghouse 1). Baghouse 1 is manufactured by MAC Equipment, Inc. and is Model 144MCF153 Style III. Baghouse 1 is connected to dump pit 3 and has been in operation since on or about February 11, 2014. Baghouse 1 has been tested, as further described below, and meets the applicable requirements of Construction Permit number 13040004 issued by Illinois EPA (IEPA) to Gavilon on July 26, 2013.

Dump Pits 1 & 2

Dump pits 1 & 2 have been controlled by Baghouse 1. Baghouse 1 has been tested with regard to pits 1 & 2, as further described below, and met the applicable requirements of Construction Permit number 10050023 issued by IEPA to Gavilon on July 28, 2010. Pits 1 & 2 are not currently connected to Baghouse 1. Pits 1 & 2 will be controlled by a second baghouse (Baghouse 2). Baghouse 2 will be manufactured by MAC Equipment, Inc. and will be Model 144MCF153 Style III. Baghouse 2 will be the same or substantially the same as Baghouse 1. Thus, the performance of Baghouse 2 will be the same or substantially the same as Baghouse 1.

Intermodal Container Loadout

The intermodal container loadout will be controlled by both Baghouse 1 and Baghouse 2. Baghouse 1 will be used when grain is loaded out. Baghouse 2 will be used when ingredients are loaded out. Drawings showing the connection of Baghouse 1 and Baghouse 2, to the intermodal container loadout area, will be prepared and submitted to the Environmental Protection Agency (EPA) within 60 days of EPA's approval of this PM Control Plan.

Performance

Baghouse 1 has been tested in regard to pits 1 & 2. The test was conducted by Comprehensive Emission Services, Inc. The test is documented in a Stack Test Report dated November 15, 2011 (the 2011 Report). The 2011 Report shows an efficiency of 99.96% and an effective face velocity of 236 feet per minute. These meet the requirements of Construction Permit number 10050023. The 2011 Report has been previously provided to IEPA and to EPA. Baghouse 1 has been tested in regard to pit 3. The test was conducted by TRC Environmental Corporation. The test is document in a Stack Test Report dated December 8, 2014 (the 2014 Report). The 2014 Report shows an efficiency of 99.7% and an effective face velocity of 215 feet per minute. These meet the requirements of Construction Permit 13040004. The 2014 Report has been previously provided to IEPA and to EPA.

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent an executed Administrative Order, No. EPA-5-15-113(a)-IL-13, by Certified Mail, Return Receipt Requested, to:

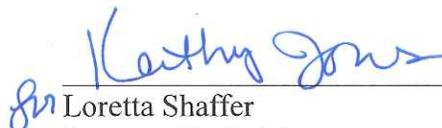
Brian Wanzenried, Director of Environmental
The Gavilon Group, LLC
1331 Capitol Avenue
Omaha, Nebraska 68102-1106

I also certify that I sent copies of the Administrative Order by first-class mail to:

Eric Jones, Manager
Bureau of Air-Compliance Unit
Illinois Environmental Protection Agency

Steve Case, Attorney
McGrath North
First National Tower, Suite 3700
1601 Dodge Street
Omaha, Nebraska 68102

On the 21st day of September 2015



Loretta Shaffer
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7014 2870 0001 9581 4212