



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

JAN 11 2013

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Ms. Beth Pierson  
Environmental Manager  
Gavilon, LLC  
11 ConAgra Drive  
Omaha, Nebraska 68102

Re: Notice and Finding of Violation  
Gavilon, LLC, 306 Knox Road 650 N, Abingdon, Illinois 61410

Dear Ms. Pierson:

The U.S. Environmental Protection Agency is issuing the enclosed Notice and Finding of Violation (NOV/FOV) to Gavilon, LLC (you) under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). We find that you are in violation of the Illinois State Implementation Plan as well as the New Source Performance Standards (NSPS) for Grain Elevators at 40 C.F.R. Part 60, Subpart DD at your Abingdon, Illinois facility.

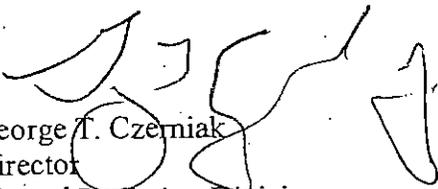
We have several enforcement options under Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3). These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil action.

We are offering you an opportunity to confer with us about the violations alleged in the NOV/FOV. The conference will give you the opportunity to present information on the specific findings of violation, the efforts you have taken to comply, and the steps you will take to prevent future violations.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Linda H. Rosen. You may call her at 312-886-6810 to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,



George T. Czerniak  
Director  
Air and Radiation Division

Enclosure

cc: Ray Pilapil  
Compliance and Systems Management Section  
Illinois Environmental Protection Agency

Jim Engler, Area Manager  
Gavilon, LLC  
538 Louisville Road  
Galesburg, Illinois 61402

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:**

Gavilon, LLC  
306 Knox Road 650 N  
Abingdon, Illinois 61410

Proceedings Pursuant to  
the Clean Air Act,  
42 U.S.C. §§ 7401 et seq.

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) **NOTICE AND FINDING  
OF VIOLATION**  
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) **EPA-5-13-IL-11**  
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**NOTICE AND FINDING OF VIOLATION**

The U.S. Environmental Protection Agency is issuing this Notice and Finding of Violation under Section 113(a)(1) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(a)(1). EPA finds that Gavilon, LLC in Abingdon, Illinois (Gavilon) is in violation of Section 110 of the CAA, 42 U.S.C. § 7410 and Section 111(e) of the CAA, 42 U.S.C. § 7411(e). Specifically, Gavilon is in violation of the Illinois State Implementation Plan (SIP) and the New Source Performance Standards (NSPS) for Grain Elevators at 40 C.F.R. Part 60, Subpart DD, as follows:

**Regulatory Authority**

**A. Clean Air Act**

1. Section 110 of the CAA, 42 U.S.C. § 7410, requires each state to adopt and submit to EPA for approval a SIP that provides for the implementation, maintenance, and enforcement of the National Ambient Air Quality Standards (NAAQS).
2. Section 111 of the CAA authorized EPA to develop technology-based standards which apply to specific categories of stationary sources. These standards are known as NSPS and are found at 40 CFR Part 60. The NSPS applies to new, modified and reconstructed facilities in specific source categories.
3. Section 113(a) of the CAA, 42 U.S.C. § 7413(a)(1), authorizes the Administrator to initiate an enforcement action whenever, among other things, the Administrator finds that any person has violated or is in violation of a requirement or prohibition of an applicable implementation plan, regulation,

**B. NSPS for Grain Elevators**

4. The NSPS for Grain Elevators is found at 40 C.F.R. Part 60, Subpart DD, 40 C.F.R. §§ 60.300 – 304 (Subpart DD).

5. 40 C.F.R. Part 60, Subpart DD applies to grain handling operations at grain terminal elevators at "affected facilities," or those that were constructed, modified, or reconstructed after August 3, 1978. 40 C.F.R. § 60.300.
6. Grain terminal elevators are grain elevators that have a permanent storage capacity of more than 2.5 million bushels. 40 C.F.R. § 63.301(c).
7. Permanent storage capacity is grain storage capacity which is inside a building, bin, or silo. 40 C.F.R. § 63.301(d).
8. 40 C.F.R. Part 60, Subpart DD requires affected facilities to perform specified performance tests to determine compliance with the particulate matter standards, opacity limits and other standards in 40 C.F.R. § 60.302 within 180 days after startup. 40 C.F.R. § 60.303.

### C. Illinois State Implementation Plan

9. On May 31, 1972, EPA approved 35 Illinois Administrative Code (Ill. Admin. Code) § 201.141 as part of the federally enforceable SIP for the State of Illinois. *See* 37 Fed. Reg. 10862.
10. 35 Ill. Admin. Code § 201.141 is set forth in the Illinois SIP at Rule 102, which provides that "[n]o person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, or so as to violate the provisions of this Chapter."
11. On May 31, 1972, EPA approved Illinois Pollution Control Board (IPCB) Rule 103, as part of the federally enforceable SIP for the State of Illinois. 37 Fed. Reg. 10842.
12. IPCB Rule 103 is codified at 35 Ill. Admin. Code §§ 201.142 and 201.143 and set forth in the Illinois SIP at Rules 103(a)(1) and 103(b)(1).
13. The Illinois SIP at Rule 103(a)(1) [35 Ill. Admin. Code § 201.142] provides that no 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).
14. The Illinois SIP at Rule 103(b)(1) [35 Ill. Admin. Code § 201.143] provides that no 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.
15. 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 at 35 Ill. Admin. Code §§ 212.461, 212.462, and 212.463.

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

- i. Air pollution control devices shall be checked daily and cleaned as necessary to insure proper operation.
- ii. Cleaning and Maintenance.
  - a. 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.
  - b. Cleaning shall be handled in such a manner as not to permit dust to escape to the atmosphere.
  - c. The yard and surrounding area, including but not limited to ditches and curbs, shall be cleaned to prevent the accumulation of rotting grain.
- iii. Dump pit.
  - a. Aspiration equipment shall be maintained and operated.
  - b. Dust control devices shall be maintained and operated.
- iv. 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.
- v. Property. The yard and driveway of any source shall be asphalted, oiled, or equivalently treated to control dust.
- vi. Housekeeping Check List. Housekeeping check lists to be developed by the Agency shall be completed by the manager and maintained on the premises for inspection by Agency personnel.

17. The Illinois SIP at Rule 203(d)(9)(B) [35 Ill. Admin. Code § 212.462] provides that new and modified grain handling 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. Adm. 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].

18. The Illinois SIP at Rule 203(d)(9)(B)(ii)(a)(1) [35 Ill. Admin. Code § 212.462(b)(1)(A)] requires that grain-handling operations apply induced draft to major dump pits and their 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 in accordance with the formula provided.

19. The Illinois SIP at Rule 203(d)(9)(B)(ii)(a)(2) [35 Ill. Admin. Code § 212.462(b)(1)(B)] requires that the induced draft air stream for grain-handling facilities having a grain throughput of not more than 2 million bushels per year or located outside of a major population area (MPA) is 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.

20. The Illinois SIP at Rule 203(d)(9)(B)(ii)(a)(4) [35 Ill. Admin. Code § 212.462(b)(1)(D)] also requires that 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.

21. The Illinois SIP at Rule 203(d)(9)(B)(iii) [35 Ill. Admin. Code § 212.462(c)] requires pollution controls for the internal transferring area. The rule provides:

(a) Internal transferring area shall be enclosed to the extent necessary to prohibit visible particulate matter emissions directly into the atmosphere.

(b) Air contaminants collected from internal transfer operations for grain-handling facilities having a grain throughput of not more than 2 million bushels per year or located outside a major population area shall be conveyed through air pollution control equipment which has a rated and actual particulate removal efficiency of not less than 90% by weight prior to release into the atmosphere.

22. The Illinois SIP at Rule 203(d)(9)(B)(i)(b) [35 Ill. Admin. Code § 212.462(a)(2)] requires that air contaminants collected from cleaning and separating operations shall be conveyed through air pollution control equipment which has an overall rated and actual particulate collection efficiency of not less than 90% by weight.

23. The Illinois SIP at Rule 203(d)(9)(B)(iv)(a) [35 Ill. Admin. Code § 212.462(d)(1)] requires truck and hopper car loading to “employ socks, sleeves or equivalent devices which extend six inches below the sides of the receiving vehicle.”

24. On May 29, 2002, EPA approved as part of the federally enforceable SIP for the State of Illinois, revisions to Section 9(f) of the Illinois Environmental Protection Act, 415 ILCS 5/9(f), which modified the particulate matter control requirements for certain rural grain elevators in Illinois. *See* 67 Fed. Reg. 37323-37325.

25. Effective July 29, 2002, EPA incorporated by reference Section 9 of the Illinois Environmental Protection Act, 415 ILCS 5/9, (Section 9), including revised Section 9(f), into the federally enforceable SIP for the State of Illinois. Section 9 was set forth in the Illinois SIP as Act 9.

26. The Illinois SIP at Act 9 [Section 9(f) of the Illinois Environmental Protection Act, 415 ILCS 5/9], provides in pertinent part that any grain elevator located outside of a “major population area” shall be exempt from the requirements of the Illinois SIP at Rule 203(d)(9)(B) [35 Ill. Admin. Code § 212.462], provided that the elevator:

(a) does not violate the pollution prohibitions in subsection (a) of Act 9 of the Illinois SIP [Section 9 of the Illinois Environmental Protection Act], or does not have a certified investigation on file with the IEPA; and

(b) is not required to obtain a Clean Air Act Program Permit pursuant to [415 ILCS 5/39.5].

27. The Illinois SIP at Part 211 [35 Ill. Admin. Code § 211.3610] defines “major population area” to include several counties and municipalities, none of which are Abingdon, Knox County, Illinois.

28. The Illinois SIP at Act 9 [Section 9(a) of the Illinois Environmental Protection Act, 415 ILCS 5/9(a)] states “[n]o person shall: (a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.”

29. The Illinois SIP at Rule 203(d)(9)(C) [35 Ill. Admin. Code § 212.463] requires construction and operating permits for new and modified dryers with a total grain-drying capacity in excess of 750 bushels/hour at five percent moisture extraction.

#### Permit Background

30. On June 11, 2009, IEPA issued Gavilon a Lifetime General Operating Permit for Grain Elevator – NSPS Source #76020050 for a grain elevator with various pieces of equipment.

31. Condition 1c. of permit #76020050 allows the construction and operation of additional emissions units at the Facility such that the maximum number of units identified in the permit will not be exceeded.

32. Condition 5a. of permit #76020050 provides, “No person shall cause or allow the emission of fugitive particulate matter from any process, including any material handling or storage activity that is visible by an observer looking generally toward the Zenith (that is, looking at the sky directly overhead) from a point beyond the property line of the emission source, pursuant to 35 Ill. Adm. Code 212.301.

33. Condition 5b. of permit #76020050 provides, “The Permittee shall implement and perform the required housekeeping practices identified in 35 Ill. Adm. Code 212.461(b)(1) through (b)(5) and maintain a housekeeping check list for the grain elevator pursuant to 35 Ill. Adm. Code 212.461(b)(6).”

34. Condition 6a.i. of permit #76020050 provides, “Grain receiving in all dump pits shall be conducted in accordance with good operating practices to minimize particulate matter emissions.”

35. Condition 6b. ii. of permit #76020050 provides, “Each such dryer shall be inspected for any leaks in enclosures and proper operation of the external sheeting, on at least an annual basis

prior to the harvest season.” Condition 11a., of permit #76020050 requires the Permittee to maintain records of such inspections.

36. Condition 6c. ii. of permit #76020050 provides, “The grain elevator shall be inspected for presence of visible emissions from internal transfer and cleaning, while such activity is occurring, at least once each week when such activity is performed.”

37. Condition 6d. i. of permit #76020050 provides, “Grain load-out shall be conducted with socks, sleeves or equivalent devices, extending to within at least 6 inches below the sides of the receiving vehicle except for topping off. Choke load-out may be performed as an equivalent method.”

38. Condition 7a. of permit #76020050 provides, “Within 180 days of initial startup of the permitted grain handling operations structures/equipment, the emissions of opacity shall be measured during conditions which are representative of maximum emissions as required by 40 C.F.R. Part 60 Subparts A and DD.”

39. Condition 8. of permit #76020050 provides, “The authorization to operate the equipment described in this operating permit shall terminate if the testing required by 40 CFR Part 60 Subparts A and DD is not performed as required or if satisfactory testing results demonstrating compliance with the applicable standards and permit conditions are not achieved and submitted to the Illinois EPA as required.”

40. Condition 10a. of permit #76020050 provides, “The amount of material handled by the elevator shall not exceed the following limits. Compliance with these annual limits shall be determined on a monthly basis from a running total of monthly data, that is, the total of the amount of material for the month and the preceding eleven months...iii. The amount of grain cleaned shall not exceed 700,000 bushels per year.”

41. Condition 11b. of permit #76020050 provides, “The Permittee shall maintain monthly records of the following items for this source:... iii. Grain cleaned, bushels/month and bushels/year (running total of 12 months data)...”

### **Factual Background**

42. Gavilon, LLC owns and operates a grain elevator located at 306 Knox Road 650 N, Abingdon, Knox County, Illinois 61410 (the Facility).

43. The Facility is located in Abingdon, Illinois, Knox County and thus is not located in a “major population area,” as defined in the Illinois SIP at Part 211 (M words) [35 Ill. Admin. Code § 211.3610].

44. The Facility processes soybeans and corn with the aid of trucks, dump pits, belt conveyors, cleaners, two dryers, truck load-outs, and storage bins in a manner that creates particulate matter.

45. On September 27-28, 2012, EPA representatives performed an inspection of the Facility. On November 29, 2012, EPA issued a Request for Information to the Facility which was returned and then re-sent to the Gavilon Galesburg facility on December 7, 2012. On December 17, 2012, EPA received Gavilon's response to EPA's Request for Information.

46. Based on information Gavilon submitted to EPA on September 28, 2012, via electronic mail during the inspection, the Facility had inbound truck shipments totally 1,584,573 bushels and outbound truck shipments totally 2,636,884 bushels in 2011.

47. The Facility has two column dryers. Based on information Gavilon submitted to EPA on October 12, 2012, and in response to EPA's Request for Information, the Zimmerman dryer was installed in 1975 and has a maximum drying rate of 2,000 bushels per hour for drying grain from 20 percent to 15 percent moisture, and the Meyer dryer was installed in 1981 and has a maximum drying rate of 3,500 bushels per hour for drying grain from 20 percent to 15 percent moisture. The Facility does not have a construction permit for either dryer.

48. In its response to EPA's Request for Information, Gavilon listed many items of equipment that were installed at the Facility beginning in 1975 and afterwards through the year 2008. These items of equipment included 24 storage bins and containers; two truck unloading stations, four truck loading stations, 30 items of grain handling equipment, and two dryers.

49. In its response to EPA's Request for Information to provide copies of the elevator's construction permits, Gavilon provided a copy of construction permit, #05020010, for the C1 Bin, issued March 16, 2005.

50. The Facility currently has 6,688,000 bushels of permanent storage. In response to EPA's Request for Information, Gavilon submitted information indicating that in 1980, the Facility had a permanent storage capacity of 1,651,143 bushels. In 1981, the Facility added the Butler Building, increasing the permanent storage capacity of the elevator beyond 2.5 million bushels, to 3,628,851 bushels, making the Facility subject to NSPS Subpart DD.

51. Gavilon's response to EPA's Request for Information indicated that the following truck unloading operations, truck loading stations, grain handling equipment and grain dryer were constructed in 1981 and after: Corn complex house leg loadout spout (1995); Butler building overhead bin OH100 (2009); Butler leg load-out spout (1981); Bin 13 top (fill) conveyor (2009); Corn wet leg (bucket elevator) (2009); Wet bin C1 unload (reclaim) conveyor (2005); Wet leg conveyor (2005); Meyer dryer (1981); Meyer dryer top fill conveyor and unload conveyor (1981); Screener (1983); West overhead conveyor (1981); North primary, middle primary, and south primary conveyors (2009); Roof (fill) conveyor (1981); Tunnel (reclaim) conveyors #1 and #2 (1981); Butler leg (1981); and Overhead conveyor (from leg to overhead bin) (2009).

52. In its Request for Information, EPA asked Gavilon to provide copies of information from any inspections of the dryers conducted in the last two years to meet the requirement of Gavilon's Lifetime Operating Permit # 76020050 Condition 6b.ii. In response to this request, Gavilon stated: "Gavilon facility personnel conduct a variety of dryer inspections, and related maintenance as appropriate, before harvest, during use (harvest) and after harvest. For each dryer, the facility has a list of inspection items and routine maintenance tasks that indicate the

appropriate frequency for each inspection and task... The facility has written dryer inspection procedures..." In its response to EPA's Request for Information, Gavilon submitted copies of its dryer inspection items indicating frequencies of inspection tasks and its dryer inspection procedures.

53. EPA representatives performed an inspection at the Facility on September 27-28, 2012, and observed the following:

1. Permits: Representatives of the Facility did not produce air pollution construction permits for either dryer when requested by EPA.
2. Dump pit area: The dump pit sheds were open at both ends and did not utilize quick-closing doors, air curtains or wind deflectors. Neither dump pit had an aspiration of suction system that collected air pollutants and treated them with a pollution control device. There were visible emissions to the air while trucks were unloading.
3. Internal Transferring Area: Air contaminants from the internal transferring area were not collected and conveyed to air pollution control equipment with the requisite particulate collection efficiency.
4. Grain Cleaning: The Facility utilized various screening devices to remove foreign material. None of these devices had pollution controls.
5. Loadout Areas: A sock, sleeve or equivalent device did not extend six inches below the side of a truck that was next to the load out area at the Facility. The Facility stated that truck loadouts did not have sleeves that extend six inches into the vehicles.
6. Facility Cleaning and Housekeeping: Loose grains and dust 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 roadways; a facility employee created air pollution during cleanup of grain and dust piles; and the facility stated that it did not use water or oil to treat its gravel roadways.
7. The Facility did not have any records of opacity testing for NSPS Subpart DD.
8. The Facility provided copies of its September 2012 "Grain Closing Time Inspection Report"; copies of its "Weekly Housekeeping Inspection Log" documents for 7/6/12 through 7/20/12; copies of its "Weekly Plant Inspection Report" documents for 8/10/12 through 9/21/12; and copies of its "Weekly Plant Inspection and Housekeeping Report" documents for 7/27/12 through 9/21/12. The checklists do not include checks of the internal transferring area.

54. After the inspection on September 28, 2012, EPA representatives contacted a citizen living near the grain elevator. The citizen reported that dust and grain from the Facility has gotten onto his property.

## Violations

55. By failing to obtain an air pollution construction permit for the Zimmerman dryer installed at the Facility in 1975 and the Meyer dryer installed at the facility in 1981, The Facility is in violation of Rules 103(a)(1) and 203(d)(9)(C) of the Illinois SIP [35 Ill. Admin. Code §§ 201.142 and 212.463].
56. By failing to obtain air pollution construction permits for 23 storage bins and containers; two truck unloading stations, four truck loading stations, 30 items of grain handling equipment, and two dryers, installed at the Facility from 1975 through 2008, not including Bin C1 which received a construction permit, the Facility is in violation of Rule 103(a)(1) of the Illinois SIP [35 Ill. Admin. Code § 201.142].
57. By failing to operate a dump pit with aspiration equipment and dust control devices at the Facility, Gavilon is in violation of Rule 203(d)(9)(A)(iii)(a) and (b) of the Illinois SIP [35 Ill. Admin. Code § 212.461(b)(3)(A) and (B)] and Conditions 5b. and 6a.i. of operating permit #76020050.
58. By not inspecting the internal transferring area of the Facility once per week, Gavilon is in violation of Condition 6c.ii. of operating permit #76020050.
59. By failing to keep grounds and other exposed flat surfaces clean of grain and dust that would tend to rot or become airborne, Gavilon is in violation of Illinois SIP at Rule 203(d)(9)(A) [35 Ill. Admin. Code § 212.461(b)] and Condition 5b. of operating permit #76020050.
60. By failing to handle cleaning in such a manner as not to permit dust to escape from the atmosphere, Gavilon is in violation of Illinois SIP at Rule 203(d)(9)(A) [35 Ill. Admin. Code § 212.461(b)] and Condition 5b. of operating permit #76020050.
61. By failing to asphalt, oil or equivalently treat the yard and driveway to control dust, Gavilon is in violation of Illinois SIP at Rule 203(d)(9)(A) [35 Ill. Admin. Code § 212.461(b)] and Condition 5b. of operating permit #76020050.
62. By allowing particulate matter to be discharged or emitted into the environment from the Facility, so as to: (i) cause or tend to cause air pollution in Illinois either alone or in combination with contaminants from other sources; or (ii) violate regulations or standards under the Illinois Environmental Protection Act, 415 ILCS 5/1, et seq., or Title 35 of the Illinois Administrative Code, Gavilon is in violation of Act 9 and Rule 102 of the Illinois SIP [Section 9(a) of the Illinois Environmental Protection Act, 415 ILCS 5/9(a), and 35 Ill. Admin. Code § 201.141].
63. By failing to employ means or devices, including quick-closing doors, air curtains or wind deflectors, to prevent a wind velocity in excess of 50% of the induced draft face velocity at the dump pit area of the Facility, Gavilon is in violation of Rule 203(d)(9)(B)(ii)(a)(4) of the Illinois SIP [35 Ill. Admin. Code § 212.462(b)(1)(D)].

64. By failing to apply induced draft to the dump pits that is collected and conveyed through air pollution control equipment which has an overall rated and actual particulate collection efficiency of not less than 90% by weight, Gavilon is in violation of Rule 203(d)(9)(B)(ii)(a)(2) of the Illinois SIP [35 Ill. Admin. Code § 212.462(b)(1)(A) and (B)].

65. By failing to collect and convey the contaminants from the internal transferring area of the Facility through air pollution control equipment which has a rated and actual particulate removal efficiency of not less than 90% by weight, Gavilon is in violation of Rule 203(d)(9)(B)(iii) of the Illinois SIP [35 Ill. Admin. Code § 212.462(c)(2)].

66. By failing to collect and convey the contaminants from the cleaning and separating operations of the Facility through air pollution control equipment which has an overall rated and actual particulate collection efficiency of not less than 90% by weight, Gavilon is in violation of Rule 203(d)(9)(B)(i)(b) of the Illinois SIP [35 Ill. Admin. Code § 212.462(a)(2)].

67. By failing to use socks or sleeves or equivalent devices that extend six inches below the sides of vehicles during loading at the Facility, Gavilon is in violation of Rule 203(d)(9)(B)(iv)(a) of the Illinois SIP [35 Ill. Admin. Code § 212.462(d)(1)] and Condition 6d.i. of operating permit #76020050.

68. By failing to perform the performance testing of the truck unloading operations, truck loading stations, grain handling equipment and grain dryer that were added to the Facility at the time it became subject to NSPS Subpart DD in 1981 and after, Gavilon is in violation of Subpart DD, 40 C.F.R. §§ 60.300 – 303, and Condition 7a. of operating permit #76020050.

69. By continuing to operate the Facility without performing the testing required by NSPS Subpart DD, Gavilon is in violation of Condition 8. of operating permit #76020050.

70. By violating Condition 8. of operating permit #76020050, the authorization of the permit has expired, and the Facility is operating without a valid operating permit in violation of Rule 203(d)(9)(B) of the Illinois SIP [35 Ill. Admin. Code § 212.462].

71. By causing the emission of visible fugitive particulate matter beyond its property line, Gavilon is in violation of Condition 5a. of operating permit #76020050.

72. By failing to inspect the Facility's dryers for leaks in the enclosures and proper operation of the external sheeting on at least an annual basis prior to the harvest season and to maintain records of such inspections, Gavilon is in violation of Conditions 6b. ii. and 11a. of permit #76020050.

73. Violations of the Illinois SIP and NSPS constitute violations of the CAA.

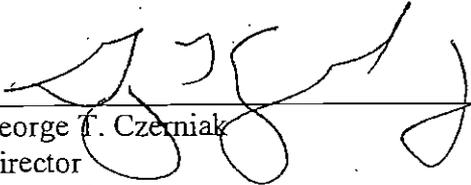
#### **Environmental Impact of Violations**

74. Violation of the pollution control requirements for grain elevators in the Illinois SIP increases public exposure to unhealthy particulate matter. Acute respiratory effects of the

inhalation of particulate matter include narrowing of the airways and asthma attacks. Chronic respiratory effects include damage to lung tissue, increased pulmonary resistance, and fibrotic changes in lung tissue. Increased pulmonary resistance and fibrosis may lead to cardiovascular impairment.

Date

1/22/13

  
George F. Czerniak  
Director  
Air and Radiation Division

**CERTIFICATE OF MAILING**

*E. Rosado*

I, Loretta Shaffer, certify that I sent a Notice of Violation, No. EPA-5-13-IL-11, by Certified Mail, Return Receipt Requested, to:

Ms. Beth Pierson  
Environmental Manager  
Gavilon, LLC  
11 ConAgra Drive  
Omaha, Nebraska 68102

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

Jim Engler, Area Manager  
Gavilon, LLC  
538 Louisville Road  
Galesburg, Illinois 61402

Ray Pilapil, Manager  
Bureau of Air  
Compliance and Enforcement Section  
Illinois Environmental Protection Agency  
1201 Grand Avenue East  
Springfield, Illinois 62702

On the 16 day of January 2013

*Loretta Shaffer*  
or Loretta Shaffer  
Administrative Program Assistant  
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER:

7009 -1680 0000 7669 7316