



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

**MAR 26 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 of Violation  
Gavilon, LLC, 1955 Patterson Road, Joliet, Illinois 60436

Dear Ms. Pierson:

The U.S. Environmental Protection Agency is issuing the enclosed Notice of Violation (NOV) 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 and 2010 construction permit at your Joliet, Illinois facility.

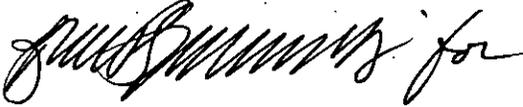
We have several enforcement options under Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1). These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil action.

We are offering you an opportunity to confer with us about the violations alleged in the NOV. 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, Manager  
Compliance and Enforcement Section  
Bureau of Air  
Illinois Environmental Protection Agency



5. 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. 10862.

6. 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). 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).

7. 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.

8. 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.
9. 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, among other things, comply with the control equipment requirements of Rule 203(d)(9)(B) [35 Ill. Admin. Code § 212.462].
10. The Illinois SIP at Rule 203(d)(9)(B)(ii)(a)(1) [35 Ill. Admin. Code § 212.462(b)(1)(A)] requires that induced draft be applied to major dump pits and their associated equipment to such an extent that minimum face velocity is maintained, at the effective grate surface, sufficient to contain particulate emissions generated during unloading.
11. The Illinois SIP at Rule 203(d)(9)(B)(ii)(a)(4) [35 Ill. Admin. Code § 212.462(b)(1)(D)] requires, among other things, 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 dump 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.
12. The Illinois SIP at Rule 203(d)(9)(B)(iv)(b) [35 Ill. Admin. Code § 212.462(d)(2)] requires box car loading to “employ means or devices to prevent the emission of particulate matter into the atmosphere to the fullest extent which is technologically and economically feasible.”
13. On May 31, 1972, EPA incorporated by reference Section 9 of the Illinois Environmental Protection Act, 415 ILCS 5/9 (Section 9), into the federally enforceable SIP for the State of Illinois. 37 Fed. Reg. 10862. Section 9 was set forth in the Illinois SIP as Act 9. The Illinois SIP at Act 9 [Section 9(a) of the Illinois Environmental Protection Act, 415 ILCS 5/9] provides that “no 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, 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.”
14. The Illinois SIP at Part 211 [35 Ill. Admin. Code § 211.3610] defines “major population area” to include several counties and municipalities, including Will County, Illinois.

### **Permit Background**

15. In accordance with IPCB Rule 103(a)(1) [35 Ill. Admin. Code § 201.142], on July 28, 2010, IEPA issued the Facility a construction permit, #10050023, for a grain and dried distillers grain (DDG) transloading facility consisting of various items of equipment.

16. Paragraph 2e. of permit #10050023 provides that, pursuant to 35 Ill. Adm. 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. Adm. Code § 212.461(b).

17. Paragraph 2f. of permit #10050023 provides that, pursuant to 35 Ill. Adm. Code § 212.462(b), (c), and (d), unless otherwise exempted pursuant to 35 Ill. Adm. Code § 212.461(c) or (d), or allowed to use alternate control according to 35 Ill. Adm. 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. Adm. Code § 212.462(b), (c) and (d).

18. Paragraph 6e. of permit #10050023 provides, “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 states: “The Permittee shall maintain records of the following items so as to demonstrate compliance with the conditions of this permit:

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

### **Factual Background**

20. Gavilon, LLC owns and operates the Facility; a grain elevator located at 1955 Patterson Road, Joliet, Will County, Illinois 60436, that completed construction in or around May or June 2011.

21. The Facility is located in Joliet, Will County, Illinois, and thus is located in a “major population area,” as defined in the Illinois SIP at Part 211 (M words) [35 Ill. Admin. Code § 211.3610].

22. 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.

23. On July 9, 2012, EPA representatives performed an inspection of the Facility.

24. Based on information Gavilon submitted to EPA on July 9, 2012, and after the inspection through electronic mail, the Facility had inbound shipments of grain totally 148,874 tons and outbound shipments totally 148,874 tons for the period June 2011 through May 2011. Using a conversion factor of 56 pounds per bushels, this translates to 5,316,928 bushels.

25. During the July 9, 2012 inspection, EPA representatives observed the following:

1. Dump pit area: The dump pit sheds at the Facility 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.
2. Intermodal Container Loading area. There was a tarp over Loading Dock #1 and no tarp on Loading Dock #2. During the loading of CGM, particulate matter was observed coming out from under the tarp at Loading Dock #1.
3. 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.
4. 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.

#### Violations

26. By failing to check air pollution control devices at the Facility daily to insure proper operation and failing to keep records of such daily checks, Gavilon is in violation of the Illinois SIP at Rule 203(d)(9)(A) [35 Ill. Admin. Code § 212.461(b)] and Paragraphs 2e. and 12a. of construction permit #10050023.

27. 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 the Illinois SIP at Rule 203(d)(9)(A) [35 Ill. Admin. Code § 212.461(b)] and Paragraph 2e. of construction permit #10050023.

28. By failing to adequately asphalt, oil or equivalently treat the yard and driveway to control dust, Gavilon is in violation of the Illinois SIP at Rule 203(d)(9)(A) [35 Ill. Admin. Code § 212.461(b)] and Paragraph 2e. of construction permit #10050023.

29. By failing to maintain housekeeping checklists, Gavilon is in violation of the Illinois SIP at Rule 203(d)(9)(A) [35 Ill. Admin. Code § 212.461(b)] and Paragraphs 2e. and 12a. of construction permit #10050023.

30. As evidenced by grain adhering to the dump pit grate and piling up on the floor of the dump pit shed, Gavilon has failed to apply induced draft to its major dump pits and their

associated equipment to such an extent that minimum face velocity is maintained, at the effective grate surface, sufficient to contain particulate emissions generated during unloading, in violation of the Illinois SIP at Rule 203(d)(9)(B)(ii)(a)(1) [35 Ill. Admin. Code § 212.462(b)(1)(A) ].

31. 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)] and Paragraph 2f. of construction permit #10050023.

32. As evidenced by particulate matter coming out from under the tarp at Loading Dock #1, Gavilon has failed to “employ means or devices to prevent the emission of particulate matter into the atmosphere to the fullest extent which is technologically and economically feasible” during intermodal container loading, in violation of Rule 203(d)(9)(B)(iv)(b) of the Illinois SIP [35 Ill. Admin. Code § 212.462(d)(2)] and Condition 2f. of construction permit ##10050023.

33. 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].

34. Violations of the Illinois SIP constitute violations of the CAA.

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

35. 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.

3/29/13  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
George T. Czerniak  
Director  
Air and Radiation Division

**CERTIFICATE OF MAILING**

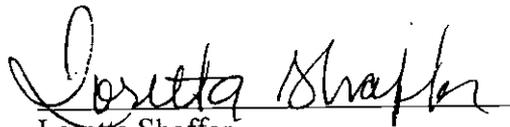
I, Loretta Shaffer, certify that I sent a Notice of Violation, No. EPA-5-13-IL-31, by Certified Mail, Return Receipt Requested, to:

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:

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

On the 28 day of March 2013



Loretta Shaffer  
Administrative Program Assistant  
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7674 1378