



**Environmental
Protection Agency**

John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

Re: Wyandot County
Peavey Company (Harpster)
03 88 00 0137
Notice of Violation (NOV /non-HPV)

July 26, 2011

Certified Mail 7009 1410 0001 1394 0965

Mr. Brian Wanzenried
Director of Environmental Safety and Health
Gavilon
11 ConAgra Drive
Omaha, Nebraska 68102

Dear Mr. Wanzenried:

In the past two annual Permit Evaluation Reports (PERs) for the Harpster grain facility, for calendar years 2009 and 2010, the company reports seemingly widespread, systemic deviations from air permit requirements. The emissions sources and deviations as specified in the 2010 PER are:

1. Permit P0104001 issued 21 Nov 2008 - F004 Grain storage piles: Exceedance of allowable annual grain throughput (and associated particulate emissions limit exceedance); tracking of throughput was not done on a monthly basis; no documentation verifying the performance of daily visible emissions checks (for grain load-out).
2. Permit P0104001 issued 21 Nov 2008 - F005 Plant roadways and parking areas: No documentation verifying the performance of daily fugitive dust inspections; grain throughput exceedance for F004 indicative of vehicle miles traveled in excess of represented maximum for F005.
3. Permit P0104576 issued 4 May 2009 - P901 Grain receiving, storage, grain cleaning: Mineral oil application/treatment of grain not performed prior to transfer/conveying as required (and no records of amount of grain not so treated); no documentation verifying the performance of daily visible emissions checks (for the baghouse exhaust).
4. All permits and all emissions units (including also permits P0104065 issued 9 Feb 2009, and P0104120 issued 1 Dec 2008): the 2010 PER itself was submitted after the due date.

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All these deviations from the permit requirements (as cited in both PERs) collectively, are excessive and are determined to be out of compliance with the terms and conditions of the permits identified above. Failure to comply with the issued permits is a violation of Ohio Revised Code (ORC) 3704.05.

The 2009 PER indicated that air permit compliance deficiencies would be addressed for calendar year 2010, but the 2010 PER seems to show that, not only were necessary changes not implemented in 2010, but possibly even more extensive deficiencies were occurring. Staff turnover/transition is cited as a significant causal factor in calendar year 2010. The permits require a management program for fugitive dust emissions. In these types of operations, having a day-to-day attentiveness to the administration of the program is critical to the effectiveness of minimizing the fugitive dust.

The company is required to respond to these issues, and submit a plan to return to compliance. The plan should provide assurance that the corrections will be of a lasting nature so that future PERs will not reflect similar extensive compliance deficiencies. The company is required to submit a response by August 26, 2011.

In follow-up discussion with the company, it was indicated that the storage piles (F004) need a higher (25,000 tons) allowable annual throughput than the current one (21,000 tons). The company will need to apply for a permit modification to P0104001 to allow for this. This should also be submitted by the August 26 date.

Please be advised that the submission of information to respond to this letter does not constitute waiver of Ohio EPA's authority to seek civil penalties pursuant to ORC 3704.06. The Ohio EPA will make a decision on whether to pursue or decline to pursue such penalties regarding this matter at a later date.

Should the company have any questions and/or comments, I may be reached at (419) 373-3117. I may also be contacted electronically by E-mail at: paul.chad@epa.state.oh.us.

Sincerely,



Paul Chad
Division of Air Pollution Control

/cs

ec: Jennifer Jolliff, DAPC NWDO
William MacDowell, US EPA - Region V
NWDO Follow-up File
pc: Tom Kalman, DAPC CO
(DAPC, NWDO File)