



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

June 1, 2022

VIA E-MAIL
DELIVERY RECEIPT REQUESTED

Email: ioverking@fuyaousa.com and amconnell@kilpatricktownsend.com

Dear Ian Overking and Alan McConnell:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Fuyao Glass Illinois, Inc., docket no. CAA-05-2022-0018. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on June 1, 2022.

Pursuant to paragraph 58 of the CAFO, Fuyao must pay the civil penalty within 30 days of the filing date. Your electronic funds transfer must display the case name and case docket number.

Please direct any questions regarding this case to Andre Daugavietis or Puja Lakhani, 312-886-6663 and 312-353-3190, respectively.

Sincerely,

**Brian
Dickens**

Digitally signed by Brian
Dickens
Date: 2022.05.31
12:37:48 -05'00'

Brian Dickens, Supervisor
Air Enforcement and Compliance Assurance Section (MN/OH)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/via electronic mail
Coyle.ann@epa.gov

Regional Hearing Clerk/via electronic mail
R5hearingclerk@epa.gov

Andre Daugavietis/via electronic mail
Daugavietis.andre@epa.gov

Puja Lakhani/via electronic mail
Lakhani.puja@epa.gov

Kent Mohr/via electronic mail
Kent.Mohr@Illinois.gov

Consent Agreement and Final Order
In the matter of: Fuyao Glass Illinois, Inc.
Docket Number: [CAA-05-2022-0018](#)

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number [CAA-05-2022-0018](#), which was filed on [June 1, 2022](#), in the following manner to the following addressees:

Copy by E-mail to Respondent: Ian Overking
ioverking@fuyaousa.com

Copy by E-mail to
Attorney for Complainant: Andre Daugavietis
Daugavietis.andre@epa.gov

Puja Lakhani
Lakhani.puja@epa.gov

Copy by E-mail to
Attorney for Respondent: Alan McConnell
amcconnell@kilpatricktownsend.com

Copy by E-mail to
Regional Judicial Officer: Ann Coyle
coyle.ann@epa.gov

Isidra Martinez
Acting Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. CAA-05-2022-0018
)	
Fuyao Glass Illinois, Inc.)	
Decatur, Illinois)	
)	
)	42 U.S.C. § 7413(d)
Respondent.)	
<hr style="border: 1px solid black;"/>)	

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Fuyao Glass Illinois, Inc. (Fuyao), a corporation doing business in Illinois.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

Statutory and Regulatory Background

Title I, Part C, of the CAA, Prevention of Significant Deterioration

9. Section 108(a) of the CAA, 42 U.S.C. § 7408(a), requires EPA to identify and prepare air quality criteria for each air pollutant, emissions of which may endanger public health or welfare. For each such “criteria” pollutant, Section 109 of the CAA, 42 U.S.C. § 7409, requires EPA to promulgate National Ambient Air Quality Standards (NAAQS) necessary to protect the public health and welfare.

10. Pursuant to Sections 108 and 109 of the CAA, 42 U.S.C. §§ 7408 and 7409, EPA has identified particulate matter (PM) with a diameter of less than or equal to 10 micrometers (PM₁₀) and PM with a diameter of less than or equal to 2.5 micrometers (PM_{2.5}) as criteria pollutants, and, as of 2015, had promulgated NAAQS for these pollutants. 40 C.F.R. §§ 50.6 – 50.7, 50.13, and 50.18.

11. Under Section 107(d) of the CAA, 42 U.S.C. § 7407(d), each state is required to designate those areas within its boundaries where the air quality is better or worse than the NAAQS for each criteria pollutant or where the air quality cannot be classified due to insufficient data. An area that meets the NAAQS for a particular pollutant is termed an “attainment” area with respect

to such pollutant. An area that does not meet the NAAQS for a particular pollutant is termed a “nonattainment” area with respect to such pollutant.

12. Part C of Title I of the CAA, 42 U.S.C. §§ 7470-7492, sets forth requirements for the prevention of significant deterioration of air quality in those areas designated as attainment or unclassifiable for purposes of meeting the NAAQS. These requirements are designed to protect public health and welfare, to assure that economic growth will occur in a manner consistent with the preservation of existing clean air resources, and to assure that any decision to permit increased air pollution is made only after careful evaluation of all the consequences of such a decision and after public participation in the decision-making process. 42 U.S.C. § 7470. These provisions are referred to herein as the “PSD program.”

13. Section 165(a) of the CAA, 42 U.S.C. § 7475(a), prohibits the construction and operation of a “major emitting facility” in an area designated as attainment or unclassifiable unless a permit has been issued that comports with the requirements of Section 165 and the facility employs the best available control technology (BACT) for each pollutant subject to regulation under the CAA that is emitted from the facility.

14. Pursuant to Section 169 of the CAA, 42 U.S.C. § 7479(1), a “major emitting facility” is defined to include any facility which emits, or has the potential to emit, 250 tons per year (tpy) or more of any air pollutant.

15. Sections 110(a) and 161 of the CAA, 42 U.S.C. §§ 7410(a) and 7471, require each state to adopt a SIP containing regulations implementing the PSD program as provided in the PSD provisions of the CAA set forth at 42 U.S.C. §§ 7470-7492.

Prevention of Significant Deterioration Program, 40 C.F.R. Part 52, Section 52.21

16. Pursuant to 40 C.F.R. § 52.21(a), if a state does not have PSD regulations that EPA has approved and incorporated into its SIP, EPA may incorporate the federal PSD regulations set forth at 40 C.F.R. § 52.21 into the SIP. On August 7, 1980, EPA incorporated the PSD regulations of 50 C.F.R. § 52.21(b) through (w) into the Illinois SIP. 40 C.F.R. § 52.738(b). EPA delegated to the Illinois Environmental Protection Agency (IEPA) the authority to review and process PSD permit applications and to implement the federal PSD program. 40 C.F.R. § 52.738(c).

17. Pursuant to 40 C.F.R. § 52.21(b)(2)(i), a "major modification" is defined as any physical change in or change in the method of operation of a major stationary source that would result in a "significant emissions increase" and a "significant net emissions increase" of any regulated PSD pollutant.

18. A "significant emissions increase" is defined as "an increase in emissions that is significant" for a regulated PSD pollutant. 40 C.F.R. § 52.21(b)(40).

19. "Significant" means a rate of emissions that would equal or exceed any of the following rates for the following pollutants: 15 tons per year of PM₁₀ and 10 tpy of PM_{2.5}. 40 C.F.R. § 52.21(b)(23)(i).

20. Pursuant to 40 C.F.R. § 52.21(b)(3)(i), a "net emissions increase" means the amount by which the sum of the following exceeds zero: (1) any increase in emissions from a particular physical change or change in the method of operation at a stationary source; and (2) any other increases and decreases in emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

21. Pursuant to 40 C.F.R. § 52.21(a)(2)(iv)(b), “regardless of any preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.”

22. Pursuant to 40 C.F.R. § 52.21(j)-(r), to construct a major modification in an attainment area, a major stationary source subject to the PSD program must, among other things, perform an analysis of source impacts, perform air quality modeling and analysis, obtain a PSD permit, and install and operate BACT controls for each regulated PSD pollutant for which the modification would result in a significant net emissions increase.

23. BACT means an emissions limitation reflecting the maximum degree of reduction of each regulated PSD pollutant which the permitting authority determines is achievable for a facility on a case-by-case basis, taking into account energy, environmental and economic impacts and other costs. Section 169(3) of the CAA, 42 U.S.C. § 7479(3).

24. “Emission limitation” is defined at section 302(k) of the CAA, 42 U.S.C. § 7602(k), as a requirement which “limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction”

Title V of the CAA, Permits, and 40 C.F.R. Part 70, Operating Permit Program

25. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), states that “[a]fter the effective date of any permit program approved or promulgated under this subchapter, it shall be unlawful for any person to violate any requirement of a permit issued under this subchapter, or to operate . . . a major source . . . except in compliance with a permit issued by a permitting authority under this subchapter.”

26. 40 C.F.R. § 70.7(b) states that, with minor exceptions inapplicable to the violations alleged herein, “no part 70 source may operate after the time that it is required to submit a timely and complete application under an approved permit program, except in compliance with a permit issued under a part 70 program.”

27. EPA gave final interim approval the Illinois Title V Permit program, effective March 7, 1995. 60 Fed. Reg. 12478 (March 7, 1995). EPA fully approved the Illinois Title V Permit program, effective November 30, 2001. 66 Fed. Reg. 62946 (December 4, 2001). Illinois’ Title V Permit program requirements are codified at IAC Title 35, Part 270.

28. IEPA issued Title V Permit Number 95090102 to the facility on September 1, 2015.

29. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$51,796 per day of violation up to a total of \$414,364 for violations that occurred after November 2, 2015 under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

30. The Administrator may assess a penalty greater than \$414,364 where the Administrator and the Attorney General of the United States jointly determine that a matter involving a larger penalty is appropriate for an administrative penalty action. 42 U.S.C. § 7413(d)(1) and 40 C.F.R. Part 19.

31. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that this matter involving a penalty greater than \$390,092 is appropriate for an administrative penalty action.

32. Section 113(d)(1) limits the Administrator’s authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United

States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

33. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Alleged Violations

34. Fuyao owns and operates a glass manufacturing facility at 2768 East Elwin Road, Decatur, Illinois (Facility).

35. The Facility is located in Macon County, Illinois. Macon County is located in an area which, at all times relevant to this CAFO, was designated as being in attainment of the PM₁₀ and PM_{2.5} NAAQS.

36. On November 26, 2014, Fuyao submitted a permit application to IEPA to rebuild each of the two glass melting furnaces at its Facility. Fuyao’s application identified that the proposed project involved physical changes that are subject to the PSD requirements, but that, based on the projected emissions, the project would not result in a significant emissions increase. The application identified the baseline and projected emissions from Glass Melting Furnace #1 (GMF #1) as follows:

Pollutant	Baseline (tpy, July 2006 through June 2008)	Projected Actual (tpy)	Projected Emissions Change (tpy)
PM ₁₀	10.98	10.35	-0.63
PM _{2.5}	5.82	5.49	-0.33

In the application, Fuyao identified that it did not exclude any emissions based on demand growth.

37. On December 22, 2014, IEPA issued Construction Permit number 14110038 to Fuyao authorizing both furnaces at the Facility to be rebuilt.

38. Condition 4.1.5.b of Fuyao’s Title V Permit requires Fuyao to submit a report to Illinois EPA if the annual emissions in tons per year from the project exceed the baseline actual emissions by a significant amount and if such emissions differ from the preconstruction projections, pursuant to Construction Permit number 14110038 and 40 C.F.R. § 52.21(r)(6)(v). Such report must be submitted within 60 days of the end of the applicable calendar year.

39. On April 19, 2019, EPA sent a Section 114 Information Request to Fuyao. In response to EPA’s request, Fuyao submitted its monthly emissions from each GMF. Fuyao’s reported emissions from GMF #1, and the increase over the baseline emissions were as follows:

12-Month rolling period	PM/PM ₁₀ (tpy, rolling 12 mos)	PM _{2.5} (tpy, rolling 12 mos)	Increase in PM/PM ₁₀ (tpy, rolling 12 mos)	Increase in PM _{2.5} (tpy, rolling 12 mos)
6/1/2016 to 5/31/2017	27.18	14.82	16.20	9.00
7/1/2016 to 6/30/2017	29.75	16.19	18.77	10.37
8/1/2016 to 7/31/2017	31.81	17.27	20.83	11.45
9/1/2016 to 8/31/2017	33.92	18.40	22.94	12.58
10/1/2016 to 9/30/2017	36.21	19.61	25.23	13.79
11/1/2016 to 10/31/2017	37.60	25.66	26.62	19.84
12/1/2016 to 11/30/2017	39.95	26.90	28.97	21.08
1/1/2017 to 12/31/2017	42.45	29.78	31.47	23.96
2/1/2017 to 1/31/2018	40.33	28.65	29.35	22.83
3/1/2017 to 2/28/2018	39.16	28.03	28.18	22.21
4/1/2017 to 3/31/2018	38.26	27.56	27.28	21.74
5/1/2017 to 4/30/2018	37.05	26.92	26.07	21.10
6/1/2017 to 5/31/2018	35.86	26.29	24.88	20.47
7/1/2017 to 6/30/2018	41.79	31.83	30.81	26.01
8/1/2017 to 7/31/2018	40.78	31.29	29.80	25.47
9/1/2017 to 8/31/2018	40.63	31.21	29.65	25.39
10/1/2017 to 9/30/2018	44.80	34.90	33.82	29.08
11/1/2017 to 10/31/2018	44.90	29.22	33.92	23.40
12/1/2017 to 11/30/2018	44.91	29.23	33.93	23.41
1/1/2018 to 12/31/2018	44.90	27.67	33.92	21.85

2/1/2018	to	1/31/2019	45.49	27.98	34.51	22.16
3/1/2018	to	2/28/2019	44.58	27.50	33.60	21.68
4/1/2018	to	3/31/2019	43.68	27.03	32.70	21.21
5/1/2018	to	4/30/2019	43.55	26.96	32.57	21.14
6/1/2018	to	5/31/2019	43.06	26.70	32.08	20.88
7/1/2018	to	6/30/2019	36.90	21.04	25.92	15.22

40. The first calendar year in which actual emissions exceeded the baseline emissions and differed from the preconstruction projections was 2017. As shown in the table above, actual emissions exceeded the baseline emissions and differed from the preconstruction projections in 2017. Therefore, Fuyao was required to submit a report by March 1, 2018 (60 days after the end of the calendar year) but has not submitted such report.

41. As shown in the table above, actual emissions exceeded the baseline emissions and differed from the preconstruction projections in 2018. Therefore, Fuyao was required to submit another report by March 1, 2019 (60 days after the end of the calendar year) but has not submitted such report.

42. As described in paragraphs 36-37 and 39, beginning no later than May 31, 2017, Fuyao's actual emissions of PM₁₀ from GMF #1 increased more than 15 tpy over the baseline emissions of PM₁₀, making the project a major modification under PSD for PM₁₀ pursuant to 40 C.F.R. § 52.21(a)(2)(iv)(b). Fuyao has not complied with paragraphs (j) through (r) of 40 C.F.R. § 52.21, including the requirement to apply BACT for PM₁₀ and the requirement to perform a source impact analysis to demonstrate that allowable emission increases from the modification would not cause or contribute to a violation of the NAAQS or PSD increment.

43. As described in paragraphs 36-37 and 39, beginning no later than June 30, 2017, Fuyao's actual emissions of PM_{2.5} from GMF #1 increased more than 10 tpy over the baseline emissions of PM_{2.5}, making the project a major modification under PSD for PM_{2.5} pursuant to 40

C.F.R. § 52.21(a)(2)(iv)(b). Fuyao has not complied with paragraphs (j) through (r) of 40 C.F.R. § 52.21, including the requirement to apply BACT for PM_{2.5} and the requirement to perform a source impact analysis to demonstrate that allowable emission increases from the modification would not cause or contribute to a violation of the NAAQS or PSD increment.

44. As described in paragraphs 38, 40 and 41, Fuyao failed to submit an emissions report to IEPA when its actual PM/PM₁₀ emissions exceeded the baseline emissions by a significant amount and differed from the preconstruction projection, in violation of Condition 4.1.5.b of Fuyao's Title V Permit 95090102 and 40 C.F.R. § 70.7(b).

45. On October 19, 2021, IEPA received a permit application from Fuyao to install a TriMer UltraCat Catalytic Filter (UCF) system at the Facility to control PM₁₀/PM_{2.5} emissions from GMF #1.

46. On November 24, 2021, IEPA issued a construction permit to Fuyao for the installation of the UCF system at GMF #1. The permit required that emissions of PM₁₀/PM_{2.5} at GMF #1 not exceed 0.30 pounds per ton of glass produced (lb/ton).

Terms of Agreement

47. For the purpose of this Proceeding, Respondent:
- a. consents to the assessment of a civil penalty as stated below;
 - b. consents to the conditions specified in this Consent Agreement;
 - c. waives any right to contest the alleged violations;
 - d. waives its right to request a hearing as provided at 40 C.F.R. 22.15(c); and
 - e. waives its rights to appeal the Final Order accompanying this Consent Agreement.

Other Conditions

PM Emission Control

48. No later than 180 days from the Effective Date of this Consent Agreement, Fuyao shall install and operate a UCF system, consistent with IEPA Construction Permit Number 21100019, at the Facility to control PM_{2.5} and PM₁₀ emissions from GMF #1 consistent with the UCF system manufacturer's specifications, and good engineering and maintenance practices for such equipment.

PM Emission Limit

49. Within 180 days of startup of the UCF system, Fuyao's GMF #1 shall comply with a total PM emission limit of 0.30 pounds of PM₁₀/PM_{2.5} per ton of glass produced on a 3-hour average basis.

50. Compliance with the Paragraph 49 emission limit at GMF #1 shall be demonstrated through stack tests using EPA Test Method 5 or 5I (40 C.F.R. Part 60, Appendix A-3) for the filterable PM fraction and EPA Test Method 202 (40 C.F.R. Part 51, Appendix M) for the condensable PM fraction. The sum of the emissions from the two methods is the amount that is to be compared to the Paragraph 49 emission limit of 0.30 lb/ton.

Source/Stack Testing

51. Stack testing pursuant to this Consent Agreement shall be conducted as laid out in Paragraphs 52 to 55.

52. Fuyao shall conduct an initial stack test on GMF #1 within 180 days after achieving the maximum operating production rate at which GMF #1 will be operated with the UCF system but no later than 180 days after the furnace is equipped with the UCF system, in

accordance with Condition 4.a.i.A. of IEPA Construction Permit Number 21100019. Fuyao shall conduct a second stack test on GMF #1 between 6 and 12 months after the initial stack test.

53. The stack tests required by this Consent Agreement shall be conducted in accordance with the requirements of the specified Reference Test Method and shall be performed under representative operating conditions for GMF #1 which represent the range of combined process and control measure conditions under which the facility expects to operate and which are most likely to challenge the emissions control measures of the facility with regard to meeting the applicable emission standards, but without creating an unsafe condition. Each test shall be comprised of at least three (3) valid one-hour stack test runs. Fuyao shall discard any invalid test runs, such as those that are compromised because of sample contamination. If a test run is discarded, Fuyao shall replace it with an additional valid test run. Fuyao shall report the results of any discarded test runs to EPA and shall provide all information necessary to document why the test run was not valid.

54. At least 60 business days in advance of the initial scheduled stack test required in paragraph 52, Fuyao shall notify EPA of the date of testing and provide a test protocol to EPA for review and approval. This protocol shall include the approved EPA Method(s) set forth in paragraph 50 to be used, the proposed GMF #1 operating conditions (e.g., pull rate, percent cullet, etc.), and a description that demonstrates that they are representative conditions which most challenge compliance with the limit. For subsequent stack tests conducted pursuant to this Order, if there are no operational, test method, or test procedure changes from the initial test protocol, the submission of a test protocol is not required.

55. Fuyao shall submit to EPA the initial and second GMF #1 stack test reports within 60 days after conducting the stack test.

Permit Requirements

56. No later than 60 days after the Effective Date of this Consent Agreement, Fuyao must apply for a non-Title V, federally-enforceable permit or permit modification which incorporates the requirements of Paragraphs 49 and 50 as “applicable requirements.”

57. Fuyao must send all reports required by this Consent Agreement by electronic mail to r5airenforcement@epa.gov and schaufelberger.daniel@epa.gov. If you are unable to send a report to these addresses due to email size restrictions or other problems, use these email addresses to make additional arrangements for transmission of the report.

Civil Penalty

58. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case, and Respondent’s cooperation, prompt return to compliance, and agreement to implement the Other Conditions of this CAFO (set forth above), Complainant has determined that an appropriate civil penalty to settle this action is \$450,000. Within 30 days after the effective date of this CAFO, Respondent must pay a \$450,000 civil penalty by Automated Clearing House (“ACH”) payment payable to “Treasurer, United States of America,” and sent to:

US Treasury REX/Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22-checking

In the comment area of the electronic funds transfer, the Respondent’s name and the docket number of this CAFO shall be denoted.

59. Respondent must send a notice of payment that states Respondent's name and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
r5airenforcement@epa.gov

Andre Daugavietis
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
daugavietis.andre@epa.gov

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
r5hearingclerk@epa.gov

60. This civil penalty is not deductible for federal tax purposes.

61. If Respondent does not pay timely the civil penalty or any stipulated penalties due under paragraph 63, below, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

62. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorney's fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

63. The following stipulated penalties apply to violations of this order:
- a. For failure to install and commence operation of the UCF as set forth above:
\$5,000 per day of violation;
 - b. For failure to comply with the PM₁₀/PM_{2.5} emission limit as set forth above:
 - i. \$1,500 per day of violation for emissions between 0.31-0.40 lb total PM₁₀/PM_{2.5} per ton;
 - ii. \$2,500 per day of violation for emissions between 0.41-1.00 lb total PM₁₀/PM_{2.5} per ton;
 - iii. \$5,000 per day of violation for emissions over 1.01 lb total PM₁₀/PM_{2.5} per ton;
 - c. For failure to conduct performance tests as set forth above: \$1,000 per day of violation;
 - d. For failure to submit notifications and reports as set forth above: \$500 per day of violation;

General Provisions

64. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: daugavietis.andre@epa.gov and lakhani.puja@epa.gov (for Complainant), and ioverking@fuyaousa.com and amconnell@kilpatricktownsend.com (for Respondent).

65. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

66. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

67. Complainant covenants not to sue Respondent for injunctive or other equitable relief for the violations and facts alleged in this matter, but if and when Respondent fails to timely and satisfactorily complete every condition stated in Paragraphs 48 to 57 such covenant automatically terminates. If and when such covenant terminates, EPA and/or the United States, at its election, may seek to compel performance of the conditions stated in Paragraphs 48 to 57 in a civil judicial action under the CAA or as a matter of contract.

68. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 65, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

69. Respondent certifies that it is complying fully with 40 C.F.R. § 52.21, Fuyao's Title V Permit 95090102 and 40 C.F.R. § 70.7(b).

70. EPA may inspect Respondent's Facility at any time to evaluate Respondent's compliance with this CAFO's requirements.

71. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

72. The terms of this CAFO bind Respondent, its successors and assigns.

73. Each person signing this Consent Agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

74. Each party agrees to bear its own costs and attorney's fees in this action.

75. This CAFO constitutes the entire agreement between the parties.

Fuyao Glass Illinois, Inc., Respondent

5/17/2022
Date


Junming Wang, President
Fuyao Glass Illinois Inc.

United States Environmental Protection Agency, Complainant

**MICHAEL
HARRIS**

Digitally signed by
MICHAEL HARRIS
Date: 2022.05.27
10:27:10 -05'00'

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order
In the Matter of: Fuyao Glass Illinois, Inc.
Docket No. CAA-05-2022-0018

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Date

ANN COYLE Digitally signed by ANN
COYLE
Date: 2022.06.01
11:05:23 -05'00'

Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5