

FILED

Sep 18, 2024

2:49 pm

**U.S. EPA REGION 5
HEARING CLERK**

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. CAA-05-2024-0050
)	
Gulfstream Aerospace Services Corporation))	Proceeding to Assess a Civil Penalty
Cahokia, Illinois))	Under Section 113(d) of the Clean Air Act,
)	42 U.S.C. § 7413(d)
Respondent.)	
_____))	

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 Gulfstream Aerospace Services Corporation, 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 and avoids litigation.
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. For the purpose of this proceeding, Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations and violations alleged 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

9. Section 109(a) of the CAA, 42 U.S.C. § 7409(a), requires EPA to establish health based National Ambient Air Quality Standards (NAAQS) for each criteria pollutant. The CAA divides standards into two groups: primary ambient air quality standards to protect the public health with “an adequate margin of safety,” and secondary standards to protect the public welfare (such as injury to agricultural crops and other property). 42 U.S.C. § 7409(b). EPA has developed NAAQS for six pollutants: carbon monoxide, lead, nitrogen dioxides, particulate matter, ozone, and sulfur dioxide.
10. Pursuant to Section 107 of the CAA, 42 U.S.C. § 7407, EPA has classified certain areas within each state as attainment, nonattainment, or unclassified (i.e., unknown) with respect to whether the area meets the NAAQS for each criteria pollutant.
11. Section 110 of the CAA, 42 U.S.C. § 7410, requires each state to adopt and submit to EPA for approval a plan that provides for the implementation, maintenance, and enforcement of the NAAQS. Upon approval by EPA, the plan becomes a part of the applicable State Implementation Plan (SIP) for the state.
12. Under Section 110(a)(2)(A) of the CAA, 42 U.S.C. § 7410(a)(2)(A), each State Implementation Plan (SIP) must include enforceable emission limitations and other control measures, means, or techniques, as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of chapter 85 of the CAA. Section 110(a)(2), among other things, also requires the SIP to include a program, including a permit program, to provide for the enforcement of the measures described in Section 110(a)(2)(A) and regulate the modification and construction of any stationary source within areas covered by the plan as necessary to assure the NAAQS are achieved. Upon approval of a SIP, the plans become independently enforceable by the federal government. 42 U.S.C. § 7413(a).

Illinois SIP

13. EPA approved Illinois’ plan for the attainment and maintenance of the NAAQS for ozone under Section 110 of the CAA effective November 5, 1990. See 40 C.F.R. § 52.722 and 55 Fed. Reg. 40661 (1990). Since then, EPA has approved revisions to Illinois’ plan for attainment and maintenance of the NAAQS for ozone.
14. EPA approved 35 Ill. Admin. Code Part 201, "Permits and General Conditions," as part of the federally enforceable SIP for the State of Illinois on May 31, 1972. See 37 Fed. Reg. 10862 (1972). Since then, EPA has approved several revisions of 35 Ill. Admin. Code Part 201 into the federally enforceable SIP.

15. EPA approved the Illinois Federally Enforceable State Operating Permit (FESOP) and Major Stationary Source Construction and Modification programs as part of the federally enforceable SIP for the State of Illinois on December 17, 1992. See 57 Fed. Reg. 59928 (Dec. 17, 1992).
16. EPA approved 35 Ill. Adm. Code Part 219, “Organic Material Emission Standards and Limitations for the Metro East Area” as part of the federally enforceable SIP for the State of Illinois effective October 11, 1994. See 59 Fed. Reg. 46562 (Sep. 9, 1994). Since then, EPA has approved several revisions of 35 Ill. Admin. Code Part 219 into the federally enforceable SIP.
17. On March 4, 2021, after the violations alleged below occurred, Illinois adopted revisions to rules relating to the control of volatile organic compound (VOC) emissions from aerospace manufacturing and rework operations (35 Ill. Admin. Code part 211 and 35 Ill. Admin. Code part 219) that were approved by EPA into the Illinois SIP effective May 11, 2023. See 88 Fed. Reg. 21490 (April 11, 2023). The 2023 changes to the Illinois SIP establish work practices standards, including volatile organic material (VOM) content limits for aerospace coatings, recordkeeping and reporting obligations, requirements for coating application equipment and requirements and work practice standards for cleaning operations.
18. Under 40 C.F.R. § 52.23, any permit limitation or condition contained within a permit issued under an EPA-approved program that is incorporated into a SIP is federally enforceable under CAA Section 113, 42 U.S.C. § 7413. 40 C.F.R. § 52.23 states that failure to comply with any provisions of this part, or with any approved regulatory provision of a State implementation plan, or with any permit condition or permit denial issued pursuant to approved or promulgated regulations for the review of new or modified stationary or indirect sources, or with any permit limitation or condition contained within an operating permit issued under an EPA-approved program that is incorporated into the State implementation plan, shall render the person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under section 113 of the CAA. 40 C.F.R. § 52.23.
19. At all relevant times, 35 Ill. Adm. Code § 201.144 stated that “[n]o person shall cause or allow the operation of any existing emission source or any existing air pollution control equipment without first obtaining an operating permit from [IEPA], except as provided in Section 201.146.” This requirement has not changed.
20. At all relevant times, 35 Ill. Adm. Code § 201.122 stated that evidence that specified air contaminant emissions, as calculated on the basis of standard emission factors or other factors generally accepted as true by those persons engaged in the field of air pollution control, exceed the limitations prescribed by 35 Ill. Adm. Code, Chapter I, shall constitute adequate proof of a violation, in the absence of a showing that actual emissions are in compliance. This requirement has not changed.

21. At all relevant times, 40 C.F.R § 52.737 stated in part that “[e]mission limitation and other provisions contained in operating permits issued by the State in accordance with the provisions of the federally approved permit program shall be the applicable requirements of the federally approved Illinois SIP for the purpose of section 113 of the [CAA] and shall be enforceable by [EPA] and by any person in the same manner as other requirements of the SIP.” This requirement has not changed.
22. At all relevant times, 35 Ill. Adm. Code § 219.211(e)(2) required the owner or operator of a subject coating line to collect and record all of the following information each day for each coating line and maintain the information at the source for a period of three years:
- A) The weight of VOM per volume of coating solids as applied each day on each coating line, if complying pursuant to Section 219.207(b)(2).
 - B) Control device monitoring data.
 - C) A log of operating time for the capture system, control device, monitoring equipment and the associated coating line.
 - D) A maintenance log for the capture system, control device and monitoring equipment detailing all routine and non-routine maintenance performed including dates and duration of any outages.
23. At all relevant times, 35 Ill. Admin. Code § 219.105(d)(2)(A)(iii) required an owner or operator that uses an afterburner or carbon adsorber to comply with any Section of Part 219 to use Illinois EPA (IEPA) and EPA approved continuous monitoring equipment which is installed, calibrated, maintained, and operated according to vendor specifications at all times the control device is in use except as provided in subsection (d)(3). “The continuous monitoring equipment must monitor the following parameters: ...
- iii) For each carbon adsorber, the VOM concentration of each carbon adsorption bed exhaust or the exhaust of the bed next in sequence to be desorbed.”
24. At all relevant times, 35 Ill. Admin. Code § 219.211(e)(3)(A) required the owner or operator of a subject coating line to notify IEPA in the following instance: “[a]ny record showing violation of Section 219.207 of this Subpart must be reported by sending a copy of such record to [IEPA] within 30 days following the occurrence of the violation.”
25. At all relevant times, 35 Ill. Admin. Code § 219.105(d)(3) stated that,
- [a]n owner or operator that uses a carbon adsorber to comply with Section 219.401 may operate the adsorber during periods of monitoring equipment malfunction, provided that:
- A. The owner or operator notifies in writing [IEPA] and [EPA], within 10 days after the conclusion of any 72 hour period during which the adsorber is operated and the associated monitoring equipment is not operational, of such monitoring equipment failure and provides the duration of the malfunction, a description of the repairs made to the equipment, and the total to date of all hours in the calendar year during which

the adsorber was operated and the associated monitoring equipment was not operational;

B. During such period of malfunction the adsorber is operated using timed sequences as the basis for periodic regeneration of the adsorber;

C. The period of such adsorber operation does not exceed 360 hours in any calendar year without the approval of [IEPA] and [EPA]; and

D. The total of all hours in the calendar year during which the adsorber was operated and the associated monitoring equipment was not operational must be reported, in writing, to [IEPA] and [EPA] by January 31 of the following calendar year.

26. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$57,617 per day of violation up to a total of \$460,926 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.

27. Section 113(d)(1) of the CAA 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.

28. 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.

Gulfstream's FESOP

29. On June 15, 2017, the IEPA issued a Federally Enforceable State Operating Permit (FESOP) (permit number 06030033) to Jet Aviation St. Louis for the Facility (Jet Aviation FESOP).

30. On April 26, 2018, the IEPA issued a FESOP (permit number 06030033) to Gulfstream for the Facility (Gulfstream FESOP).

31. The Gulfstream FESOP imposed the same conditions as the Jet Aviation FESOP, including, among other conditions, a sitewide VOM emissions limit of 42.85 tons per year, and said it supersedes all operating permit(s) for that location.

32. The Gulfstream FESOP had an expiration date of June 15, 2027; and remained in effect until at least June 29, 2021.

33. On June 30, 2021, IEPA issued Gulfstream a new permit (June 30, 2021 Permit). The June 30, 2021 Permit superseded the Gulfstream FESOP but included a standard condition that its issuance did not release the Permittee from compliance with state and federal regulations which were part of the Illinois SIP.

34. Gulfstream FESOP condition 14(a) stated “[o]peration of and emissions from the coating booths, adhesive removal operation, paint stripping, and gluing operations shall not exceed the following limits”. The limits are specified in 14(a)(i), (ii) and (iii).

35. Gulfstream FESOP condition 14(a)(i) sets material usage limits, as follows:

i. Material Usage:

<u>Emission Unit</u>	<u>Raw Material Usage</u>	
	<u>(Gal/Mo)</u>	<u>(Gal/Yr)</u>
4 Coating Booths, Cabinetry (9-1, 9-2, 9-3, 9-4)	45	450
Misc. Metal Parts Booth (9-5)	33	330
Gluing/Adhesive Removal, Cabinetry (9-6)	98	975
Curing Booth, Cabinetry, (9-8)	45	450
Walk-in Downdraft Booth, Misc. Metal Parts (16-1)	35	350

<u>Emission Unit</u>	<u>Raw Material Usage</u>	
	<u>(Gal/Mo)</u>	<u>(Gal/Yr)</u>
2 Hanger Painting Operations, Aircraft Exterior (19-1, 20-2)	608	6,080
Walk-in Downdraft Booth, Aircraft Exterior (19-2)	50	500
2 Hanger Depainting Operations (19-5, 20-1)	350	3,500
2 Walk-in Downdraft Booths, Misc. Metal Parts (21-1, 22-1)	20	200
Cabinetry Gluing Operation (21-2)	45	450
3 Upholstery Gluing Operations (22-2, 22-3, 22-4)	140	1,400
Facility-wide Solvent Usage	72	725

36. Gulfstream FESOP condition 14(a)(ii) sets emissions limits, as follows:

<u>Emission Unit</u>	<u>VOM Content (lb/Gal)</u>	<u>Control Efficiency (%)</u>	<u>VOM Emissions</u>	
			<u>(lbs/Mo)</u>	<u>(Ton/Yr)</u>
9-1, 9-2, 9-3, 9-4	7.84	81	67	0.34
9-5	1.83	--	60	0.30
9-6	4.90	--	478	2.39
9-8	7.84	81	67	0.34
16-1	8.24	81	55	0.27
19-1, 20-2	8.24	--	5010	25.05
19-2	8.24	81	78	0.39
19-5, 20-1	3.76	--	1,316	6.58
21-1, 22-1	8.24	81	31	0.16

21-2	4.90	--	221	1.10
22-1, 22-3, 22-4	4.90	--	686	3.43
Facility-wide Solvent Usage	6.90	--	500	<u>2.50</u>
			Total:	42.85

37. Gulfstream FESOP condition 14(e) stated that, “[c]ompliance with annual limits shall be determined on a monthly basis from the sum of the data for the current month plus the preceding 11 months (running 12 month total).”

38. Gulfstream FESOP condition 17 stated in part that “[p]ursuant to 35 Ill. Adm. Code 219.105(d)(2)(A)(iii), an owner or operator that uses an afterburner or carbon adsorber to comply with any Section of 35 Ill. Adm. Code Part 219 shall use [IEPA] and [EPA] approved continuous monitoring equipment which is installed, calibrated, maintained, and operated according to vendor specifications at all times the control device is in use except as provided in 35 Ill. Adm. Code 219.105(d)(3).”

39. Gulfstream FESOP condition 21(g) stated that,
Pursuant to 35 Ill. Adm. Code 219.211(e)(2), any owner or operator of a coating line subject to the limitations of 35 Ill. Adm. Code 219.207 and complying by means of 35 Ill. Adm. Code 219.207(c), (d), (e), (f), (g), (h), or (k), (1), (m), or (n) shall comply with the following: On and after a date consistent with 35 Ill. Adm. Code 219.106, or on and after the initial start-up date, the owner or operator of a subject coating line shall collect and record all of the following information each day for each coating line and maintain the information at the source for a period of three years:

- i. The weight of VOM per volume of coating solids as applied each day on each coating line, if complying pursuant to 35 Ill. Adm. Code 219.207(b)(2).
- ii. Control device monitoring data.
- iii. A log of operating time for the capture system, control device, monitoring equipment and the associated coating line.
- iv. A maintenance log for the capture system, control device and monitoring equipment detailing all routine and non-routine maintenance performed including dates and duration of any outages.

40. Gulfstream FESOP condition 13(c) stated that, “[t]he Permittee shall, in accordance with the manufacturer(s) and/or vendor(s) recommendations, perform periodic maintenance on the filters, carbon adsorbers, and charcoal adsorbers such that the filters, carbon adsorbers, and charcoal adsorbers are kept in proper working condition and not cause a violation the Environmental Protection Act or regulations promulgated therein.”

41. Gulfstream FESOP condition 22(a) stated in part that,

The Permittee shall maintain records of the following items so as to demonstrate compliance with the conditions of this permit:

- i. Records addressing use of good operating practices for the filters, carbon adsorbers, and charcoal adsorbers:
 - A. Records for periodic inspection of the filters, carbon adsorbers, and charcoal adsorbers with date, individual performing the inspection, and nature of 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.

- 42. Gulfstream FESOP condition 22(b) stated in part that, “[a]ll records and logs required by condition 22(a) of this permit shall be retained at a readily accessible location at the source for at least five (5) years from the date of entry and shall be made available for inspection and copying by the [IEPA] or [EPA] upon request.”
- 43. Gulfstream FESOP condition 25(a) stated that, “[i]f there is an exceedance of or a deviation from the requirements of this permit as determined by the records required by this permit or otherwise, the Permittee shall submit a report to the [IEPA’s] Bureau of Air Compliance Section in Springfield, Illinois within thirty (30) days after the exceedance or deviation. The report shall identify the duration and the emissions impact of the exceedance or deviation, a copy of the relevant records and information to resolve the exceedance or deviation, and a description of the efforts to reduce emissions from, and the duration of exceedance or deviation, and to prevent future occurrences of any such exceedance or deviation.”

Factual Allegations

- 44. Gulfstream has owned and operated a Federal Aviation Administration certified aircraft maintenance, repair and overhaul (MRO) facility at 6400 Curtis Steinberg Dr, Cahokia, St. Clair County, IL 62206 (the Facility) since at least April 1, 2018. Among other things, Gulfstream performs spray application of coatings to aircraft and aircraft furniture at the Facility.

EPA Inspection

- 45. On January 8, 2020, EPA conducted an unannounced CAA inspection at the Facility (the Inspection). Following the inspection, EPA asked Gulfstream to provide additional information. In a series of submittals, Gulfstream responded to EPA’s request.
- 46. During the Inspection, a representative of Gulfstream indicated that carbon filters were changed approximately annually and that no parameters were recorded or used to trigger a filter change.

CAA Section 114 Information Request Response and Supplementary Emailed Response

- 47. On June 4, 2020, EPA sent an Information Request, signed May 28, 2020 (Information Request) to Gulfstream, pursuant to Section 114 of the CAA, 42 U.S.C. § 7414.

48. Gulfstream provided information in response to the Information Request on September 8, 2020 (information request response).
49. EPA asked Gulfstream for additional information in a September 24, 2020 email.
50. Gulfstream responded to the September 24, 2020, email request and supplemented its response to the Information Request through an email (supplemental information email) dated October 5, 2020.
51. Gulfstream sent a second email with supplemental information (second supplemental information email) dated December 11, 2020.

Correspondence between Gulfstream and IEPA

52. Gulfstream sent a letter to IEPA captioned Voluntary Disclosure on July 24, 2020 (after the January 8, 2020 Inspection) and a corrected letter on September 25, 2020. The letters were later provided to EPA.

NOV and Subsequent Correspondence

53. On September 29, 2021, EPA issued a Notice of Violation (NOV) to Gulfstream. EPA sent a copy of the NOV to the State of Illinois.
54. On October 20, 2021, Gulfstream emailed EPA a letter (October 2021 letter), providing additional information that stated Gulfstream had applied for and had received, on June 30, 2021, a new permit to reflect the new Illinois aerospace regulations. Gulfstream explained it had removed the Facility's carbon adsorbers and associated monitoring equipment because the June 30, 2021 Permit imposed requirements from Illinois's revised Part 219 regulations that allowed use of VOM compliant coatings without control equipment.
55. On October 26, 2021, the parties held a Section 113 Conference to discuss the NOV. Gulfstream emailed additional information to follow up on issues that had been discussed at the October 26th Section 113 Conference on November 11, 2021, November 24, 2021, January 12, 2022, and January 31, 2022.

Chemical use in Emission Units

56. In its response to EPA's Information Request, Gulfstream provided material usage and emissions information for January 2015 through May 2020.
57. The information Gulfstream provided indicates that Gulfstream exceeded raw material usage limits and emission limits in certain units, VOM content limits on 6 gallons of solvent in 2019, and inadequately maintained carbon filters and carbon filter records for certain units.

58. The information Gulfstream provided also indicates that, based on materials used, Gulfstream's facility emissions could not have exceeded 25% of its permitted sitewide emissions limit.

Filter Maintenance

59. Gulfstream provided logs for particulate matter (PM) and carbon filter maintenance. According to the logs Gulfstream provided, emission units 9-1, 9-2, 9-3, 9-4, 9-8, 16-1, 19-2, 21-1, and 22-1, were equipped with carbon adsorbers prior to the June 30, 2021 Permit.

60. Gulfstream's written statement accompanying its Information Request response stated, "Gulfstream has provided the manufacturers' maintenance recommendations for the SAICO booths (EPs 9-1 through 9-4, 16-1, and 19-2) as set forth in the SAICO Manual. To Gulfstream's knowledge, the manufacturers have not provided, or the previous owners had not maintained, written maintenance recommendations or instructions for the filters or other carbon adsorbers."

61. Gulfstream did not provide any manufacturers' maintenance recommendations for the carbon filters in booths 21-1 and 22-1.

62. The information Gulfstream provided indicated that Gulfstream inadequately maintained carbon filters.

Continuous Emission Monitoring

63. According to Gulfstream's Information Request response, booths EP 16-1, EP 21-1 and EP 22-1 were equipped with continuous emission monitoring (CEM).

64. Gulfstream provided CEM data for EP 16-1 and EP 21-1 for August 24-26, 2020, and no data for EP 22-1, which Gulfstream noted was out of service at the time.

65. Gulfstream's Information Request response stated, "...although Gulfstream has equipment in place to provide continuous emission monitoring, Gulfstream had not been able to access recorded data from those continuous monitoring systems. Gulfstream contacted the vendor who had provided the continuous emission monitoring system, RAE Systems (now ProRAE), and, effective August 24, 2020, has reconnected the recording system for Booths 16-1 and 21-1. (The facility is still experiencing data collection issues in Booth 22-1, but that booth is tagged out and has not operated since April 17, 2020.) Prior to the reconnection, and since June 2020, Gulfstream had been recording the photo ionization detector readings manually before and after each monitored booth is used."

Alleged Violations

66. Gulfstream violated Gulfstream FESOP condition 14(a)(i) by exceeding monthly and the 12-month rolling raw material limits set forth in that condition.

67. Gulfstream violated Gulfstream FESOP condition 14(a)(ii) by using product which exceeded maximum VOM content limits set forth in that condition.
68. Gulfstream violated Gulfstream FESOP condition 14(a)(ii) by exceeding monthly and 12-month rolling VOM limits in that condition.
69. Gulfstream did not replace charcoal filters frequently enough and thus did not achieve 81% VOM control efficiency in EU001, in violation of Gulfstream FESOP condition 14(a)(ii).
70. Gulfstream failed to maintain records addressing use of good operating practices for the filters, carbon and charcoal adsorbers, including records for their periodic inspection with date, individual performing the inspection, and nature of inspection; and records for prompt repair of defects, with identification and description of defect, effect on emissions, date identified, date repaired, and nature of repair, in violation of condition 22(a)(i)(A) and (B) of the Gulfstream FESOP.
71. Gulfstream failed to retain PM filter and charcoal adsorber records required by permit condition 22(a) at a readily accessible location for five years, in violation of Gulfstream FESOP condition 22(b).
72. Gulfstream failed to collect and record control device monitoring data, in violation of Gulfstream FESOP condition 21(g)(ii) and 35 Ill. Admin. Code § 219.211(e)(2)(B).
73. Gulfstream failed to collect and record a maintenance log for monitoring equipment detailing all routine and non-routine maintenance performed including dates and duration of any outages, in violation of Gulfstream FESOP condition 21(g)(iv) and 35 Ill. Admin. Code § 219.211(e)(2)(D).
74. Gulfstream failed to, in accordance with the manufacturer(s) and/or vendor(s) recommendations, perform periodic maintenance on the charcoal adsorbers, such that they are kept in proper working condition and do not cause a violation of the Illinois Environmental Protection Act or regulations promulgated therein, in violation of Gulfstream FESOP condition 13(c).
75. Gulfstream was not operating the continuous monitoring equipment at all times the control device was in use in booths 16-1, 21-1, and 22-1, and thus failed to use IEPA and USEPA approved continuous monitoring equipment which is installed, calibrated, maintained, and operated according to vendor specifications at all times the control device is in use, in violation of Gulfstream FESOP condition 17 and 35 Ill. Admin. Code § 219.105(d)(2)(A)(iii).
76. Gulfstream failed to submit a report to IEPA's Bureau of Air Compliance Section within 30 days after an exceedance of or a deviation from the requirements of the FESOP as determined by the records required by the FESOP or otherwise, in violation of Gulfstream FESOP condition 25(a).

Civil Penalty

77. 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 and agreement to perform a supplemental project, Complainant has determined that an appropriate civil penalty to settle this action is \$156,751.92.

78. Penalty Payment. Respondent agrees to:

- (a) Pay the civil penalty of \$156,751.92 within 30 days after the effective date of this CAFO.
- (b) Pay the civil penalty using any method provided in the table below.

Payment Method	Payment Instructions
Automated Clearinghouse (ACH) payments made through the US Treasury	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, state Respondent’s name and the CAFO docket number.
Wire transfers made through Fedwire	Federal Reserve Bank of New York ABA: 021030004 Account Number: 68010727 SWIFT address: FRNYUS33 33 Liberty Street New York, NY 10045 Beneficiary: US Environmental Protection Agency In the comment area of the electronic funds transfer, state Respondent’s name and the docket number of this CAFO.
Payments made through Pay.gov Payers can use their credit or debit cards (Visa, MasterCard, American Express & Discover) as well as checking account information to make payments.	<ul style="list-style-type: none"> • Go to Pay.gov and enter “SFO 1.1” in the form search box on the top left side of the screen. • Open the form and follow the on-screen instructions. • Select your type of payment from the "Type of Payment" drop down menu. • Based on your selection, the corresponding line will open and no longer be shaded gray. Enter the CAFO docket number into the field
Cashier’s or certified check payable to “Treasurer, United States of America.”	For standard delivery : U.S. Environmental Protection Agency Fines and Penalties Cincinnati Finance Center

Please notate the CAFO docket number on the check	<p>P.O. Box 979077 St. Louis, Missouri 63197-9000</p> <p>For signed receipt confirmation (FedEx, UPS, Certified Mail, etc): U.S. Environmental Protection Agency Government Lockbox 979078 3180 Rider Trail S. Earth City, Missouri 63045</p>
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79. Within 24 hours of the payment of the civil penalty respondent must send a notice of payment and state Respondent's name and the docket number of this CAFO to EPA at the following addresses:

Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
R5airenforcement@epa.gov

Maria Gonzalez
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
gonzalez.maria@epa.gov

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

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

81. If Respondent does not pay timely the civil penalty or any stipulated penalties due under paragraph 97, 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.

82. 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 attorneys 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).

83. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service (“IRS”) annually, a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a) Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b) Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c) Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Center at wise.milton@epa.gov, within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- d) In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA’s Cincinnati Finance Center with Respondent’s TIN, via email, within five (5) days of Respondent’s receipt of a TIN issued by the IRS.

Supplemental Environment Project

84. In response to the alleged violations of the Illinois SIP EPA approved under Section 110 of the CAA and in settlement of this matter, although not required by the Clean Air Act, the Illinois SIP or any other federal, state, or local law, Respondent agrees to complete a supplemental environmental project (SEP), as described below in paragraph 86-90.

85. This SEP is consistent with applicable EPA policy, specifically the “2015 Update to the 1998 U.S. Environmental Protection Agency Supplemental Environmental Projects Policy,” dated March 10, 2015. The SEP advances at least one of the objectives of the CAA and the Illinois SIP by reducing VOM and nitrogen oxides (NOx) in order to reduce ozone. The SEP is not inconsistent with any provision of the Illinois SIP or the CAA. The SEP relates to the alleged violations, and is designed to reduce the adverse impact to public health and/or the environment to which the alleged violations contribute, specifically the violations included exceeding permit VOM limits imposed on specific units at the facility in an ozone nonattainment area and the SEP will reduce VOM and NOx, which will reduce the formation of ozone. Since Gulfstream is located in a community with Environmental Justice concerns,

the SEP, which is located at Gulfstream's Facility, will benefit a surrounding neighborhood that may have been disproportionately exposed to pollution.

86. Respondent shall complete a Pollution Reduction SEP consisting of replacement of three existing diesel ground power units (GPUs) with three ITW GSE 7400 electric GPUs.
87. Respondent agrees to spend at least \$540,060 on implementing the SEP as set forth in Appendix A. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report.
88. Respondent shall complete the SEP within six months of the effective date of this CAFO.
89. To assist public understanding of the project, Respondent must publish a description of its proposed SEP and its anticipated benefits in a local newspaper of general circulation. This public statement must also contain the language set forth in paragraph 98.
90. Respondent shall remove the diesel GPUs and scrap or render them permanently inoperable and certify that it has done so.
91. Respondent certifies under penalty of law that it would have agreed to perform a comparably valued, alternative project other than a diesel emission reduction SEP, if the Agency were precluded by law from accepting a diesel emission reduction SEP.
92. Respondent certifies the truth and accuracy of each of the following:
 - a) That all cost information it provided to EPA in connection with EPA's approval of the SEP is complete and accurate, that it in good faith estimates that the cost to implement the SEP is at least \$540,060;
 - b) That it will not include administrative costs or employee oversight of the implementation of the SEP in its project costs;
 - c) That, as of the date it signs this CAFO, it is not required to perform or develop the SEP by any law, regulation, grant, order, or agreement, or as injunctive relief awarded in any other action in any forum;
 - d) That it has not received, and will not have received credit for the SEP in any other enforcement action;
 - e) That it will not receive reimbursement for any portion of the SEP from another person or entity;
 - f) That the SEP is not a project that it was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this CAFO;
 - g) That, for Federal Income Tax purposes, it will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the SEP.
93. EPA may inspect the facility at any time to monitor Respondent's compliance with this CAFO's SEP requirements.

94. Respondent must maintain a copy of the SEP Completion Report pursuant to this CAFO for at least three years from the effective date of the CAFO. Respondent must provide the documentation and data to EPA within seven days of EPA's request for the information.

95. SEP Report

- a) Respondent must submit a SEP Completion Report to EPA within 30 days of completing the SEP. This SEP Completion Report must contain the following information, with supporting documentation:
 - i) Detailed description of the SEP as implemented;
 - ii) Description of any operating problems and the actions taken to correct the problems;
 - iii) Itemized costs;
 - (1) In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the SEP completion report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this paragraph, "acceptable documentation" includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.
 - iv) Certification that Respondent has fully implemented the SEP pursuant the provisions of this CAFO;
 - v) Certification that the three diesel GPUs were rendered inoperable;
 - vi) Proof of public notice in newspaper; and
 - vii) Description of the environmental and public-health benefits resulting from the SEP (with a quantification of the benefits and pollution reductions, if feasible).
- b) Respondent agrees that failure to submit the SEP Completion Report required by subsection (a) above, shall be deemed a violation of this CAFO and Respondent shall become liable for stipulated penalties pursuant to paragraph 97 below.
- c) Respondent must submit the SEP Completion Report required by subsection (a) above via email to Karina Kuc at kuc.karina@epa.gov.

96. EPA acceptance of SEP Report

- a) Following receipt of the SEP Completion Report described in paragraph 95, above, EPA will notify Respondent, in writing, indicating:
 - i) Any deficiencies in the SEP as completed or in the SEP Completion Report; EPA will give Respondent 30 days (or more, if appropriate) to correct the deficiencies;
 - ii) That Respondent has achieved satisfactory completion of the SEP and the SEP Completion Report; or
 - iii) That Respondent has not achieved satisfactory completion of the SEP or the SEP Completion Report; EPA may seek stipulated penalties under paragraph 97.

- b) If EPA elects to exercise option (i) above, i.e., if the SEP Report is determined to be deficient but EPA has not yet made a final determination about the adequacy of SEP completion itself, Respondent may object in writing to the notification of deficiency given pursuant to this paragraph within ten (10) days of receipt of such notification. EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement on changes necessary to the SEP Report. If agreement cannot be reached on any such issue within this thirty (30) day period, and unless this period is extended by joint agreement of the parties, EPA shall provide a written statement of its decision on adequacy of the completion of the SEP to Respondent, which decision shall be final and binding upon Respondent. Respondent agrees to comply with any requirements imposed by EPA as a result of any failure to comply with the terms of this CAFO.

97. Stipulated Penalties: If Respondent violates any requirement of this CAFO relating to the SEP, upon demand by EPA, Respondent must pay stipulated penalties to the United States as follows:

- a) Late SEP completion: Except as provided in subparagraphs (b) and (c), below, if Respondent did not achieve satisfactory completion of the SEP specified in paragraph 86 -90 by the agreed-upon deadline according to the requirements of this CAFO including the schedule in paragraph 88, Respondent agrees to pay, in addition to the assessed civil penalty in paragraph 78, the following per day per violation stipulated penalty for each day the Respondent is late meeting the applicable SEP requirement, not to exceed the amount specified in paragraph 99.b):
 - i) \$250 per day for days 1 – 30
 - ii) \$300 per day for days 31 – 60
 - iii) \$500 per day for days over 60.
- b) Failure to achieve satisfactory completion of the SEP: If Respondent does not achieve satisfactory completion of the SEP, including spending the minimum amount on the SEP set forth in paragraph 87 above, Respondent shall pay a stipulated penalty to the United States in the amount of \$620,000. “Satisfactory completion” of the SEP means Respondent (i) spent no less than \$540,060 to replace three existing diesel GPUs with three electric GPUs and associated equipment and scrap or render inoperable the three, replaced diesel GPUs and certify it has done so within six months of the effective date of this CAFO and has used the electric GPUs instead of diesel GPUs. EPA, at its sole discretion, will determine whether Respondent has achieved satisfactory completion of the SEP.
- c) EPA, at its sole discretion, may waive or reduce a stipulated penalty under paragraph 97.
- d) If Respondent otherwise completed the SEP satisfactorily, but Respondent spent less than the amount set forth in Paragraph 87, Respondent shall pay a stipulated penalty to the United States which equals the difference between the proposed SEP amount set forth in Paragraph 87 and the actual cost of SEP.
- e) Respondent shall pay stipulated penalties not more than thirty (30) days after receipt of written demand by EPA for such penalties. The method of payment shall be in

accordance with the provisions of paragraph 78 above. Interest and late charges shall be paid as stated in paragraph 82.

98. Any public statement, oral or written, in print, film, or other media, that Respondent or a representative of Respondent makes in reference to the SEP under this CAFO from the date of its execution of this CAFO shall include the following language, "Gulfstream undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Gulfstream for alleged violations of the Illinois SIP approved by EPA under Section 110 of the CAA at the time of the violation."
99. If an event occurs which causes or may cause a delay in completing the SEP as required by this CAFO:
- a) Respondent must notify EPA in writing within ten days after learning of an event which caused or may cause a delay in completing the SEP. The notice must describe the anticipated length of the delay, its cause(s), Respondent's past, current, and proposed actions to prevent or minimize the delay, and a schedule to carry out those actions. Respondent must take all reasonable actions to avoid or minimize any delay. If Respondent fails to notify EPA according to this subparagraph, Respondent will not receive an extension of time to complete the SEP.
 - b) If the parties agree that unforeseeable circumstances beyond the control of Respondent caused or may cause a delay in completing the SEP, the parties will stipulate to an extension of time no longer than the period of delay.
 - c) If EPA does not agree that unforeseeable circumstances beyond the control of Respondent caused or may cause a delay in completing the SEP, EPA will notify Respondent in writing of its decision and any delay in completing the SEP will not be excused.
 - d) Respondent has the burden of proving that unforeseeable circumstances beyond its control caused or may cause a delay in completing the SEP. Increased costs for completing the SEP will not be a basis for an extension of time under subparagraph (b), above. Delay in achieving an interim step will not necessarily justify or excuse delay in achieving subsequent steps.
100. Nothing in this CAFO is intended to, nor will be construed to, constitute EPA approval of the equipment or technology installed by the Respondent in connection with the SEP under this CAFO. Respondent shall be responsible for obtaining any necessary permits associated with the SEP.

General Provisions

101. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: gonzalez.maria@epa.gov (for Complainant), and akenney@jenner.com (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

102. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.
103. 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.
104. 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 102, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.
105. Respondent certifies that to the best of its knowledge it is complying fully with its FESOP and the Illinois SIP Part 219.219.
106. 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).
107. The terms of this CAFO bind Respondent, its successors and assigns.
108. 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.
109. Each party agrees to bear its own costs and attorney's fees in this action.
110. This CAFO constitutes the entire agreement between the parties.

**Consent Agreement and Final Order
In the Matter of: Gulfstream Aerospace Services Corporation
CAA-05-2024-0050**

Gulfstream Aerospace Services Corporation, Respondent

9/4/24

Date



John J. Neely, III
Assistant Secretary,
Gulfstream Aerospace Services Corporation

**Consent Agreement and Final Order
In the Matter of: Gulfstream Aerospace Services Corporation
Docket No. CAA-05-2024-0050**

United States Environmental Protection Agency, Complainant

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: Gulfstream Aerospace Services Corporation
Docket No. CAA-05-2024-0050

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

**Appendix A:
Electric Ground Power Unit Supplemental Environmental Project**

1. Within six months of the Effective Date of the CAFO, Respondent shall spend at least \$540,060 to purchase three (3) ITW GSE 7400 electric GPUs to replace three existing diesel GPUs at the Facility.
2. Respondent will spend at least \$540,060 as follows:
 - a. Three ITW GSE 7400 electric GPUs: \$441,165
 - b. Six extended 60-foot outlet cables: \$21,510
 - c. Six 60-foot cable extensions: \$22,680
 - d. Three dual output contactors: \$3,528
 - e. Illinois 7% sales tax for the above purchases: \$34,222 (est.)
 - f. Installation of two 480V, 100A pin and sleeve receptables to support electric GPU charging: \$28,400
3. Respondent shall remove the three existing diesel GPUs from the Facility, scrap or render them permanently inoperable, and certify to EPA that it has done so.
4. Respondent will submit a SEP Completion Report to EPA within 30 days of completing the SEP.