

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103**

FILED

Jun 09, 2025

12:24 pm

**U.S. EPA REGION 3
HEARING CLERK**

IN THE MATTER OF:

Bank of America National Association,

Respondent,

35 Runway Drive
Levittown, PA 19507,

Facility.

DOCKET NO.: CAA-03-2025-0016

EXPEDITED SETTLEMENT AGREEMENT

EXPEDITED SETTLEMENT AGREEMENT

1. This Expedited Settlement Agreement (or "Agreement") is entered into by the Director, Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3 ("Complainant"), and Bank of America National Association ("Respondent"), pursuant to Section 113(a) and (d) of the Clean Air Act (the "Act" or "CAA"), 42 U.S.C. § 7413(a) and (d), as amended, and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* ("Consolidated Rules"), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. §§ 22.13(b), 22.18(b)(2), and (3)). The U.S. Environmental Protection Agency, Region 3 ("EPA") has jurisdiction over this matter pursuant to Section 113(a) and (d) of the Act, 42 U.S.C. § 7413(a) and (d), and 40 C.F.R. §§ 22.1(a)(2) and 22.4 of the Consolidated Rules. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated it to the Complainant.
2. The Consolidated Rules govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(2).
3. The EPA and the United States Department of Justice jointly determined, pursuant to 42 U.S.C. § 7413(d) and 40 C.F.R. § 19.4, that this matter, although it involves alleged violations that occurred more than one year before the initiation of this proceeding, is appropriate for an administrative penalty action.
4. At all times relevant to this Agreement, Respondent, a multinational investment bank and financial services holding company, was, and currently is, a "person" as defined under Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and the owner and operator of

Bank of America – PA Data Center located at 35 Runway Drive, Levittown, PA (the “Facility”).

5. Respondent has a State Only Synthetic Minor Operation Permit (No. 09-00142) which provides on page 30: “40 CFR 63, Subpart ZZZZ establishes national emission limitations and operating limitations for hazardous air pollutants (HAP) emitted from stationary reciprocating internal combustion engines (RICE) located at major and area sources of HAP emissions.”
6. Respondent operates five (5) 2.0 MW (approximately 2848 bhp) Diesel Engines (Source ID(s): 101 and 102) that emit or have the potential to emit a HAP (formaldehyde) and are therefore subject to the provisions of 40 CFR 63, Subpart ZZZZ.
7. Pursuant to Section 112 of the CAA, EPA promulgated 40 C.F.R. Part 63, Subpart ZZZZ (Subpart 4Z) known as the “National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines”. As required by Subpart 4Z, a new or reconstructed affected RICE (“affected source”) must conduct applicable performance tests according to 40 C.F.R. § 63.6620(a) on a triennial basis, as required by 40 C.F.R. § 63.6615.
8. On December 20, 2023, EPA received the Notification of Compliance Status/ Stack Test Report for the CO emissions testing under 40 CFR Part 63 Subpart ZZZZ/ State issued Permit # 09-00142, performed from Oct 23-26, 2023, on five non-emergency engines at the Facility.
9. The following table lists the previous performance testing date, subsequent triennial performance testing deadline, and completion date of most recent performance test. Respondent’s failure to demonstrate compliance with performance test emission limits and requirements are in violation of the CAA and its implementing regulations found at 40 C.F.R. Part 63, Subpart 4Z.

Engine #	Date previous performance test completed	Triennial Due Date	Completion date of most recent performance test
1	6/15/2020	6/15/2023	10/23/23
2	6/16/2020	6/16/2023	10/24/23
3	6/17/2020	6/17/2023	10/25/23
4	6/18/2020	6/18/2023	10/25/23
5	6/18/2020	6/18/2023	10/26/23

10. As a result of EPA's investigation and pursuant to its enforcement authority under Section 114 of CAA, 42 U.S.C § 7614, EPA obtained evidence that the Respondent failed to comply with Section 112 of the CAA, 42 U.S.C. § 7412, and as a result of its failure to conduct subsequent performance tests every 8,760 hours or 3 years, whichever comes first, in violation of the CAA and its implementing regulations found at 40 C.F.R. Part 63, Subpart ZZZZ (Subpart 4Z) for the dates shown below for each non-emergency generator:

Engine Number	Dates of Non-Compliance	Total Days in Violation
1	6/16/2023 through 10/23/2023	129
2	6/17/2023 through 10/24/2023	129
3	6/18/2023 through 10/25/2023	129
4	6/19/2023 through 10/25/2023	128
5	6/19/2023 through 10/26/2023	129

11. EPA finds that Respondent violated Section 112 of the CAA, 42 U.S.C. § 7412 and Subpart 4Z as a result of its failure to conduct performance tests on a triennial basis (40 C.F.R. § 63.6615) and failure to demonstrate compliance with emission limits as required by 40 C.F.R. § 63.6620(a).
12. On December 20, 2023, Respondent submitted a Notification of Compliance Status/ Stack Test Report. Following a review of the report, EPA finds the Respondent completed and passed the required performed testing of the five engines between October 23-26, 2023.
13. EPA and Respondent agree that settlement of this matter for a penalty in the amount of **Twenty-One Thousand Two Hundred Seventy-Three Dollars (\$21,273)**, which Respondent shall be liable to pay in accordance with the terms set forth below, is reasonable and in the public interest. In calculating this amount, Complainant considered a number of factors in CAA Section 113(e)(1), 42 U.S.C. § 7413(e), which include the size of the business, economic impact of the penalty, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, the economic benefit of noncompliance, the payment of penalties previously assessed for the same violation, the seriousness of violation and such other matters as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's Clean Air Act Stationary Source Civil Penalty Policy (dated October 25, 1991) which reflects the statutory penalty criteria and factors set forth at Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the December 29, 2020 Expedited Settlement Agreement Pilot Program for the Stationary Source Enforcement Program.

14. Respondent agrees that, within 30 days of the effective date of this Agreement, Respondent shall make a payment of **\$ 21,273** to **"United States Treasury"** with the case name, address, and docket number of this Agreement (CAA-03-2025-0016), for the amount specified above. Respondent shall pay the assessed penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.
15. Within twenty-four (24) hours of making payment, Respondent shall also send proof of such payment (*i.e.*, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire transfer or of automated clearinghouse transfer) **by email** to:

Regional Hearing Clerk (3RC00)
U.S. EPA, Region 3
R3_Hearing_Clerk@epa.gov

and

Alex Everhart (3ED21)
U.S. EPA, Region 3
Everhart.Alex@epa.gov

16. Payment of the civil penalty, in accordance with the above terms and provisions, is due and payable immediately upon Respondent's receipt of a true and correct copy of the fully executed and filed Agreement. Receipt by Respondent or Respondent's legal representative of such copy of the fully executed Agreement, with a date stamp indicating the date on which the Agreement was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed to EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
17. Late payment of the agreed upon penalty may subject Respondent to interest, administrative costs and late payment penalties in accordance with 40 C.F.R. § 13.11.
18. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Agreement and is in compliance with Section 112 of the CAA 40 C.F.R. § 63.6615 and 40 C.F.R. § 63.6615. Respondent further certifies that it has submitted all required reports, and/or performed all required testing, to the extent possible.

19. In signing this Agreement, the Respondent: a) admits the jurisdictional allegations set forth in this Agreement; b) neither admits nor denies the specific factual allegations set forth in this Agreement, except as provided in the jurisdictional admission above; c) agrees not to contest EPA's jurisdiction with respect to the execution of this Agreement, the issuance of the attached Final Order, or the enforcement the Agreement; d) expressly waives its right to a hearing on any issue of law or fact set forth in this Agreement and any right to appeal the accompanying Final Order; e) consents to the issuance of the Agreement and agrees to comply with its terms; f) agrees to bear its own costs and attorney's fees; and g) agrees not to deduct for federal tax purposes all or any portion of the civil monetary penalty specified in this Agreement.
20. By its signature below, Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Agreement are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.
21. This Agreement and attached Final Order constitute a settlement by EPA of its claims for civil penalties for the violations in this Agreement.
22. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Sections 22.18(c) and 22.31(a) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under the CAA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Agreement, following its filing with the Regional Hearing Clerk.
23. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.
24. By signing this Agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final

order accompanying the Agreement.

25. The undersigned representative certifies that she/he is fully authorized to execute this Agreement and to legally bind Respondent.
26. As permitted under 40 CFR § 22.6, the Regional Hearing Clerk will serve copies of this Agreement and Final Order by e-mail to the parties at the following valid e-mail addresses: Everhart.Alex@epa.gov (for Complainant), and Lori.Stocker@cbre.com (for Respondent).
27. By signing this Agreement, Respondent acknowledges that this Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.

For Respondent: Bank of America National Association

Name: Lori Stocker
Title: Senior HSE Manager

Signature: _____

Date: March 12, 2025

For Complainant: U.S. Environmental Protection Agency, Region 3

After reviewing the Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region 3, agree to the terms and conditions of this Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

**KAREN
MELVIN**

Digitally signed by
KAREN MELVIN
Date: 2025.06.03
14:44:51 -04'00'

[Digital Signature and Date]

Karen Melvin, Director
Enforcement and Compliance Assurance Division
U.S. EPA - Region 3

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103

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12:24 pm

U.S. EPA REGION 3
HEARING CLERK

IN THE MATTER OF:

DOCKET NO.: CAA-03-2025-0016

Bank of America National Association,

Respondent

35 Runway Drive
Levittown, PA 19507
Site

EXPEDITED SETTLEMENT AGREEMENT AND
FINAL ORDER

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency - Region 3, and Respondent, Bank of America National Association, have executed a document entitled "Expedited Settlement Agreement," which I hereby ratify as a Consent Agreement in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* ("Consolidated Rules of Practice"), 40 C.F.R. Part 22, (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Expedited Settlement Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

Based upon the representations of the parties in the attached Expedited Settlement Agreement, the penalty agreed to therein took into account the factors provided in CAA Section 113(e), EPA's Clean Air Act Stationary Source Civil Penalty Policy (dated October 25, 1991) which reflects the statutory penalty criteria and factors set forth at Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the December 29, 2020 Expedited Settlement Agreement Pilot Program for the Stationary Source Enforcement Program.

NOW, THEREFORE, PURSUANT TO Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and in accordance with Section 18(b)(3) of the Consolidated Rules of Practice, 40 C.F.R. Part 22, and having relied upon the representations of the parties set forth in this Agreement, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **\$21,273 (TWENTY-ONE THOUSAND TWO HUNDRED SEVENTY-THREE DOLLARS)**, in accordance with the payment provisions set forth in the Expedited Settlement Agreement, and comply with the terms and conditions of the Expedited Settlement Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Expedited Settlement Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the Clean Air Act, 42 U.S.C. §§ 7401 *et seq.*, and the regulations promulgated thereunder.

This Expedited Settlement Agreement and Final Order will be effective upon filing.

JOSEPH
LISA

Digitally signed by
JOSEPH LISA
Date: 2025.06.09
12:08:08 -04'00'

[*Digital Signature and Date*]

Joseph J. Lisa
Regional Judicial Officer
U.S. EPA - Region 3

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103**

In the Matter of:	:	
	:	
Bank of America National Association	:	U.S. EPA Docket No. CAA-03-2025-0016
35 Runway Drive	:	
Levittown, PA 19507	:	
	:	Proceeding under Section 113(a) and (d) of
	:	the Clean Air Act
Respondent.	:	
	:	
	:	

CERTIFICATE OF SERVICE

I certify that the foregoing *Expedited Settlement Agreement and Final Order* was filed with the EPA Region 3 Regional Hearing Clerk on the date that has been electronically stamped on the *Expedited Settlement Agreement and Final Order*. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Lori Stocker, Senior HSE Manager
Bank of America National Association
Lori.Stocker@cbre.com
525 N. Tryon Street,
NC1-023-05-55
Charlotte, NC 28255

Alex Everhart
Life Scientist
U.S. EPA, Region 3
Everhart.Alex@epa.gov

BEVIN
ESPOSITO

Digitally signed by BEVIN ESPOSITO
Date: 2025.06.09 12:25:50 -0400

[Digital Signature and Date]
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 3