

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103

FILED

Jan 30, 2025

2:16 pm

U.S. EPA REGION 3
HEARING CLERK

In the Matter of: :
: :
Mountaineer Diesel Service, Inc. : U.S. EPA Docket No. CAA-03-2025-0055
5810 MacCorkle Avenue SW : :
St. Albans, WV 25177 : Proceeding under Section 205(c)(1) of the Clean
: Air Act, 42 U.S.C. § 7524(c)(1)
Respondent. :

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3 ("Complainant") and Mountaineer Diesel Service, Inc. ("Respondent") (collectively the "Parties"), pursuant to Section 205(c)(1) of the Clean Air Act ("CAA"), 42 U.S.C. § 7524(c)(1), and 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. Section 205(c)(1) of the CAA, 42 U.S.C. § 7524(c)(1), authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the "Consent Agreement and Final Order") resolve Complainant's civil penalty claims against Respondent under the CAA (or the "Act") for the violations alleged herein.
2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency ("EPA") has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.

4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(2).

GENERAL PROVISIONS

5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
7. Respondent agrees not to contest the jurisdiction of the EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in **this Consent Agreement and Final Order** and waives its right to appeal the accompanying Final Order.
9. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
10. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.
11. By signing this Consent Agreement, Respondent waives any rights or defenses that it 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 Consent Agreement.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
13. This proceeding arises under Part A of Title II of the CAA, 42 U.S.C. §§ 7521-7554, and the regulations promulgated thereunder. These laws aim to reduce emissions from mobile sources of air pollution, including non-methane hydrocarbons ("NMHC"), particulate matter ("PM") oxides of nitrogen ("NOx"), and carbon monoxide ("CO").

14. Section 203(a)(I) of the CAA, 42 U.S.C. § 7522(a)(I), prohibits a vehicle manufacturer from selling a new motor vehicle in the United States unless the vehicle is covered by a certificate of conformity (“COC”).
15. The term “motor vehicle” is defined in Section 216(2) of the CAA, 42 U.S.C. § 7550(2), as “any self-propelled vehicle designed for transporting persons or property on a street or highway.”
16. The EPA issues COCs to vehicle manufacturers (also known as “original equipment manufacturers” or “OEMs”) under Section 206(a) of the CAA, 42 U.S.C. § 7525(a), to certify that a particular group of motor vehicles conforms to applicable EPA requirements governing motor vehicle emissions.
17. To obtain a COC for a given motor vehicle test group or engine family, the OEM must demonstrate that each motor vehicle or motor vehicle engine will not exceed established emission standards for NMHC, PM, NO_x, CO, and other pollutants. 40 C.F.R. §§ 86.004-21, 86.1811-04, 86.1844.01.
18. The COC application must describe, among other things, the emissions-related elements of design of the motor vehicle or motor vehicle engine. This includes all auxiliary emission control devices, which are defined as “any element of design which senses temperature, vehicle speed, engine RPM, transmission gear, manifold vacuum, or any other parameter for the purposes of activating, modulating, delaying, or deactivating the operation of any part of the emission control system” of the motor vehicle. 40 C.F.R. §§ 86.094-21, 86.1844-01.
19. An “element of design” means “any control system (*i.e.*, computer software, electronic control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine.” 40 C.F.R. § 86.094-2.
20. Exhaust gas recirculation (“EGR”) is an emissions-related element of design that reduces NO_x emissions, which are formed at the high temperatures caused during fuel combustion. By recirculating exhaust gas through the engine, EGR reduces engine temperature and NO_x emissions.
21. Diesel oxidation catalysts (“DOCs”) are emissions-related elements of design that reduce CO and NMHC emissions by promoting the conversion of those pollutants into less harmful gases in diesel-fueled motor vehicles.

22. Diesel particulate filters (“DPFs”) are emissions-related elements of design that collect PM pollution contained in engine exhaust gas using a catalytic filter.
23. Selective catalytic reduction (“SCR”) is an emissions-related element of design that reduces NO_x emissions by chemically converting exhaust gas that contains NO_x into nitrogen and water through the injection of diesel exhaust fluid.
24. Engine control module (“ECM”) means an-electronic hardware device, together with the software and calibrations installed on the-device, that is capable of controlling, among other things, the operation of the emission control system in a motor vehicle.
25. On-board diagnostic systems (“OBDS”) are elements of design that include systems of components and sensors designed to detect, record, and report malfunctions of monitored emissions-related systems or components. 40 C.F.R. § 86.1806-05(b).
26. Under Section 202(m) of the CAA, 42 U.S.C. §7521(m), the EPA promulgated regulations requiring OBD systems to be installed on Light-Duty Vehicles and Light-Duty Trucks beginning with the 1994 model year and Light Heavy-Duty Trucks (up to 14,000 lbs) beginning with the 2007 model year.
27. Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A), prohibits any person from removing or rendering inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with Title II of the CAA prior to its sale and delivery to the ultimate purchaser, or for any person knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser.
28. Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), prohibits any person from manufacturing, selling, offering to sell, or installing any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with Title II of the CAA, and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use.
29. Persons violating Sections 203(a)(3)(A) or (B) of the CAA, 42 U.S.C. § 7522(a)(3)(A) or (B), are subject to a civil penalty of up to \$5,761 for each violation that occurred on or after November 2, 2015, where penalties are assessed on or after December 27, 2023. Section 205(a) of the CAA, 42 U.S.C. § 7524(a); 40 C.F.R. § 19.4; Civil Monetary Penalty Inflation Adjustment Rule, 88 Fed. Reg. 89,309 (December 27, 2023).

30. Respondent is a West Virginia corporation with a principal place of business located at 5810 MacCorkle Avenue SW in St. Albans, West Virginia.
31. Respondent is a “person” as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and within the meaning Sections 203(a)(3)(A) and (B) of the CAA, 42 U.S.C. §§ 7522(a)(3)(A) and (B).
32. On January 21 2022, the EPA issued a request for information letter pursuant to Section 208(a) of the CAA, 42 U.S.C. § 7542(a), requiring Respondent to provide information to determine whether it had acted and was acting in compliance with Section 203(a) of the CAA, 42 U.S.C. § 7522(a)(“RFI letter”).
33. On April 11, 2022 and May 2, 2022, Respondent provided responses to the EPA’s January 21, 2022 RFI letter in the form of a narrative, spreadsheet, invoices and other requested documentation (collectively, “RFI Response”).
34. On June 24, 2024, the EPA issued a Notice to Show Cause letter informing Respondent that the EPA suspected that it committed multiple violations of Sections 203(a)(3)(A) and (B) of the CAA, 42 U.S.C. § 7522(a)(3)(A) and (B), from at least January 2020 through January 2022.

Count I

TAMPERING WITH MOTOR VEHICLE EMISSION CONTROLS

35. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
36. In its RFI Response, Respondent provided information showing that from January 2020 through January 2022 it knowingly removed or rendered inoperative emissions-related elements of design on at least 160 unique motor vehicles by altering the software programming of the vehicle’s electronic control module (i.e., “ECM flashing”) or by installing hardware that impact the vehicle’s OBD, EGR, DPF, SCR, or DOC systems installed by vehicle OEMs in compliance with Title II of the CAA.
37. Respondent’s conduct described in Paragraph 36 constitutes “tampering” and is a violation of Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A).
38. Pursuant to Section 205(a) of the CAA, 42 U.S.C. § 7524(a), each act of tampering shall constitute a separate violation of Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A), with respect to each motor vehicle or motor vehicle engine.

39. During the time period January 2020 through January 2022, Respondent committed 160 violations of Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A), and is subject to the assessment of civil penalties under Section 205(a) of the CAA, 42 U.S.C. § 7524(a).

Count II
SALE OF DEFEAT DEVICES

40. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
41. In its RFI Response, Respondent provided information showing that from January 2020 through January 2022 it sold at least 535 parts or components that have a principal effect of bypassing, defeating, or rendering inoperative motor vehicle EGR, DPF, SCR, or DOC systems installed by vehicle OEMs in compliance with Title II of the CAA; and that it knew or should have known such parts were being offered for sale or installed for such use.
42. Respondent's conduct described in Paragraph 41 constitutes sales of "defeat devices" and violates Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B).
43. Pursuant to Section 205(a) of the CAA, 42 U.S.C. § 7524(a), each sale of a defeat device shall constitute a separate violation of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), with respect to each part or component.
44. During the time period January 2020 through January 2022, Respondent committed 535 violations of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), and is subject to the assessment of civil penalties under Section 205(a) of the CAA, 42 U.S.C. § 7524(a).

CIVIL PENALTY

45. In settlement of the EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **THIRTY-FIVE THOUSAND dollars (\$35,000)**, which Respondent shall be liable to pay in accordance with the terms set forth below.
46. The civil penalty is based upon the EPA's consideration of a number of factors, including the penalty criteria set forth in Section 205(c)(2) of the CAA, 42 U.S.C. § 7524(c)(2), i.e., the gravity of the violation, the economic benefit or savings (if any) resulting from the violation, the size of the violator's business, the violator's history of compliance, any action taken to remedy the violation, the effect of the penalty on the violator's ability to continue in business, 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 the EPA's *Clean Air Act Title II Vehicle & Engine Civil Penalty Policy (dated January 2021)*

which reflects the statutory penalty criteria set forth at Section 205(c)(2) of the CAA, 42 U.S.C. § 7524(c)(2), the appropriate *Adjustment of Civil Monetary Penalties for Inflation* at 40 C.F.R. Part 19, and the applicable EPA memoranda addressing the EPA's civil penalty policies to account for inflation.

47. The civil penalty is also based upon an analysis of Respondent's ability to pay a civil penalty. This analysis was based upon information submitted to the EPA by Respondent including income tax returns from 2019-2023, current financial and income statements/balance sheets and an accompanying narrative.
48. Respondent agrees to pay a civil penalty in the amount of **\$35,000** ("Assessed Penalty") within thirty (30) days of the Effective Date of this Consent Agreement and Final Order.
49. 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>.
50. When making a payment, Respondent shall:
 - a. Identify every payment with Respondent's name and the docket number of this Consent Agreement, Docket No.: CAA-03-2025-0055.
 - b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve Proof of Payment simultaneously **by email** to the following person(s):

Jennifer M. Abramson
Senior Assistant Regional Counsel
Abramson.Jennifer@epa.gov,

U.S. Environmental Protection Agency
Cincinnati Finance Center
CINWD_AcctsReceivable@epa.gov,

and

U.S. EPA Region 3 Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov.

"Proof of Payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to the EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

51. Interest, Charges, and Penalties on Late Payments. Pursuant to 42 U.S.C. § 7524(c)(6), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty per this Consent Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and the EPA is authorized to recover the following amounts.
- a. Interest. Interest begins to accrue from the Effective Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full. Per 42 U.S.C. § 7524(c)(6), interest will be assessed pursuant to 26 U.S.C. § 6621(a)(2), that is the IRS standard underpayment rate, equal to the Federal short-term rate plus 3 percentage points.
 - b. Handling Charges. The United States' enforcement expenses including, but not limited to, attorneys' fees and costs of collection proceedings.
 - c. Late Payment Penalty. A ten percent (10%) quarterly non-payment penalty.
52. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Consent Agreement, the EPA may take additional actions. Such actions the EPA may take include, but are not limited to, the following.
- a. Refer the debt to a credit reporting agency or a collection agency, per to 40 C.F.R. §§ 13.13 and 13.14.
 - b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
 - c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, per 40 C.F.R. § 13.17.
 - d. Request that the Attorney General bring a civil action in the appropriate district court to recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, per 42 U.S.C. § 7524(c)(6). In any

such action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

53. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.
54. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Consent Agreement shall not be deductible for purposes of federal taxes.
55. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed the EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
56. The Parties consent to service of the Final Order by e-mail at the following valid email addresses: Abramson.Jennifer@epa.gov (for Complainant), and GBuchman@babstcalland.com and JSchaeffer@babstcalland.com (for Respondent).

GENERAL SETTLEMENT CONDITIONS

57. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
58. Respondent certifies that any information or representation it has supplied or made to the 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. The EPA shall have the right to institute further actions to recover appropriate relief if the EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about Respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that the 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.

59. Respondent certifies to the 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 Consent Agreement.

OTHER APPLICABLE LAWS

60. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the CAA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

61. This Consent Agreement and Final Order resolves only the EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. The EPA reserves the right to commence action against any person, including Respondent, in response to any condition which the EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). The EPA reserves any rights and remedies available to it under the CAA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

EXECUTION /PARTIES BOUND

62. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By providing the signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that the person signing is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

63. The effective date of this Consent Agreement and Final Order (“Effective Date”) is the date on which the Final Order, signed by the Regional Administrator of the EPA, Region 3, or the Regional Administrator’s designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

64. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent: Mountaineer Diesel Service, Inc. 

Date: 1/17/25

By: 

Dale Burns, President
Mountaineer Diesel Service, Inc.

For the Complainant:

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

By: **Melvin,
Karen**  Digitally signed by Melvin,
Karen
Date: 2025.01.30
13:31:59 -05'00'

[Digital Signature and Date]
Karen Melvin, Director
Enforcement & Compliance Assurance Division
U.S. EPA – Region 3
Complainant

Attorney for Complainant:

By: **JENNIFER
ABRAMSON**  Digitally signed by
JENNIFER ABRAMSON
Date: 2025.01.17
12:32:09 -05'00'

[Digital Signature and Date]
Jennifer M. Abramson
Senior Assistant Regional Counsel
U.S. EPA – Region 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103



In the Matter of: :
 :
Mountaineer Diesel Service, Inc. : U.S. EPA Docket No. CAA-03-2025-0055
5810 MacCorkle Avenue SW :
St. Albans, WV 25177 : Proceeding under Section 205(c)(1) of the Clean
 : Air Act, 42 U.S.C. § 7524(c)(1)
Respondent. :

FINAL ORDER

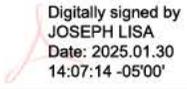
Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3, and Respondent, Mountaineer Diesel Service, Inc. have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated 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 Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, the EPA's *Clean Air Act Title II Vehicle & Engine Civil Penalty Policy (dated January 2021)*, and the statutory factors set forth in Section 205(c)(2) of the CAA, 42 U.S.C. § 7524(c)(2).

NOW, THEREFORE, PURSUANT TO Section 205(c)(1) of the Clean Air Act ("CAA"), 42 U.S.C. § 7524(c)(1), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **THIRTY-FIVE THOUSAND dollars (\$35,000)**, in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent 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 Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the Clean Air Act and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

By: **JOSEPH
LISA**  Digitally signed by
JOSEPH LISA
Date: 2025.01.30
14:07:14 -05'00'

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

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103

In the Matter of:	:	
	:	
Mountaineer Diesel Service, Inc.	:	U.S. EPA Docket No. CAA-03-2025-0055
5810 MacCorkle Avenue SW	:	
St. Albans, WV 25177	:	Proceeding under Section 205(c)(1) of the Clean
	:	Air Act, 42 U.S.C. § 7524(c)(1)
Respondent.	:	

CERTIFICATE OF SERVICE

I certify that the foregoing *Consent Agreement and Final Order* was filed with the EPA Region 3 Regional Hearing Clerk on the date that has been electronically stamped on the *Consent 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:

Gina Falaschi Buchman
GBuchman@babstcalland.com
505 9th Street NW, Suite 602
Washington, DC 20004

Joseph V. Schaeffer
JSchaeffer@babstcalland.com
Two Gateway Center
603 Stanwix St # 9
Pittsburgh, PA 15222

Jennifer M. Abramson
Senior Assistant Regional Counsel
U.S. EPA, Region 3
Abramson.Jennifer@epa.gov

Parmatma Adhikari
Environmental Engineer
U.S. EPA, Region 3
Adhikari.Parmatma@epa.gov

BEVIN
ESPOSITO

Digitally signed by BEVIN ESPOSITO

Date: 2025.01.30 14:18:14 -05'00'

[Digital Signature and Date]

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 3