



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

**VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
SUPERIOR PAVING CORPORATION
REGISTRATION NO. 40647**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the Virginia Department of Environmental Quality and Superior Paving Corporation for the purpose of resolving certain violations of the Virginia Air Pollution Control Law, and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the terms in this Consent Order have the meaning assigned to them in Va. Code §10.1-1300 *et seq.* and the Regulations for the Control and Abatement of Air Pollution (Regulations) at 9 VAC 5-10 *et seq.*

SECTION C: Findings of Fact and Conclusions of Law

1. Superior Paving Corporation ("Superior") owns and operates the Superior Paving Corporation, Spotsylvania Plant ("Facility") located at 9010 Luck Stone Lane, Fredericksburg, Virginia. Superior is a "person" with the meaning of Va. Code § 10.1-1300.
2. On September 15, 2023, DEQ issued a Minor New Source Review ("mSNR") air permit ("Permit"), to Superior for the Facility, air registration 40647, to construct and operate a hot mix asphalt plant. The Facility is classified as a Synthetic Minor ("SM") source. The Permit superseded a 2002 permit, which in turn superseded 1989 and 1977 permits.
3. In March 2024, DEQ staff conducted a file review and observed that the Superior had failed to conduct stack emissions testing ("Stack Test") and the Visible Emissions Evaluation ("VEE") within 180 days of the date the Permit was issued. The 180-day deadline elapsed on March 13, 2024.

4. On March 27, 2024, DEQ issued air Notice of Violation (“March NOV”) #ANRO002825-001 to Superior for the above-mentioned violations in C(3).
5. Condition 13 of the Permit requires that, “initial performance tests shall be conducted for Particulate Matter from the process using reference method 5 to determine compliance with the emission limits contained in Permit Condition 12. The tests shall be performed, reported, and demonstrate compliance within 180 days after the date of this permit. Tests shall be conducted, reported, and data reduced as set forth in 9 VAC 5-50-30, and the test methods and procedures contained in each applicable subpart listed in 9 VAC 5-50-410.
6. Condition 14 of the Permit requires that, “concurrently with the initial performance tests, VEE in accordance with 40 CFR Part 60, Appendix A, Method 9, shall also be conducted by the permittee on the drum mixer. Each test shall consist of 30 sets of 24 consecutive observations (at 15 second intervals) to yield a six-minute average.
7. On March 27, 2024, Superior responded to the NOV and stated that the Stack Test and VEE were scheduled for April 23, 2024. On April 24, 2024, Superior notified DEQ that the Stack Test and VEE were conducted on April 23, 2024, and that the results would be sent to DEQ once complied.
8. On May 24, 2024, Superior provided DEQ the VEE results, which were within the permitted limits. However, the Stack Test failed for particulate Matter (“PM”) as follows:

Drum-Dryer Operating Rate	Test Result	Legal Requirement	% Over Permit Limit
Overall Average PM	0.0630 gr/dscf	0.04 gr/dscf	58%

9. On June 3, 2024, DEQ issued air Notice of Violation (“NOV”) #ANRO002825-002 to Superior for the above-mentioned violations in C(8). Superior responded to this NOV and stated that another Stack test would be completed on June 6, 2024, and that operations were suspended pending a passing Stack Test.
10. Permit Condition 10 limits PM emissions to 0.04 gr/dscf.
11. On July 3, 2024, Superior submitted the Stack Test results from the June 6, 2024, test. DEQ reviewed the results and determined that Superior passed the Stack test with an average PM of 0.0116 gr/dscf. Superior informed DEQ that with the passing Stack Test the Facility would resume operations.
12. Based on the results of the March file review, and the April 23, 2024 stack test results, the Department concludes that Superior violated Permit Conditions 13 and 14, and 10, as described in paragraphs C(3) and (8), above.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Department orders Superior, and Superior agrees to pay a civil charge of \$10,244 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Superior shall include its Federal Employer Identification Number (FEIN) 54-1012294 with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Superior shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Department may modify, rewrite, or amend this Order with the consent of Superior for good cause shown by Superior, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in the Superior NOV Nos. ANRO002825-001 and ANRO002825-002 dated March 27, 2024, and June 3, 2024. This Order shall not preclude the Department or the Director from taking any action authorized by law, including but not limited to:
(1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or
(3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Superior admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Superior consents to venue in the Circuit Court of the Richmond for any civil action taken to enforce the terms of this Order.
5. Superior declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be

construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Department to modify, rewrite, amend, or enforce this Order.

6. Failure by Superior to comply with any of the terms of this Order shall constitute a violation of an order of the Department. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Department or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Superior shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Superior shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Superior shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. The reasons for the delay or noncompliance;
 - b. The projected duration of any such delay or noncompliance;
 - c. The measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. The timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Superior. Nevertheless, Superior agrees to be bound by any compliance date, which precedes the effective date of this Order.
11. This Order shall continue in effect until:

- a. The Director or his designee terminates the Order after Superior has completed all of the requirements of the Order;
- b. Superior petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- c. The Director or Department terminates the Order in his or its sole discretion upon 30 days' written notice to Superior

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Superior from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Superior and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Superior certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Superior to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Superior.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Superior voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 20__.

Craig Nicol, Regional Director
Department of Environmental Quality

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Superior Paving Corporation voluntarily agrees to the issuance of this Order.

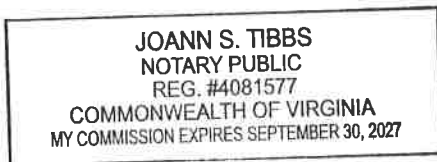
Date: 12-13-2024 By: David J. [Signature] Executive Vice Pres.
(Person) (Title)
Superior Paving Corporation

Commonwealth of Virginia
City/County of Prince William

The foregoing document was signed and acknowledged before me this 13th day of

December, 2024, by Joann S. Tibbs who is
Accounting Spec. of Superior Paving Corporation on behalf of Superior Paving Corporation.

[Signature]
Notary Public
4081577
Registration No.



My commission expires: 9/30/27

Notary seal: