

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103**

In the Matter of:	:	
	:	
	:	U.S. EPA Docket No. CAA-03-2020-0024
Superior Concrete Materials, Inc.	:	
1220 12th Street, SE, Suite 150	:	
Washington, D.C. 20003	:	Proceeding under Section 113(a) and (d)
	:	of the Clean Air Act
	:	
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 III (“Complainant”) and Superior Concrete Materials, Inc. (“Respondent”) (collectively the “Parties”), pursuant to Section 113(a)(1)(B), (a)(3)(A), (d)(1)(A) and (d)(1)(B) of the Clean Air Act (“CAA”), 42 United States Code (“U.S.C.”) § 7413 (a)(1)(B), (a)(3)(A), (d)(1)(A) and (d)(1)(B), 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 Code of Federal Regulations (“C.F.R.”) Part 22. Section 113(a)(1)(B) and (d)(1)(A) of the CAA, 42 U.S.C. § 7413(a)(1)(B) and (d)(1)(A), and Section 113(a)(3)(A) and (d)(1)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(A) and (d)(1)(B), authorize 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 it 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 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.

3. Section 113(a)(1)(B) and (d)(1)(A) of the CAA, 42 U.S.C. § 7413(a)(1)(B) and (d)(1)(A), authorizes the Administrator of U.S. EPA to, without regard to the period of violation (subject to 28 U.S.C. § 2462), issue an administrative order assessing a civil administrative penalty whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated, or is in violation of, any requirement or prohibition of an applicable implementation plan..., the Administrator notifies the person and the State in which the plan

applies of such finding, and 30 days has expired following the date on which such notice of violation was issued.

4. Section 113(a)(3)(A) and (d)(1)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(A) and (d)(1)(B), authorizes the Administrator of U.S. EPA to issue an administrative order assessing a civil administrative penalty whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated, or is in violation of, any requirement, rule...or permit...issued...or approved under Subchapter...I...of the CAA. Subchapter I of the CAA includes Section 101 to Section 193 of the CAA, 42 U.S.C. §§ 7401-7515.

JURISDICTION

5. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1 above.

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

GENERAL PROVISIONS

7. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.

8. Except as provided in Paragraph 7 above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.

9. Respondent agrees not to contest the jurisdiction of U.S. 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.

10. 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 attached Final Order.

11. Respondent consents to the assessment of the civil penalty stated herein and to any conditions specified herein.

12. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

13. Pursuant to Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), the Administrator and the Attorney General, each through their respective delegates, have jointly determined that this administrative penalty action is appropriate.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

14. 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 below.

15. This Consent Agreement and Final Order addresses violations set forth herein, which occurred at Respondent's facility located at 1601 South Capitol Street, SW, Washington, D.C. 20003 ("D.C. facility"). The District of Columbia is within the jurisdiction of U.S. EPA, Region III.

16. Respondent, Superior Concrete Materials, Inc., is a D.C. corporation incorporated on March 25, 1999. For at least the period from September 6, 2014 through June 20, 2018, Respondent operated a ready-mix concrete batch plant at the D.C. facility. In addition, for at least the period from 2007 through October 31, 2017, Respondent operated an existing stationary compression ignition reciprocating internal combustion engine ("RICE") at the D.C. facility [Cummins engine (Model LTA 10 G1; Serial No. 34912966) with Onan generator (Model 230DFAB; Serial No. E980744860; Spec. 95142G); Frequency: 60 HZ; Rated KW: 230). When operated, this RICE emitted at least one hazardous air pollutant under the CAA: formaldehyde.

17. Respondent is a "person" as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and as that term is used in Section 113(a) and (d)(1) of the CAA, 42 U.S.C. § 7413(a) and (d)(1).

18. Pursuant to Section 110 of the CAA, 42 U.S.C. § 7410, the Administrator of U.S. EPA, or his or her delegate, has approved and/or promulgated the applicable District of Columbia State Implementation Plan ("District of Columbia SIP"). For at least the period from September 6, 2014 through June 20, 2018, Respondent's D.C. facility was subject to the following requirements of the applicable District of Columbia SIP: Sections 200.1 and 200.2 of Title 20 of the District of Columbia Municipal Regulations ("20 DCMR"), as approved by U.S. EPA.

19. For at least the period from September 6, 2014 through June 20, 2018, Sections 200.1 and 200.2 of Title 20 of the District of Columbia Municipal Regulations [20 DCMR 200.1 and 200.2], as approved by U.S. EPA, required Respondent to obtain an operating permit from the District of Columbia for its ready-mix concrete batch plant at the D.C. facility.

20. During the period prior to June 20, 2018, it became necessary for Respondent to relocate its ready-mix concrete batch plant from the premises at 1601 South Capitol Street, SW, Washington, D.C. 20003, to other nearby premises at 1721 South Capitol Street, SW, Washington, D.C. 20003. Respondent ceased operations at 1601 South Capitol Street, SW, Washington, D.C. 20003 and commenced operations at 1721 South Capitol Street, SW, Washington, D.C. 20003 on or about June 20, 2018.

21. On January 26, 2018, the District of Columbia issued an operating permit to Respondent, under Sections 200.1 and 200.2 of Title 20 of the District of Columbia Municipal Regulations (20 DCMR 200.1 and 200.2), for Respondent's ready-mix concrete batch plant at 1721 South Capitol Street, SW, Washington, D.C. 20003. The first sentence of that permit stated that:

"Pursuant to sections 200.1 and 200.2 of Title 20 of the District of Columbia Municipal Regulations (20 DCMR), a permit from the Department of Energy and Environment ('the Department') shall be obtained before any person can construct or operate a stationary source in the District of Columbia."

In addition, on Page 1 of its Technical Memorandum dated November 8, 2017 regarding the application for this operating permit, the District of Columbia stated:

"20 DCMR Chapter 2, Section 200: General Permit Requirements
The portable concrete ready mix equipment is a potential air pollution source, especially for particulate matter. Thus a Chapter 2 permit is required."

22. On May 3, 2017, U.S. EPA conducted a CAA compliance inspection at Respondent's D.C. facility. During this inspection, U.S. EPA asked to see any current or past operating permits that Respondent had received from the District of Columbia for its ready-mix concrete batch plant at the D.C. facility. No current or past operating permits were provided.

23. On May 17, 2017, in an email to Anthony Dimaio of Respondent, James Adamiec of U.S. EPA requested "a copy of your current or previous operating permit". Mr. Dimaio never responded to this request from Mr. Adamiec.

24. By letter dated October 26, 2017, under Section 114 of the CAA, 42 U.S.C. § 7414, U.S. EPA required Respondent to provide, among other things:

"a copy of any current or past air permits issued to the Facility, including, specifically, the minor air permit issued to the facility by the DC Department of Energy and Environment ('DC DOEE')".

In its response dated December 27, 2017, Respondent provided no current or past air permits issued to the D.C. facility.

25. U.S. EPA, Region III also asked the District of Columbia for any operating permit(s) issued to Respondent for its ready-mix concrete batch plant at the D.C. facility covering the period from at least September 6, 2014 through June 20, 2018. The District of Columbia provided no operating permit(s) issued to Respondent for its ready-mix concrete batch plant at the D.C. facility covering any portion of that period of time.

26. By letter dated January 30, 2019, under Section 113(a)(1) and (4) of the CAA, 42 U.S.C. § 7413(a)(1) and (4), U.S. EPA issued a notice of violation to Respondent and the District of Columbia.

27. On December 19, 2002, U.S. EPA proposed a rule under Section 112 of the CAA establishing national emission standards for hazardous air pollutants for stationary reciprocating internal combustion engines [67 Federal Register (“Fed. Reg.”) 77830]. On June 15, 2004, U.S. EPA promulgated a rule under Section 112 of the CAA establishing national emission standards for hazardous air pollutants for stationary reciprocating internal combustion engines (69 Fed. Reg. 33474). This rule was effective on August 16, 2004. This rule was and is codified at 40 C.F.R. Part 63, Subpart ZZZZ, *National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines* (40 C.F.R. §§ 63.6580-6675). Subpart ZZZZ, as promulgated in 2004, applied only to certain stationary reciprocating internal combustion engines at major sources. On March 5, 2009, U.S. EPA proposed amendments to Subpart ZZZZ under Section 112 of the CAA establishing national emission standards for hazardous air pollutants for existing stationary reciprocating internal combustion engines at area sources (74 Fed. Reg. 9698). On March 3, 2010, U.S. EPA promulgated amendments to Subpart ZZZZ under Section 112 of the CAA establishing national emission standards for hazardous air pollutants for existing stationary compression ignition reciprocating internal combustion engines at area sources (75 Fed. Reg. 9648). These amendments were effective on May 3, 2010. The compliance deadline for existing stationary compression ignition reciprocating internal combustion engines at area sources was May 3, 2013.

28. For the period from May 3, 2013 through June 20, 2018, the D.C. facility was an area source of hazardous air pollutant (“HAP”) emissions under 40 C.F.R. §§ 63.2 and 63.6585(c), given that the facility was not at any time during this period a major source under 40 C.F.R. §§ 63.2 and 63.6585(b) [the D.C. facility emitted at least one HAP (formaldehyde) but did not have the potential to emit 10 tons or more per year of any single HAP or 25 tons or more per year of any combination of HAPs].

29. For the period from May 3, 2013 through June 20, 2018, the existing stationary compression ignition (“CI”) reciprocating internal combustion engine at the D.C. facility [Cummins engine (Model LTA 10 G1; Serial No. 34912966) with Onan generator (Model 230DFAB; Serial No. E980744860; Spec. 95142G); Frequency: 60 HZ; Rated KW: 230]:

- was located at an area source of HAP emissions under 40 C.F.R. § 63.2, given that the facility was not at any time during this period a major source under 40 C.F.R. § 63.2 [the D.C. facility emitted at least one HAP (formaldehyde) but did not have the potential to emit 10 tons or more per year of any single HAP or 25 tons or more per year of any combination of HAPs]; and

- was an existing affected source under 40 C.F.R. § 63.6590(a)(1)(iii) of Subpart ZZZZ, given that construction of the engine was commenced before June 12, 2006; and

- was an emergency engine under the definition in 40 C.F.R. § 63.6675 of Subpart ZZZZ; and

- was subject to a compliance deadline of May 3, 2013 under 40 C.F.R. § 63.6595(a)(1) of Subpart ZZZZ.

Count I**Failure to Obtain Operating Permit(s) for the Ready-Mix Concrete Batch Plant**

The allegations of Paragraphs 1 through 29 of this Consent Agreement are incorporated herein by reference.

30. For at least the period from September 6, 2014 through June 20, 2018, Sections 200.1 and 200.2 of Title 20 of the District of Columbia Municipal Regulations (20 DCMR), as approved by U.S. EPA as requirements of the applicable District of Columbia SIP, required Respondent to obtain a permit from the District of Columbia before operating its ready-mix concrete batch plant at the D.C. facility. Respondent operated its ready-mix concrete batch plant at the D.C. facility throughout this period of time without obtaining a permit from the District of Columbia, as required by Sections 200.1 and 200.2 of Title 20 of the District of Columbia Municipal Regulations (20 DCMR), as approved by U.S. EPA as requirements of the applicable District of Columbia SIP.

31. Respondent's failure to obtain the required operating permit(s) from the District of Columbia before operating its ready-mix concrete batch plant at the D.C. facility from at least September 6, 2014 through June 20, 2018 constituted violations of Sections 200.1 and 200.2 of Title 20 of the District of Columbia Municipal Regulations (20 DCMR), as approved by U.S. EPA as requirements of the applicable District of Columbia SIP, and Section 110 of Subchapter I of the CAA, 42 U.S.C. § 7410.

Count II**Failure to Comply with Required Management Practices for Engine**

The allegations of Paragraphs 1 through 29 of this Consent Agreement are incorporated herein by reference.

32. 40 C.F.R. § 63.6595(a)(1) and 40 C.F.R. § 63.6603(a) of Subpart ZZZZ require the owner or operator of an existing emergency stationary CI RICE located at an area source of HAP emissions to comply with certain management practices specified in Item 4 of Table 2d to Subpart ZZZZ on at least an annual basis on and after May 3, 2013. For at least the period from September 6, 2014 through October 31, 2017, Respondent failed to comply with these management practices as required.

33. Respondent's failures to comply with these required management practices from at least September 6, 2014 through October 31, 2017 constitute violations of requirements of a rule issued under Section 112 of Subchapter I of the CAA.

Count III

Failure to Comply with Operation and Maintenance Requirement for Engine

The allegations of Paragraphs 1 through 29 of this Consent Agreement are incorporated herein by reference.

34. 40 C.F.R. § 63.6595(a)(1) and 40 C.F.R. § 63.6625(e)(3) of Subpart ZZZZ require the owner or operator of an existing emergency stationary RICE located at an area source of HAP emissions to, on and after May 3, 2013, operate and maintain the RICE according to 1) the manufacturer's emission-related written instructions, or 2) the owner or operator's own plan providing for the operation and maintenance of the RICE in a manner consistent with good air pollution control practice for minimizing emissions [see also Item 9 of Table 6 to Subpart ZZZZ]. For at least the period from September 6, 2014 through October 31, 2017, Respondent failed to comply with this requirement.

35. Respondent's failure to comply with this requirement from at least September 6, 2014 through October 31, 2017 constitutes a violation of a requirement of a rule issued under Section 112 of Subchapter I of the CAA.

Count IV

Failure to Install Non-Resettable Hour Meter

The allegations of Paragraphs 1 through 29 of this Consent Agreement are incorporated herein by reference.

36. 40 C.F.R. § 63.6595(a)(1) and 40 C.F.R. § 63.6625(f) of Subpart ZZZZ require the owner or operator of an existing emergency stationary RICE located at an area source of HAP emissions to, by May 3, 2013, install a non-resettable hour meter (if one is not already installed). For at least the period from September 6, 2014 through October 31, 2017, Respondent failed to install the required non-resettable hour meter.

37. Respondent's failure to install the required non-resettable hour meter from at least September 6, 2014 through October 31, 2017 constitutes a violation of a requirement of a rule issued under Section 112 of Subchapter I of the CAA.

Count V

Failure to Demonstrate Continuous Compliance with Required Management Practices for Engine

The allegations of Paragraphs 1 through 29 of this Consent Agreement are incorporated herein by reference.

38. 40 C.F.R. § 63.6595(a)(1) and 40 C.F.R. § 63.6640(a) of Subpart ZZZZ require the owner or operator of an existing emergency stationary CI RICE located at an area source of HAP emissions to, on and after May 3, 2013, demonstrate continuous compliance with the management practices specified in Item 4 of Table 2d to Subpart ZZZZ. For at least the period from September 6, 2014 through October 31, 2017, Respondent failed to demonstrate continuous compliance with the specified management practices as required.

39. Respondent's failures to demonstrate continuous compliance with the specified management practices as required from at least September 6, 2014 through October 31, 2017 constitute violations of requirements of a rule issued under Section 112 of Subchapter I of the CAA.

Count VI

Failure to Demonstrate Continuous Compliance with Operation and Maintenance Requirement for Engine

The allegations of Paragraphs 1 through 29 of this Consent Agreement are incorporated herein by reference.

40. 40 C.F.R. § 63.6595(a)(1) and 40 C.F.R. § 63.6640(a) of Subpart ZZZZ require the owner or operator of an existing emergency stationary CI RICE located at an area source of HAP emissions to, on and after May 3, 2013, demonstrate continuous compliance with the operation and maintenance requirement of 40 C.F.R. § 63.6625(e)(3) of Subpart ZZZZ according to the method specified in Table 6 to Subpart ZZZZ. For at least the period from September 6, 2014 through October 31, 2017, Respondent failed to demonstrate continuous compliance with the operation and maintenance requirement of 40 C.F.R. § 63.6625(e)(3) as required.

41. Respondent's failures to demonstrate continuous compliance with the operation and maintenance requirement of 40 C.F.R. § 63.6625(e)(3) from at least September 6, 2014 through October 31, 2017 constitute violations of requirements of a rule issued under Section 112 of Subchapter I of the CAA.

Count VII

Failure to Keep Management Practice Records for Engine

The allegations of Paragraphs 1 through 29 of this Consent Agreement are incorporated herein by reference.

42. 40 C.F.R. § 63.6595(a)(1) and 40 C.F.R. § 63.6655(e) of Subpart ZZZZ require the owner or operator of an existing emergency stationary CI RICE located at an area source of HAP emissions to, on and after May 3, 2013, keep records demonstrating that the operation and maintenance of the RICE is according to the management practices specified in Item 4 of Table 2d to Subpart ZZZZ. For at least the period from September 6, 2014 through October 31, 2017,

Respondent failed to keep the required records demonstrating the required operation and maintenance.

43. Respondent's failures to keep the required records from at least September 6, 2014 through October 31, 2017 constitute violations of a requirement of a rule issued under Section 112 of Subchapter I of the CAA.

Count VIII

Failure to Keep Records of Engine Hours of Operation Through Non-Resettable Hour Meter

The allegations of Paragraphs 1 through 29 of this Consent Agreement are incorporated herein by reference.

44. 40 C.F.R. § 63.6595(a)(1) and 40 C.F.R. § 63.6655(f) of Subpart ZZZZ require the owner or operator of an existing emergency stationary RICE located at an area source of HAP emissions to, on and after May 3, 2013, keep records of the hours of operation of the engine through a non-resettable hour meter. For at least the period from September 6, 2014 through October 31, 2017, Respondent failed to install the required non-resettable hour meter and keep the required records.

45. Respondent's failures to install the required non-resettable hour meter and keep records of the hours of operation of the engine as required from at least September 6, 2014 through October 31, 2017 constitute violations of a requirement of a rule issued under Section 112 of Subchapter I of the CAA.

CIVIL PENALTY

46. In settlement of U.S. 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 two hundred fifty thousand dollars (\$250,000), which Respondent shall be liable to pay in accordance with the terms set forth below.

47. The civil penalty is based upon U.S. EPA's consideration of a number of factors, including the penalty criteria set forth in Section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1), which include the following: the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violations as established by any credible evidence, payment by the violator of penalties previously assessed for the same violations, the economic benefit of noncompliance, the seriousness of the violations, 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 U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy (dated October 25, 1991), as modified [which reflects the statutory penalty criteria set forth at Section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1)], the *Adjustment of Civil Monetary Penalties for Inflation* at 40 C.F.R.

Part 19, and the applicable U.S. EPA memoranda addressing U.S. EPA's civil penalty policies to account for inflation.

48. Payment of the civil penalty amount, and any associated interest charges, administrative cost charges, and penalty charges owed, shall be made by either check (cashier's check or certified check) or by electronic means. **Pursuant to 40 C.F.R. § 22.31(c), payment by electronic means is required if it is possible.** Payment shall be made in the following manner:

All payments by Respondent shall include reference to Respondent's name and address, and the U.S. EPA Docket No. of this action, i.e., **CAA-03-2020-0024**;

All checks shall be made payable to the "**United States Treasury**";

All payments made by check and sent for standard delivery shall be addressed and mailed to:

**U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000**

For information concerning other available methods of payment [including sending a check for signed receipt confirmation (Fedex, DHL, UPS, USPS certified, registered, etc), sending a check from a foreign bank with no U.S. branches, and **electronic payment options**], see:

<https://www.epa.gov/financial/makepayment> and

<https://www.epa.gov/financial/additional-instructions-making-payments-epa>

A copy of Respondent's check, or documentation of payment using another available method, shall be sent simultaneously to:

**James M. Baker
Senior Assistant Regional Counsel, Air and Toxics Branch (3RC30)
Office of Regional Counsel
U.S. EPA - Region III
1650 Arch Street
Philadelphia, PA 19103-2029
baker.james@epa.gov**

49. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, U.S. EPA is entitled to assess interest charges, administrative cost charges, and penalty charges on overdue debts, as more fully described below. Accordingly, Respondent's failure to make timely payment of the civil penalty as specified herein shall result in the assessment of interest charges, administrative cost charges, and penalty charges, as appropriate.

50. Payment of the civil penalty is due and payable immediately upon Respondent's receipt 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 U.S. EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).

51. INTEREST CHARGES: In accordance with 40 C.F.R § 13.9(a)(2) and 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date that a true and correct copy of the fully executed and filed Consent Agreement and Final Order is received by Respondent. However, EPA will not recover accrued interest on the civil penalty if it is paid within thirty (30) days of the date that a true and correct copy of the fully executed and filed Consent Agreement and Final Order is received by Respondent. Interest charges will otherwise be assessed in accordance with 40 C.F.R § 13.11(a).

52. ADMINISTRATIVE COST CHARGES: Administrative cost charges will be assessed in accordance with 40 C.F.R § 13.11(b). Administrative costs of U.S. EPA's handling of an overdue debt will be assessed monthly throughout the period the debt is overdue. Pursuant to Appendix 2 of U.S. EPA's Resources Management Directives – Case Management, Chapter 9, U.S. EPA will assess a \$15.00 administrative cost charge on an unpaid penalty amount for the first thirty (30) day period after the payment is due, and an additional \$15.00 for each subsequent thirty (30) day period that the penalty amount remains unpaid.

53. PENALTY CHARGES: Penalty charges will be assessed in accordance with 40 C.F.R § 13.11(c). A penalty charge of six percent per annum will be assessed monthly on an unpaid penalty amount that is unpaid for more than ninety (90) days.

54. As noted in Paragraph 50 above, payment of the civil penalty is due and payable immediately upon Respondent's receipt of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. If Respondent fails to pay the full amount of the civil penalty within thirty (30) days of that receipt, in addition to the interest charges, administrative cost charges, and penalty charges described above, Respondent may also be subject to a civil action for collection pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). In any such collection action, the validity, amount, and appropriateness of the civil penalty will not be subject to review.

55. Respondent agrees not to deduct for any tax purpose the civil penalty assessed in this Consent Agreement and Final Order.

PUBLIC AVAILABILITY/INFORMATION AND REPRESENTATIONS

56. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public, and agrees that this Consent Agreement and Final

Order does not contain any confidential business information or personally identifiable information from Respondent.

57. Respondent certifies that any information it has supplied or representation(s) it has made to U.S. 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(s). U.S. EPA shall have the right to institute further action to recover appropriate relief if U.S. EPA obtains evidence that any information supplied and/or representation(s) made by Respondent to U.S. EPA concerning this matter, including information about Respondent's ability to pay a penalty, were, in any material respect, false, inaccurate, or incomplete. This right shall be in addition to all other rights and causes of action that U.S. EPA may have, civil or criminal, in law or equity, in such event. Respondent, and its directors, officers, employees, contractors, 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.

CERTIFICATION OF COMPLIANCE

58. Respondent certifies to U.S. EPA that it is currently in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

59. 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 U.S. EPA's authority to enforce 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 any requirements of the CAA, or regulations promulgated thereunder.

RESERVATION OF RIGHTS/SCOPE OF RESOLUTION

60. U.S. 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 and conditions of this Consent Agreement and Final Order after its effective date. U.S. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which U.S. EPA determines may present an imminent and substantial endangerment to the public health or welfare, or to the environment. This settlement is subject to all limitations on the reservation of rights and scope of resolution in 40 C.F.R. § 22.18(c) of the Consolidated Rules of Practice. This Consent Agreement and Final Order resolves only U.S. EPA's claims against Respondent for civil penalties for the specific violations alleged in this Consent Agreement and Final Order.

PARTIES BOUND/EXECUTION

61. This Consent Agreement and Final Order shall apply to and be binding upon U.S. EPA, and upon Respondent and its directors, officers, employees, contractors, agents, successors and assigns. By his signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he 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

62. The effective date of this Consent Agreement and Final Order is the date on which the attached Final Order, signed by the Regional Administrator of U.S. EPA, Region III, or his designee, the Regional Judicial Officer, is filed, along with the Consent Agreement, with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

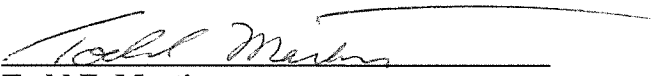
ENTIRE AGREEMENT

63. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of U.S. EPA's claims for Federal 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:

Superior Concrete Materials, Inc.

Date: 5-29-20

By: 

Todd E. Martineau
Vice President and General Manager
Superior Concrete Materials, Inc.

Complainant:

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

Date: 6/15/20

By: KAREN MELVIN
Digitally signed by KAREN MELVIN
Date: 2020.06.15 14:36:34 -04'00'
Karen Melvin
Director, Enforcement and Compliance Assurance Division
U.S. EPA - Region III

Counsel for Complainant:

Date: 6/4/20

By: JAMES BAKER
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Date: 2020.06.04 09:01:00 -04'00'
James M. Baker
Senior Assistant Regional Counsel
Office of Regional Counsel
U.S. EPA - Region III

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:	:	
	:	U.S. EPA Docket No. CAA-03-2020-0024
	:	
Superior Concrete Materials, Inc.	:	
1220 12th Street, SE, Suite 150	:	FINAL ORDER
Washington, D.C. 20003	:	
	:	Proceeding under Section 113(a) and (d)
	:	of the Clean Air Act
Respondent.	:	

FINAL ORDER

Complainant, Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (“U.S. EPA”), Region III, and Respondent, Superior Concrete Materials, 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 Code of Federal Regulations (“C.F.R.”) Part 22 [with specific reference to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3)]. The terms of the attached Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth herein.

Based upon the representations of the parties in the attached Consent Agreement, the civil penalty agreed to therein is based upon consideration of, inter alia, Section 113(e)(1) of the Clean Air Act (“CAA”), 42 United States Code (“U.S.C.”) § 7413(e)(1), and U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy, dated October 25, 1991, as modified.

NOW, THEREFORE, PURSUANT TO Section 113(a)(1)(B), (a)(3)(A), (d)(1)(A) and (d)(1)(B) of the CAA, 42 U.S.C. § 7413(a)(1)(B), (a)(3)(A), (d)(1)(A) and (d)(1)(B), and 40 C.F.R. § 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent 1) pay a civil penalty in the amount of **TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000)**, in accordance with the payment provisions set forth in the attached Consent Agreement, 2) comply with the terms and conditions of the attached 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 law. This Final Order resolves only those causes of action alleged in the attached Consent Agreement and does not waive, extinguish or otherwise affect Respondent’s obligation to comply with all applicable provisions of the CAA and 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.

6/16/20

JOSEPH
LISA

Digitally signed by
JOSEPH LISA
Date: 2020.06.16
13:57:17 -04'00'

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

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

In the Matter of: :
: **U.S. EPA Docket No. CAA-03-2020-0024**
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Superior Concrete Materials, Inc. : **CONSENT AGREEMENT AND**
1220 12th Street, SE, Suite 150 : **FINAL ORDER**
Washington, D.C. 20003 :
: **Proceeding under Section 113(a) and (d)**
: **of the Clean Air Act**
Respondent. :

CERTIFICATE OF SERVICE

I certify that, on June 16, 2020, the original and one (1) copy of the **Consent Agreement and Final Order** in Docket No. CAA-03-2020-0024 were filed with the U.S. EPA Region III Regional Hearing Clerk. I further certify that, on the date set forth below, I served a true and correct copy of the same upon each of the following persons, in the manner specified below, at the following addresses:

Copy served via **Electronic Mail** to:

Paul E. Gutermann
9901 River View CT
Potomac, MD 20854
pgutermann@gmail.com
Counsel for Respondent

James M. Baker
Senior Assistant Regional Counsel, Air and Toxics Branch (3RC30)
Office of Regional Counsel
U.S. EPA - Region III
baker.james@epa.gov
Counsel for Complainant

Date: June 16, 2020

**BEVIN
ESPOSITO**

Digitally signed by BEVIN
ESPOSITO
Date: 2020.06.16 14:15:15
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Regional Hearing Clerk
U.S. EPA - Region III