



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
TATE ACCESS FLOORS, INC.
Registration No. 11879**

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 Tate Access Floors, Inc., regarding the Tate Access Floors, Inc. facility, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permit and 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. Tate Access Floors, Inc. (Tate) is a business entity authorized to do business in Virginia and references to Tate include its affiliates, partners, and subsidiaries. Tate is a “person” within the meaning of Va. Code § 10.1-1300.
2. Tate owns and operates a metal products fabrication facility located at 16360 Bush Place, Saint Paul, in Russell County, Virginia (Facility). An air permit application was received by DEQ on June 7, 2024.
3. On July 29, 2024, DEQ staff conducted a Partial Compliance Evaluation (PCE) of the air permit application and additional documentation submitted to DEQ for the Facility. This PCE was prompted, in part, by an air permit application, submitted to DEQ by Tate on June 7, 2024, for construction and operation of a metal fabrication and coating facility. Per a conversation between DEQ and the Tate Plant Manager, and a DEQ site visit

conducted on May 15, 2024, it was determined that Tate had constructed and operated without a permit.

4. 9 VAC 5-80-1120(A) states: "No owner or other person shall begin actual construction of, or operate, any new stationary source or any project subject to this article without first obtaining from the department a permit under the provisions of this article. The owner may not construct or operate the stationary source or project contrary to the terms and conditions of that permit."
5. On July 31, 2024, based on the July 29, 2024, PCE, the May 15, 2024 site visit, and the conversation between DEQ and the Tate Plant Manager, the Department issued Notice of Violation (NOV) No. ASWRO002948 to Tate for the violation described in paragraph C(3), above. On that same date, Tate responded to the NOV by telephone.
6. Based on the results of May 15, 2024, DEQ site visit, the conversation between DEQ and the Tate Plant Manager, and the July 29, 2024, PCE, the Department concludes that Tate has violated 9 VAC 5-80-1120(A), as described 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 Tate Access Floors, Inc., and Tate Access Floors, Inc. agrees to:

Pay a civil charge of \$5,482.40 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

Tate Access Floors, Inc. shall include its Federal Employer Identification Number (FEIN) 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, Tate Access Floors, Inc. 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 Tate for good cause shown by Tate, 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 NOV No. ASWRO002948, dated July 31, 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, Tate admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Tate consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Tate 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 Tate 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. Tate 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. Tate shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Tate 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 Tate. Nevertheless, Tate 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 Tate has completed all of the requirements of the Order;
 - b. Tate 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 the Department terminates the Order in his or its sole discretion upon 30 days' written notice to Tate.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Tate 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 Tate 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 Tate 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 Tate to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Tate.

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, Tate voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2024.

Jeffrey L. Hurst, Regional Director
Department of Environmental Quality

Tate Access Floors, Inc. voluntarily agrees to the issuance of this Order.

Date: 10-28-24 By: Shahram Totouchian Plant Manager
(Person) (Title)
Tate Access Floors, Inc.

Commonwealth of Virginia

City/County of Wise

The foregoing document was signed and acknowledged before me this 28th day of October, 2024, by Shahram Totouchian who is plant manager of Tate Access Floors, Inc., on behalf of the corporation.

Jennifer A. Richardson
Notary Public

7371009
Registration No.

My commission expires: 7/31/2028

Notary seal:

