

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

<b>In the Matter of</b>	:
	:
<b>Centre Concrete Company</b>	:
<b>629 E. Rolling Ridge Drive</b>	:
<b>Bellefonte, PA 16823</b>	:
	:
<b>Respondent.</b>	:

**U.S. EPA Docket No. CWA-03-2021-0018**  
**Proceeding under Section 301,**  
**Clean Water Act**

**CONSENT AGREEMENT**

**I. PRELIMINARY STATEMENT**

1. This Consent Agreement is entered into by the Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency, Region III ("Complainant") and Centre Concrete Company ("Respondent") (collectively the "Parties"), pursuant to Section 301 of the Clean Water Act, 33 U.S.C. §1311, 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 309(g) of the CWA, 33 U.S.C. § 1319(g), 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 it to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the "CAFO") resolve Complainant's civil penalty claims against Respondent under the Clean Water Act ("CWA" 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.

**II. JURISDICTION**

3. The U.S. Environmental Protection Agency 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)(6).

### **III. GENERAL PROVISIONS**

5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
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 EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this CAFO 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. Pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b), EPA is providing public notice and an opportunity to comment on the Consent Agreement prior to issuing the Final Order.

### **IV. 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. Section 309(g)(2)(B) of the Act, 33 U.S.C. § 1319(g)(2)(B), authorizes the assessment of administrative penalties against any person who violates any National Pollutant Discharge Elimination System ("NPDES") permit condition or limitation in an amount not to exceed \$10,000 per day for each day of violation, up to a total penalty amount of \$125,000.

14. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, and Section 309(g)(2)(B) of the Act, 33 U.S.C. § 1319(g)(2)(B), any person who has violated any NPDES permit condition or limitation after November 2, 2015 where the penalty is assessed on or after January 15, 2019, the maximum administrative penalty per day for each day of violation is up to \$21,933, up to a total penalty amount of \$274,150. (Part 19 also specifies the maximum penalties applicable to other time periods.)
15. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant (other than dredged or fill material) from a point source into waters of the United States, except in compliance with a permit issued pursuant to the NPDES program under Section 402 of the Act, 33 U.S.C. § 1342.
16. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States. The discharges are subject to specific terms and conditions as prescribed by the permit.
17. Section 402(p) of the Act, 33 U.S.C. § 1342(p), and 40 C.F.R. §§ 122.2 and 122.26 provide that, with some exceptions not relevant here, storm water discharges are “point sources” subject to NPDES permitting requirements under Section 402(a) of the Act, 33 U.S.C. § 1342(a).
18. “Storm water” (or “stormwater”) is defined as “storm water runoff, snow melt runoff and surface runoff and drainage.” 40 C.F.R. § 122.26(b)(13).
19. An NPDES permit is required for discharges of storm water associated with industrial activity. Section 402(p) of the Act, 33 U.S.C. § 1342(p); 40 C.F.R. § 122.26(a), (c); 40 C.F.R. § 122.21.
20. Pursuant to 40 C.F.R. § 122.26(b)(14)(ii), facilities classified as, inter alia, Standard Industrial Classification Group 32, including Industry Group 327 (Concrete Products), are engaged in “industrial activity” within the meaning of Section 402(p) of the Act and 40 C.F.R. § 122.
21. The term “stormwater associated with industrial activity” means, in pertinent part, “the discharge from any conveyance that is used for collection and conveying stormwater and that is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant.” 40 C.F.R. § 122.26(b)(14)(i)-(ix) and (xi).
22. Dischargers of storm water associated with industrial activities to waters of the United States are required to seek NPDES permit coverage. 40 C.F.R. § 122.26(c).
23. The Commonwealth of Pennsylvania has been approved by EPA to administer the NPDES program in the Commonwealth of Pennsylvania.

24. Pursuant to the authority of the Act and the NPDES program approval, the Commonwealth of Pennsylvania issued National Pollutant Discharge Elimination System ("NPDES") Permit No. PAS144813, Discharge Requirements for Stormwater Associated with Industrial Activities ("the Permit"). The effective date of the Permit was December 1, 2018 with an expiration date of November 30, 2023.
25. NPDES Permit No. PAS144813 authorizes discharges of storm water associated with industrial activities to waters of the United States (including discharges to, or through municipal separate storm sewer systems), when in accordance with the conditions and terms of the Permit.
26. Respondent is a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5) and 40 C.F.R. § 122.2.
27. At all times relevant to this CAFO, upon information and belief, Respondent was the owner and/or operator of a site known as State College Plant located at 2280 E. College Avenue, State College, Pennsylvania (the "Facility").
28. At the Facility, the Respondent has been at all relevant times engaged in industrial activity that discharges storm water from a point source to an unnamed tributary to Spring Creek.
29. The unnamed tributary to Spring Creek is a "water of the United States" within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).
30. The industrial activity performed by Respondent at the Facility discharges stormwater that is directly related to manufacturing, processing, or raw materials storage areas at Respondent's industrial plant within the meaning of 40 C.F.R. § 122.26(b)(14)(i)-(ix) and (xi).
31. On June 18, 2019, representatives of EPA Region III and EPA contractors from PG Environmental (jointly "the Inspection Team" or "the inspectors") conducted an inspection at the Facility (hereinafter, "the Inspection") to assess compliance with the NPDES Permit No. PAS144813.
32. The Inspection Team prepared an inspection report from the Inspection dated August 1, 2019 ("the Inspection Report"), which included multiple observations regarding Respondent's compliance with the requirements of the Permit. EPA sent a copy of the Inspection Report to the Respondent on August 1, 2019.
33. On September 27, 2019, Respondent sent to EPA a comprehensive response to the Inspection Report which included narratives that described the corrective actions taken by Respondent, along with photographic documentations of such corrective actions since the time of the Inspection.

**Count I**  
**Unauthorized Discharges**

34. The allegations of Paragraphs 1 through 33 of this Consent Agreement are incorporated herein by reference.
35. Part C.I.A. and B. of the Permit authorizes Respondent to discharge non-polluting stormwater from the Facility in conjunction with authorized wastewaters from Outfall 001.
36. Part A of the Permit specifically prohibits Respondent from discharging, *inter alia*, floating solids, scum, sheen or substances that result in observed deposits in the receiving water.
37. At the time of the Inspection on June 18, 2019, the inspectors observed an active discharge of truck wash water leaving the Facility entrance and flowing into storm drains outside Respondent's property that drain into Spring Creek.
38. At the time of the Inspection on June 18, 2019, the inspectors observed an overflow of sediment pollution and wash water from the concrete drum wash system discharging along the western border of the Facility, including an erosion channel indicating previous discharges occurring from this industrial activity to the unnamed tributary to Spring Creek.
39. The industrial stormwater discharges described in Paragraphs 37 and 38, above, are not authorized under Part C.I.A. and B. of the Permit.
40. Based upon the information described in Paragraphs 37 through 39, Respondent engaged in unauthorized discharges at the Facility in violation of the Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

**Count II**  
**Failure to Implement Best Management Practice Requirements**

41. The allegations of Paragraphs 1 through 39 of this Consent Agreement are incorporated herein by reference.
42. Part C.II.E.2 of the Permit also requires Respondent to "Install and maintain runoff controls, as necessary, around truck wash off area(s). All wastewater collected in these area(s) shall be contained, reused, recycled on-site, or disposed of properly, as necessary."
43. Part C.II.E.3 of the Permit requires Respondent to "Install and maintain berms, inlets, underground piping, or other runoff control devices in truck loading areas and other areas that have the potential to cause stormwater pollution, to divert uncontaminated stormwater away from such areas."
44. At the time of the Inspection on June 18, 2019, the inspectors observed a failure to properly maintain all best management practices (BMPs) on site which caused unauthorized non-stormwater discharges under the Permit. The facility's vehicle rinse area basin was not

properly maintained with runoff controls, causing an active discharge at the time of the inspection. Also, the facility's closed-loop drum wash system was not properly maintained, causing an active discharge.

45. At the time of the Inspection on June 18, 2019, the inspectors observed sediment pollution from the vehicle cement loading/unloading area had bypassed the facility's treatment system, causing a mixture of stormwater and sediment pollution to discharge to outfall 001.
46. Based upon the information described in Paragraphs 43 and 44, Respondent failed to implement BMPs in accordance with Part C.II.E.2 and 3 of the Permit.
47. Respondent's failure to implement BMPs in accordance with Part C.II.E.2 and 3 of the Permit constitutes a violation of the Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

**Count III**  
**Failure to Maintain Good Housekeeping Standards**

48. The allegations of Paragraphs 1 through 47 of this Consent Agreement are incorporated herein by reference.
49. Part C.II.A.8 of the Permit requires, in pertinent part, that Centre Concrete Company "Keep all dumpster lids closed when not in use. For dumpsters and roll off boxes that do not have lids, ensure that discharges have a control (e.g., secondary containment, treatment)."
50. Part C.II.D. of the Permit states: "The permittee shall minimize the potential for leaks, spills and other releases that may be exposed to stormwater and develop a plan consistent with Part C IV for effective responses to such releases."
51. At the time of the Inspection on June 18, 2019, the inspectors observed dumpsters at the Facility that were uncovered and uncontained, totes of chemical additives that were stored outdoors at the Facility, and petroleum sheens in multiple locations throughout the Facility.
52. Based upon the information described in Paragraph 51, above, Respondent failed to keep containers closed when not in use and failed to minimize the potential for leaks and spills at the Facility in accordance with Part C.II.A.8 and C.II.D. of the Permit.
53. Respondent's failure to keep containers closed when not in use and failure to minimize the potential for leaks and spills at the Facility constitutes a violation of the Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

**V. CIVIL PENALTY**

54. In settlement of 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

57. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
58. Payment of the civil penalty is due and payable immediately upon the effective date of the CAFO. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed CAFO, with a date stamp indicating the date on which the CAFO was filed with the Regional Hearing Clerk, shall constitute receipt as of the effective date of this CAFO or the date of receipt, whichever is later, of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
59. Interest on the civil penalty assessed in this CAFO will begin to accrue on the effective date of this CAFO. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the effective date of this CAFO. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
60. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives – Case Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
61. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
62. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this CAFO.

## **VI. GENERAL SETTLEMENT CONDITIONS**

63. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and represents that, to the best of Respondent's knowledge and belief, this CAFO does not contain any confidential business information or personally identifiable information from Respondent.

Fifty Thousand (\$50,000) Dollars, which Respondent shall be liable to pay in accordance with the terms set forth below.

55. The civil penalty is based upon EPA's consideration of a number of factors, including the nature, circumstances, extent and gravity of the violation(s), Respondent's ability to pay, prior history of compliance, degree of culpability, economic benefit or savings resulting from 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 the statutory penalty criteria and factors set forth at Section 309(g) of the Act, 33 U.S.C. § 1319(g), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.

56. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, U.S. EPA Docket No. CWA-03-2021-0018.

b. All checks shall be made payable to the "United States Treasury"

c. All payments made by check and sent by regular mail shall be addressed and mailed to:

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

d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

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

e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously via email to:

Louis F. Ramalho  
Senior Assistant Regional Counsel  
U.S. EPA, Region III (3RC40)  
1650 Arch Street  
Philadelphia, PA 19103-2029  
[Ramalho.Louis@epa.gov](mailto:Ramalho.Louis@epa.gov)



64. 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 CAFO, 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 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.

#### **VII. CERTIFICATION OF COMPLIANCE**

65. 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 Consent Agreement.

#### **VIII. OTHER APPLICABLE LAWS**

66. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict 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 CAFO does not constitute a waiver, suspension or modification of the requirements of the CWA, 33 U.S.C. §§ 1251 *et seq.*, or any regulations promulgated thereunder.

#### **IX. RESERVATION OF RIGHTS**

67. This CAFO resolves only EPA's claim for civil penalties for the specific violations alleged against Respondent in this CAFO. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement, but Respondent consents to the settlement stated herein. 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. 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). EPA reserves any rights and remedies available to it under the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this CAFO after its effective date.

**X. EXECUTION /PARTIES BOUND**

68. This CAFO shall apply to and be binding upon the EPA, the Respondent and its successors and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this CAFO.

**XI. EFFECTIVE DATE**

69. Pursuant to 40 C.F.R. § 22.45(b), this CAFO shall be issued only after a 40-day public notice and comment period is concluded. This CAFO will become final and effective thirty (30) days after having been signed by the Regional Administrator or his delegate, the Regional Judicial Officer, filed with the Regional Hearing Clerk, and served on Respondent.

**XII. ENTIRE AGREEMENT**


70. This CAFO 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 CAFO.

In Re: Centre Concrete Company  
U.S. EPA Docket No. CWA-03-2021-0018

For Respondent:

Centre Concrete Company

Date: 2-Dec-2020

By:   
\_\_\_\_\_  
Matthew C. Whitman  
EHS Director

For the 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/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: \_\_\_\_\_

By: \_\_\_\_\_

Karen Melvin  
Director, Enforcement and Compliance  
Assurance Division  
U.S. EPA – Region III  
Complainant

Attorney for Complainant:

Date: \_\_\_\_\_

By: \_\_\_\_\_

Louis F. Ramalho  
Senior Assistant Regional Counsel  
U.S. EPA – Region III

In Re: Centre Concrete Company  
U.S. EPA Docket No. CWA-03-2021-0018

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

<b>In the Matter of</b>	)	
	)	
<b>Centre Concrete Company</b>	)	<b>U.S. EPA Docket No. CWA-03-2021-</b>
<b>629 E. Rolling Ridge Drive</b>	)	<b>0018</b>
<b>Bellefonte, PA 16823</b>	)	
	)	<b>Proceeding under Section 301,</b>
<b>Respondent.</b>	)	<b>Clean Water Act</b>
	)	

**FINAL ORDER**

The Complainant, the Director for the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III and Respondent Centre Concrete Company 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. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if set forth fully herein.

**WHEREFORE**, pursuant to the authority of Section 309(g) of the CWA, 33 U.S.C. § 1319(g), **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of **Fifty Thousand Dollars (\$50,000.00)** in accordance with the payment provisions set forth in the attached Consent Agreement, including payment of any applicable interest, and complying with each of the additional terms and conditions as specified in 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 the law. This Final

In Re: Centre Concrete Company  
U.S. EPA Docket No. CWA-03-2021-0018

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 Section 301(a) of the Act, 33 U.S.C. § 1311(a), and the regulations promulgated thereunder.

This CAFO will become final and effective thirty (30) days after having been signed by the Regional Administrator or his delegate, the Regional Judicial Officer, filed with the Regional Hearing Clerk, and served on Respondent.

Date: \_\_\_\_\_

\_\_\_\_\_  
Joseph J. Lisa  
Regional Judicial Officer  
U.S. EPA - Region III