



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

Mr. Theodore Knight, President
Allied Concrete Company
1000 Harris St.
Charlottesville, VA 22902

JUN 3 1 2018

Dear Mr. Knight:

Enclosed are a file-stamped copy of the Consent Agreement and Final Order settling alleged violations of the Clean Water Act by Allied Concrete Company that relate to discharges of stormwater. Thank you for working with us to resolve this matter.

To the extent that Allied Concrete may be a "small business" under the Small Business Regulatory Enforcement Fairness Act (SBREFA), please see the enclosed information sheet, which provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and also information on compliance assistance. The Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement actions.

Sincerely,

A handwritten signature in blue ink that reads "Nina Rivera".

Nina Rivera
Office of Regional Counsel (3RC20)

cc: BJ Barbrow, Allied Concrete Company

Enclosures



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

Philadelphia, Pennsylvania 19103-2029

REGIONAL HEARINGS CLEAN
WATER ACT
EPA REGION III PHILA PA

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In the Matter of:

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: Proceeding to Assess Class II
: Administrative Penalty Under
: Section 309(g) of the Clean Water Act

Allied Concrete Company,
1000 Harris St.
Charlottesville, VA 22902

:
:
: Docket No. CWA-03-2018-0022

:
:
: **CONSENT AGREEMENT**
: **AND FINAL ORDER**

Respondent.

CONSENT AGREEMENT

I. STATUTORY AND REGULATORY BACKGROUND

1. Pursuant to Section 309(g) of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1319(g), the Administrator of the United States Environmental Protection Agency ("EPA") is authorized to assess administrative penalties against persons who violate Section 301(a) of the Act, *id.* § 1311(a). The Administrator has delegated this authority to the Regional Administrator of EPA Region III, who in turn has delegated this authority to the Director, Water Protection Division ("Complainant").
2. This Consent Agreement is entered into by the Complainant and Allied Concrete Company ("Respondent" or "Allied"), pursuant to Section 309(g) of the CWA and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits ("Consolidated Rules"), 40 C.F.R. Part 22.
3. The Consolidated Rules, at 40 C.F.R. § 22.13(b), provide in pertinent part that when the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding simultaneously may be commenced and concluded by the issuance of a consent agreement and final order pursuant to 40 C.F.R. § 22.18(b)(2) and (3). Pursuant thereto, this Consent Agreement and the Final Order (jointly "CAFO") simultaneously commence and conclude this administrative proceeding against Respondent.

4. Section 309(g)(2)(B) of the Clean Water 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.

5. 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 January 12, 2009, is liable for an administrative penalty not to exceed \$16,000 per day for each day of violation, up to a total penalty amount of \$177,500 for violations that occurred between January 12, 2009, and December 6, 2013, and up to a total penalty of \$187,500 per proceeding for violations that occurred after December 6, 2013 through November 2, 2015. For violations that occurred after November 2, 2015 where the penalty is assessed on or after January 15, 2018, the maximum administrative penalty per day for each day of violation is up to \$21,393, up to a total penalty amount of \$267,415. (Part 19 also specifies the maximum penalties applicable to other time periods.)

6. 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.

7. 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.

8. 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 in the permit.

9. Section 402(p) of the Act, 33 U.S.C. § 1342(p), and 40 C.F.R. sections 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).

10. “Storm water” is defined as “storm water runoff, snow melt runoff and surface runoff and drainage.” 40 C.F.R. § 122.26(b)(13).

11. 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.

12. 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.

13. The Commonwealth of Virginia has been approved by EPA to administer the NPDES program in the Commonwealth of Virginia.

14. Pursuant to the authority of the Act, the NPDES program approval, and the Virginia State Water Control Law, Virginia issued General Virginia Pollutant Discharge Elimination System Permit for Concrete Products Facilities, effective October 1, 2008, which expired on September 30, 2013 (“2008 Permit”).

15. Pursuant to the authority of the Act, the NPDES program approval, and the Virginia State Water Control Law, Virginia issued General Virginia Pollutant Discharge Elimination System Permit for Concrete Products Facilities, effective October 1, 2013, which will expire on September 30, 2018 (“2013 Permit”).

16. The 2008 and 2013 Permits authorize the discharge of stormwater from concrete product facilities in accordance with the provisions of the permits. Both the 2008 and the 2013 Permits require the permittee to comply with all conditions in the Permit. 2008 Permit, Part III.L; 2013 Permit, Part III.L.

II. FINDINGS OF FACT, JURISDICTIONAL ALLEGATIONS AND CONCLUSIONS OF LAW

17. Allied is a “person” within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5).

18. **Charlottesville:** At all times relevant to this Order, Respondent has owned and/or operated a concrete products facility at or near 1000 Harris Street, Charlottesville, Virginia.

19. The Charlottesville facility discharges stormwater into a tributary of Schenk’s Branch, which flows into Meadow Creek, which flows into the Rivanna River, which is a water of the United States.

20. The discharges of stormwater from the Charlottesville facility were authorized by the 2008 and 2013 Permits, under permit number VAG11064.

21. **Greene:** At all times relevant to this Order, Respondent has owned and/or operated a concrete products facility at or near 581 Luck Stone Road, Ruckersville, Virginia, also known as the Greene facility.

22. The Greene facility discharges stormwater into a tributary of White Run, which flows into Rippin Run, which flows into the Rapidan River which is a water of the United States.

23. The discharges of stormwater from the Greene facility were authorized by the 2008 and 2013 Permits, under permit number VAG110065.

24. **Harrisonburg:** At all times relevant to this Order, Respondent has owned and/or operated a concrete products facility at or near 2025 Beery Road, Harrisonburg, Virginia.

25. The Harrisonburg facility discharges stormwater into Blacks Run, which flows into the North River, which is a water of the United States.

26. The discharges of stormwater from the Harrisonburg facility were authorized by the 2013 Permit, under permit number VAG110354, coverage effective June 20, 2016.

27. **Louisa:** At all times relevant to this Order, Respondent has owned and/or operated a concrete products facility at or near 801 Luck Stone Road, Mineral, Virginia, also known as the Louisa facility.

28. The Louisa facility discharges stormwater into Christopher Creek, which flows into the North Anna River, which is a water of the United States.

29. The discharges of stormwater from the Louisa facility were authorized by the 2008 and 2013 Permits, under permit number VAG110233.

30. **New Canton:** At all times relevant to this Order, Respondent has owned and/or operated a concrete products facility at or near 209 Krete Lane, New Canton, Virginia.

31. The New Canton facility discharges stormwater into Hunts Creek, which flows into the James River, which is a water of the United States.

32. The discharges of stormwater from the New Canton facility were authorized by the 2008 and 2013 Permits, under permit number VAG110048.

33. **Orange:** At all times relevant to this Order, Respondent has owned and/or operated a concrete products facility at or near 259 Byrd Street, Orange, Virginia.

34. The Orange facility discharges stormwater into Tomahawk Creek, which flows into Pamunkey Creek, which flows into Lake Anna and the North Anna River, which are waters of the United States.

35. The discharges of stormwater from the Orange facility were authorized by the 2008 and 2013 Permits, under permit number VAG110082.

36. **Ready Rock:** At all times relevant to this Order, Respondent has owned and/or operated a concrete products facility at or near 900 N Bayard Avenue, Waynesboro, Virginia, also known as the Ready Rock facility.

37. The Ready Rock facility discharges stormwater into Steele's Run, which flows into the South River, which is a water of the United States.

38. The discharges of stormwater from the Ready Rock facility were authorized by the 2013 Permit as of December 9, 2013, under permit number VAG110327.
39. **Staunton:** At all times relevant to this Order, Respondent has owned and/or operated a concrete products facility at or near 501 Statler Boulevard, Staunton, Virginia.
40. The Staunton facility discharges stormwater into Lewis Creek, which flows into the Middle River, which is a water of the United States.
41. The discharges of stormwater from the Staunton facility were authorized by the 2008 and 2013 Permits, under permit number VAG110071.
42. **VBS:** At all times relevant to this Order, Respondent has owned and/or operated a Valley Building Supply concrete products facility at or near 210 Stone Spring Road, Harrisonburg, Virginia (“the VBS facility”).
43. The VBS facility discharges stormwater into a tributary of Blacks Run, which flows into the North River, which is a water of the United States.
44. The discharges of stormwater from the VBS facility were authorized by the 2008 and 2013 Permits, under permit number VAG110309.
45. **Waynesboro:** At all times relevant to this Order, Respondent has owned and/or operated a concrete products facility at or near 1321 Delphine Avenue, Waynesboro, Virginia.
46. The Waynesboro facility discharges stormwater into a tributary of the South River which is a water of the United States.
47. The discharges of stormwater from the Waynesboro facility were authorized by the 2008 and 2013 Permits, under permit number VAG110072.
48. **Zions:** At all times relevant to this Order, Respondent has owned and/or operated a concrete products facility at or near 9815 Three Notch Road, Troy, Virginia, also known as the Zions facility.
49. The Zions facility discharges stormwater into a tributary of Ballinger Creek, which flows into the Rivanna River, which is a water of the United States.
50. The discharges of stormwater from the Zions facility were authorized by the 2008 and 2013 Permits, under permit number VAG110066.
51. On April 8, 2014, an EPA compliance inspection team inspected the Charlottesville facility for compliance with its NPDES permit.

52. The 2008 Permit required the permittee to keep all reports and monitoring records for at least three years from the date of the report or measurement. 2008 Permit III.B.2. The 2013 Permit requires the permittee to keep all reports and monitoring records for at least three years from the date of expiration of permit coverage. 2013 Permit III.B.2.

53. On August 28, 2014, pursuant to Section 308 of the Act, EPA requested information and documents from Allied regarding compliance with the NPDES permit requirements at the concrete products facilities it owned and/or operated.

54. Based on the April 2014 inspection and on review of the documents provided in response to EPA's request, EPA has identified the following violations of the 2008 and 2013 Permits, and of Section 301 of the Act.

Counts 1 - 10: Failure to comply with permit requirements concerning Operations & Maintenance Manual

55. Both the 2008 and the 2013 Permits required the permittee to develop an Operations and Maintenance (O&M) Manual for the permitted facility. 2013 Permit, Part I.B.9; 2008 Permit, Part I.B.8. The 2013 Permit required that the permittee review and update the O&M Manual within 180 days after the date of coverage under that permit. 2013 Permit, Part I.B.9.a. For facilities covered from the effective date of the 2013 Permit, the O&M Manual had to be reviewed and updated by on or about March 30, 2014. The 2013 Permit also requires that a responsible corporate officer of a corporation permittee sign and certify the O&M Manual as specified in the permit. 2013 Permit, Part I.B.9.b.

56. As part of the Section 308 request, EPA requested the O&M Manual effective for Allied concrete product facilities as of April 2014.

57. **Charlottesville:** During the April 2014 inspection of the Charlottesville facility, Allied provided the facility's O&M Manual dated October 2011.

58. The Charlottesville facility's O&M Manual was not signed and certified as required by the 2013 Permit.

59. In response to the Section 308 request, Allied provided an updated O&M Manual for the Charlottesville facility dated September 2014.

60. **Greene:** In response to the Section 308 request, Allied provided an updated O&M Manual dated August 2014 for the Greene facility.

61. **Louisa:** In response to the Section 308 request, Allied provided an updated O&M Manual dated August 2014 for the Louisa facility.

62. ***New Canton:*** In response to the Section 308 request, Allied provided an updated O&M Manual dated September 2014 for the New Canton facility.
63. ***Orange:*** In response to the Section 308 request, Allied first provided an O&M Manual dated April 2004 for the Orange facility, which did not include a signed certification. Allied later provided an updated O&M Manual dated August 2014.
64. ***Ready Rock:*** In response to the Section 308 request, Allied provided an updated O&M Manual dated August 2014 for the Ready Rock facility.
65. ***Staunton:*** In response to the Section 308 request, Allied first provided an undated O&M Manual for the Staunton facility, which did not include a signed certification. Allied later provided an updated O&M Manual dated January 2015.
66. ***VBS:*** In response to the Section 308 request, Allied first provided an O&M Manual dated June 2010 for the VBS facility. Allied later provided an updated O&M Manual dated August 2014.
67. ***Waynesboro:*** In response to the Section 308 request, Allied first provided an O&M Manual dated September 2003 for the Waynesboro facility, which did not include a signed certification. Allied later provided an updated O&M Manual dated September 2014.
68. ***Zions:*** In response to the Section 308 request, Allied provided an updated O&M Manual dated January 2015 for the Zions facility.
69. By failing to have updated, signed and certified O&M Manuals at these facilities, Respondent violated the 2013 Permit and Section 301 of the Act, 33 U.S.C. § 1311 for at least the following periods:
- a. from on or about March 31st, 2014 until August 2014 for the Greene, Louisa, Orange and VBS facilities;
 - b. from on or about March 31st, 2014 until September 2014 for the Charlottesville, New Canton and Waynesboro facilities;
 - c. from on or about March 31st, 2014 until January 2015 for the Staunton and Zions facilities; and
 - d. from on or about June 8, 2014 until August 2014 for the Ready Rock facility.

**Counts 11 - 16: Failure to conduct and document quarterly visual examination
of storm water discharge**

70. Both the 2008 and the 2013 Permits required permittees to perform and document a quarterly visual examination of a storm water discharge from each outfall. 2013 Permit Part II.D; 2008 Permit Part II.D. Visual examination reports must be maintained with the facility's Stormwater Pollutions Prevention Plan. 2013 Permit Part II.D.2; 2008 Permit Part II.D.2.
71. As part of the Section 308 request, EPA requested the visual examination reports for Allied concrete product facilities for 2012, 2013 and 2014.
72. In response to the Section 308 request, Allied did not provide any of the 12 required visual examination reports for the Charlottesville facility.
73. In response to the Section 308 request, Allied did not provide any of the 12 required visual examination reports for the Greene facility.
74. In response to the Section 308 request, Allied did not provide any of the 12 required visual examination reports for the New Canton facility.
75. In response to the Section 308 request, Allied did not provide any of the 12 required visual examination reports for the Orange facility.
76. In response to the Section 308 request, Allied did not provide any of the four (4) visual examination reports for 2014 for the Ready Rock facility.
77. In response to the Section 308 request, Allied only provided visual examination reports for the first and second quarters of 2012 for the Zions facility, missing ten (10) of required visual examinations.
78. Respondent's failures to conduct and document the required visual examinations at the Charlottesville, Greene, New Canton, Orange, Ready Rock and Zions facilities are violations of the 2008 and 2013 Permits and Section 301 of the Act, 33 U.S.C. § 1311, specifically 33 occurrences of violations of the 2008 Permit and 29 occurrences of violations of the 2013 Permit.

**Counts 17-26: Failure to comply with permit requirements concerning the Storm Water
Pollution Prevention Plan**

79. Both the 2008 and the 2013 Permits required permittees to develop and implement a storm water pollution prevention plan (SWPPP) for the covered facility. 2013 Permit Part II.G; 2008 Permit Part II.G. The 2013 Permit required facilities covered by the previous permit to update and revise their SWPPPs by January 2014; other facilities had to prepare and implement their SWPPPs prior to commencing operations. 2013 Permit Part II.G.1.

80. Both Permits required that the SWPPP be signed and certified, and be kept on-site. 2013 Permit Part II.G.2.a; 2008 Permit Part II.G.2.a.
81. The 2013 Permit requires, among others, that the SWPPP: a) specify sweeping frequency of exposed areas, or equivalent measure, at least weekly to minimize the discharge of spilled cement and other materials (2013 Permit Part II.G.6.f(2)); b) address preventive maintenance including regular inspection and repair of equipment to avoid failure that could result in leaks (2013 Permit Part II.G.6.f(3)); c) include the contact information of the individuals to be notified in the event of a spill (2013 Permit Part II.G.6.f(4)); d) require routine inspections of the facility, at least quarterly, and that record of the inspection be kept with the SWPPP (2013 Permit Part II.G.6.f(5)); and e) include a description and schedule for preventive maintenance of the storm water controls (2013 Permit Part II.G.7).
82. The 2013 Permit also require the SWPPPs to include a site map. 2013 Permit Part II.G.6.c. The site map must document the outline of the drainage areas and the location of materials exposed to precipitation, among others. 2013 Permit Part II.G.6.c(1) and (4).
83. As part of the Section 308 request, EPA requested the SWPPP that was in effect at each of Allied concrete product facilities as of April 2014.
84. **Charlottesville:** During the April 2014 inspection of the Charlottesville facility and in response to the Section 308 request, Allied produced the facility's SWPPP dated from October 2006, revised in 2011. The SWPPP was signed and certified as of October 2006.
85. The 2006/2011 SWPPP for the Charlottesville facility did not include contact information for the personnel to be notified in the event of a spill.
86. The 2006/2011 SWPPP for the Charlottesville facility did not include a schedule for maintenance of the storm water controls at the facility.
87. In response to the Section 308 request, Allied provided an updated SWPPP for the Charlottesville facility dated September 2014.
88. In response to the Section 308 request, Allied provided records of routine inspections of the Charlottesville facility only for February 2013 and April 2014.
89. In response to the Section 308 request, the map Allied provided with the 2014 SWPPP did not include the outline of drainage areas.
90. **Greene:** In response to the Section 308 request, Allied first provided a SWPPP for the Greene facility dated August 2007, which did not include a signed certification. Later Allied provided a SWPPP dated August 2014.

91. The 2007 SWPPP for the Greene facility did not specify minimum weekly sweeping, or equivalent measure, of exposed areas.
92. The 2007 SWPPP for the Greene facility did not include contact information for the personnel to be notified in the event of a spill.
93. The 2007 SWPPP for the Greene facility did not include a schedule for maintenance of the storm water controls at the facility.
94. In response to the Section 308 request, Allied provided records of routine inspection of the Greene facility only for March 2012 and for April, September and December of 2013.
95. **Louisa:** In response to the Section 308 request, Allied first provided a SWPPP for the Louisa facility dated June 2007, which did not include a signed certification. Later Allied provided a SWPPP dated August 2014.
96. The 2007 SWPPP for the Louisa facility did not specify minimum weekly sweeping, or equivalent measure, of exposed areas.
97. The 2007 SWPPP for the Louisa facility did not include contact information for the personnel to be notified in the event of a spill.
98. The 2007 SWPPP for the Louisa facility did not include a schedule for maintenance of the storm water controls at the facility.
99. In response to the Section 308 request, Allied provided records of routine inspection of the Louisa facility only for February 2012.
100. In response to the Section 308 request, Allied did not provide a site map with the 2007 SWPPP. Later Allied provided a site map with the 2014 SWPPP.
101. **New Canton:** In response to the Section 308 request, Allied initially did not provide a SWPPP for the New Canton facility. Later Allied provided a SWPPP dated September 2014.
102. In response to the Section 308 request, Allied did not initially provide a site map. Later Allied provided a site map with the 2014 SWPPP.
103. **Orange:** In response to the Section 308 request, Allied first provided a SWPPP for the Orange facility dated October 2008, which did not include a signed certification. Later Allied provided a SWPPP dated August 2014.
104. The 2008 SWPPP for the Orange facility did not specify minimum weekly sweeping, or equivalent measure, of exposed areas.

105. The 2008 SWPPP for the Orange facility did not include a preventive maintenance program for equipment.
106. The 2008 SWPPP for the Orange facility did not include contact information for the personnel to be notified in the event of a spill.
107. The 2008 SWPPP for the Orange facility did not include a schedule for maintenance of the storm water controls at the facility.
108. In response to the Section 308 request, Allied provided records of routine inspection of the Orange facility only for 2013.
109. **Ready Rock:** In response to the Section 308 request, Allied initially did not provide a SWPPP for the Ready Rock facility. Later Allied provided a SWPPP dated August 2014.
110. The 2014 SWPPP for the Ready Rock facility did not include a preventive maintenance program for equipment.
111. In response to the Section 308 request, Allied did not provided any records of routine inspection of the Ready Rock facility for 2014.
112. **Staunton:** In response to the Section 308 request, Allied first provided a SWPPP for the Staunton facility dated October 2003, with a signed certification dated August 2008. Later Allied provided a SWPPP dated January 2015.
113. The 2003/2008 SWPPP for the Staunton facility did not specify minimum weekly sweeping, or equivalent measure, of exposed areas.
114. The 2003/2008 SWPPP for the Staunton facility did not include contact information for the personnel to be notified in the event of a spill.
115. The 2003/2008 SWPPP for the Staunton facility did not include a schedule for maintenance of the storm water controls at the facility.
116. In response to the Section 308 request, Allied provided some records of routine inspection of the Staunton facility but there were no records of inspection for the first quarter of 2012 and the last 3 quarters of 2014.
117. **VBS:** In response to the Section 308 request, Allied first provided an undated SWPPP for the VBS facility, which did not include a signed certification. Later Allied provided a SWPPP dated August 2014.
118. The undated SWPPP for the VBS facility did not specify minimum weekly sweeping, or equivalent measure, of exposed areas.

119. The undated SWPPP for the VBS facility did not include contact information for the personnel to be notified in the event of a spill.
120. The undated SWPPP for the VBS facility did not include a schedule for maintenance of the storm water controls at the facility.
121. In response to the Section 308 request, Allied did not provide any records of routine inspection of the VBS facility.
122. **Waynesboro:** In response to the Section 308 request, Allied first provided a SWPPP for the Waynesboro facility dated September 2003, with a signed certification dated 2008. Later Allied provided a SWPPP dated August 2014.
123. The 2003/2008 SWPPP for the Waynesboro facility did not specify minimum weekly sweeping, or equivalent measure, of exposed areas.
124. The 2003/2008 SWPPP for the Waynesboro facility did not include contact information for the personnel to be notified in the event of a spill.
125. The 2003/2008 SWPPP for the Waynesboro facility did not include a schedule for maintenance of the storm water controls at the facility.
126. **Zions:** In response to the Section 308 request, Allied first provided an undated SWPPP for the Zions facility, which did not include a signed certification. Later Allied provided a SWPPP dated January 2015.
127. The undated SWPPP for the Zions facility did not specify minimum weekly sweeping, or equivalent measure, of exposed areas.
128. The undated SWPPP for the Zions facility did not include contact information for the personnel to be notified in the event of a spill.
129. The undated SWPPP for the Zions facility did not include a schedule for maintenance of the storm water controls at the facility.
130. In response to the Section 308 request, Allied provided only three records of routine inspection of the Zions facility for the period between 2012 and 2014.
131. In response to the Section 308 request, the map Allied provided with the 2015 SWPPP did not include the outline of drainage areas and did not identify significant materials exposed to precipitation.

132. By failing to have signed and certified SWPPPs with all the elements required by the 2013 Permit, including the quarterly inspections and site maps as provided in the 2013 Permit, Respondent violated the 2013 Permits and Section 301 of the Act, 33 U.S.C. § 1311, during the following periods:

- a. from January 1st, 2014 to at least on or about August 2014 for the Greene, Louisa, Orange, VBS and Waynesboro facilities;
- b. from January 1st, 2014 to at least on or about September 2014 for the Charlottesville and New Canton facilities;
- c. from January 1st, 2014 to at least on or about January 2015 for the Staunton and Zions facilities; and
- d. from December 9, 2013 to at least on or about January 2015 for the Ready Rock facility.

Counts 27-36: Failure to conduct and document annual comprehensive site evaluation

133. Both the 2008 and the 2013 Permits required permittees conduct a comprehensive site compliance evaluation at least once a year. 2013 Permit Part II.G.8; 2008 Permit Part II.G.8. The evaluation must be conducted by qualified personnel and must cover the elements specified in the permit. The permittee must write a report summarizing the scope of the evaluation and all the observations relating to the implementation of the SWPPP. The report must be signed and certified and maintained with the SWPPP. 2013 Permit Part II.G.8.j; 2008 Permit Part II.G.8.j.

134. As part of the Section 308 request, EPA requested the evaluation reports for Allied concrete product facilities for 2012, 2013 and 2014.

135. In response to the Section 308 request, Allied did not provide the 2012 and 2014 evaluation reports for the Charlottesville facility.

136. In response to the Section 308 request, Allied did not provide the 2014 evaluation report for the Greene facility.

137. In response to the Section 308 request, Allied did not provide the 2013 and 2014 evaluation reports for the Louisa facility.

138. In response to the Section 308 request, Allied did not provide any evaluation reports for the New Canton facility.

139. In response to the Section 308 request, Allied did not provide any evaluation reports for the Orange facility.

140. In response to the Section 308 request, Allied did not provide the 2014 evaluation report for the Ready Rock facility.

141. In response to the Section 308 request, Allied did not provide the 2014 evaluation report for the Staunton facility.

142. In response to the Section 308 request, Allied did not provide the 2014 evaluation report for the VBS facility.

143. In response to the Section 308 request, Allied did not provide the 2014 evaluation report for the Waynesboro facility.

144. In response to the Section 308 request, Allied did not provide the 2013 and 2014 evaluation reports for the Zions facility.

145. Respondent's failures to conduct and document the required site evaluation reports from the Charlottesville, Greene, Louisa, New Canton, Orange, Ready Rock, Staunton, VBS, Waynesboro and Zions facilities are violations of the 2008 and 2013 Permits and Section 301 of the Act, 33 U.S.C. § 1311, specifically 17 violations of the comprehensive site evaluation requirement.

Count 37: Discharge without a permit

146. Since at least August 2014, Respondent has owned and/or operated the Harrisonburg facility.

147. Discharges of stormwater from the Harrisonburg facility were covered by an NPDES permit only as of June 20, 2016.

148. Based on the stormwater runoff model specified in Technical Release Document 55 of the U.S. Army Corps of Engineers, it is calculated that rain events of over 0.6" would have resulted on stormwater discharges from the Harrisonburg facility.

149. From August 2014 to June 2016 there were at least 16 rain events of over 0.6", including several events of over 1" which have caused discharges of stormwater from the Harrisonburg facility.

150. The discharges of stormwater from the Harrisonburg facility between at least August 2014 and June 20, 2016, are violations of Section 301 of the Act, 33 U.S.C. § 1311.

III. GENERAL PROVISIONS

151. For the purpose of this proceeding, Respondent admits the jurisdictional allegations set forth in this Consent Agreement.

152. Respondent neither admits nor denies the Allegations of Fact set forth in this Consent Agreement.

153. Respondent waives any defenses it might have as to jurisdiction and venue, its right to contest the allegations through hearing or otherwise, and its right to appeal the CAFO.

154. Respondent agrees not to contest EPA's jurisdiction to issue and enforce this CAFO.

155. Respondent hereby expressly waives its right to a hearing on any issue of law or fact in this matter and consents to issuance of this CAFO without adjudication.

156. Each party shall bear its own costs and attorney fees.

157. The undersigned representative of the Respondent certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it. The provisions of this CAFO shall be binding upon the Respondent, its officers, principals, directors, successors and assigns.

158. The parties agree that settlement of this matter prior to the initiation of litigation is in the public interest and that entry of this CAFO is the most appropriate means of resolving this matter.

IV. CIVIL PENALTY

159. In full and final settlement of the Complainant's claims for civil penalties for the alleged violations identified herein, Respondent consents to the assessment of, and agrees to pay, in accordance with the terms set forth herein, the total administrative civil penalty of \$90,000 within thirty (30) days of the effective date of this CAFO, pursuant to 40 C.F.R. § 22.31(c).

160. The civil penalty amount set forth in Paragraph 159, above, is based on 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, pursuant to the authority of Section 309(g) of the Act, 33 U.S.C. § 1319(g).

161. Respondent shall pay the civil penalty amount described in this Part, above, plus any interest, administrative fees, and late payment penalties owed, in accordance with this Part, below, by either cashier's check, certified check, or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall reference Respondent's name and address, and the docket number of this action;
- b. All checks shall be made payable to "**United States Treasury**";

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

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

Primary Contact: Craig Steffen, (513) 487-2091
Secondary Contact: Molly Williams, (513) 487-2076

- d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

Primary Contact: Craig Steffen, (513) 487-2091
Secondary Contact: Molly Williams, (513) 487-2076

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
“D 68010727 Environmental Protection Agency”

- g. All electronic payments made through the Automated Clearinghouse (ACH), also

known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: John Schmid, (202) 874-7026
Remittance Express (REX): (866) 234-5681

h. On-Line Payment Option:

WWW.PAY.GOV/paygov/

Enter **sfo 1.1** in the search field. Open and complete the form.

i. Additional payment guidance is available at:

<http://www2.epa.gov/financial/makepayment>

j. Payment by Respondent shall reference Respondent's name and address, and the EPA Docket Number of this Consent Agreement.

k. A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

Nina Rivera
Senior Assistant Regional Counsel
U.S. EPA, Region III (3RC20)
1650 Arch Street
Philadelphia, PA 19103-2029

and

Regional Hearing Clerk
U.S. EPA, Region III (3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

162. 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 as specified herein shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

163. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. 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).

V. APPLICABLE LAWS

164. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law and ordinance, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit. Nor does this CAFO constitute a waiver, suspension or modification of the requirements of the CWA, 33 U.S.C. §§ 1251 *et seq.*, or any regulations promulgated thereunder.

VI. RESERVATION OF RIGHTS

165. This CAFO resolves only the civil claims for the specific violations alleged herein. EPA reserves the right to commence an action against any person, including Respondent, in response to any condition that EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, 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. Further, EPA reserves any rights and remedies available to it under the Clean Water Act, 33 U.S.C. § 301 *et seq.*, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following the filing of the CAFO with the Regional Hearing Clerk.

166. Entry of this CAFO is a final settlement of all violations alleged in this Consent Agreement. EPA reserves the right to seek and obtain appropriate relief if EPA obtains evidence that the information provided and/or representations made by Respondent to EPA are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action, civil or criminal, EPA may have under law or equity in such event.

VII. FULL AND FINAL SATISFACTION

167. This settlement shall constitute full and final satisfaction of all civil claims for penalties which Complainant has under Section 309(g) of the CWA, 33 U.S.C. § 1319(g), for the violations alleged in this Consent Agreement. Compliance with the requirements and provisions of this CAFO

shall not be a defense to any action commenced at any time for any other violation of the federal laws and/or regulations administered by EPA.

VIII. PARTIES BOUND

168. This CAFO shall apply to and be binding upon the EPA, Respondent and Respondent's officers, employees, agents, successors and assigns. The undersigned representative of Respondent certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and to execute and legally bind that party to it.

IX. EFFECTIVE DATE

169. Pursuant to 40 C.F.R. § 22.45(b), this CAFO shall be issued after a 40-day public notice period is concluded. This CAFO will become final and effective thirty (30) days after it is filed with the Regional Hearing Clerk, pursuant to Section 309(g)(5) of the Act, 33 U.S.C. § 1319(g)(5), or until a public comment process pursuant to 40 C.F.R. § 22.45(b) is concluded.

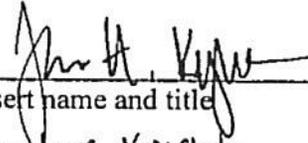
X. ENTIRE AGREEMENT

170. This Consent Agreement constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Consent Agreement.

FOR RESPONDENT,

ALLIED CONCRETE COMPANY:

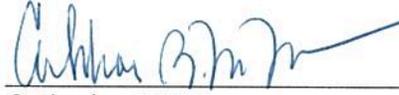
Date: 10/16/17



Insert name and title
Theodore Knight
President

FOR Complainant THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

Date: 12/18/17



Catharine McManus,
Acting Director
Water Protection Division

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

In the Matter of:

Allied Concrete Company,

Respondent.

EPA Docket No. CWA-03-2018-0022

FINAL ORDER

**Proceeding under Section 309(g) of the
Clean Water Act**

FINAL ORDER

Complainant, the Director of the Water Protection Division, U.S. Environmental Protection Agency, Region III, and Respondent, Allied 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 (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 statutory factors set forth in Section 309(d) of the Clean Water Act ("CWA"), 33 U.S.C. § 309(d).

NOW, THEREFORE, PURSUANT TO Section 309 of the CWA, 33 U.S.C. Section 309(g), 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 ***NINETY THOUSAND DOLLARS (\$90,000.00)***, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of the attached Consent Agreement and this Final Order is thirty (30) days after this Final Order is filed with the Regional Hearing Clerk, pursuant to 33 U.S.C. §1319(g)(5).

Jan. 30, 2018
Date



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

CERTIFICATE OF SERVICE

I certify that the enclosed Consent Agreement and Final Order were delivered to the following persons:

Delivery by Certified Mail Return Receipt Requested:

Theodore Knight, President
Allied Concrete Company
1000 Harris Street
Charlottesville, VA 22902

Larry Barbrow
Allied Concrete Company
1000 Harris Street
Charlottesville, VA 22902

Delivery by hand (original and one copy):

Regional Hearing Clerk (3RC00)
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Date: 1/31/18



Ms. Nina Rivera
Senior Assistant Regional Counsel



U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Small Business Programs

www.epa.gov/smallbusiness
EPA's Office of Small Business Programs (OSBP) advocates and fosters opportunities for direct and indirect partnerships, contracts, and sub-agreements for small businesses and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman

www.epa.gov/sbo or 1-800-368-5888
The EPA Asbestos and Small Business Ombudsman (ASBO) serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

EPA's Compliance Assistance Homepage

www2.epa.gov/compliance
This page is a gateway industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

EPA's Compliance Assistance Centers

www.assistancecenters.net
EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture/

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair
ccar-greenlink.org/ or 1-888-GRN-LINK

Chemical Manufacturing
www.chemalliance.org

Construction
www.cicacenter.org or 1-734-995-4911

Education
www.campuserc.org

Food Processing
www.fpeac.org

Healthcare
www.hercenter.org

Local Government
www.lgean.org

Metal Finishing
www.nmfrc.org

Paints and Coatings
www.paintcenter.org

Printing
www.pneac.org

Ports
www.portcompliance.org

Transportation
www.tercenter.org

U.S. Border Compliance and Import/Export Issues
www.bordercenter.org

EPA Hotlines, Helplines and Clearinghouses

www2.epa.gov/home/epa-hotlines
EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

Clean Air Technology Center (CATC) Info-line
www.epa.gov/ttn/catc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP and Oil Information Center
www.epa.gov/superfund/contacts/infocenter/index.htm or 1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline
www.epa.gov/otaq/imports or 734-214-4100

National Pesticide Information Center
www.npic.orst.edu/ or 1-800-858-7378

National Response Center Hotline to report oil and hazardous substance spills - www.nrc.uscg.mil or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) - www.epa.gov/opptintr/ppic or 1-202-566-0799

Safe Drinking Water Hotline - www.epa.gov/drink/hotline/index.cfm or 1-800-426-4791

Stratospheric Ozone Protection Hotline

www.epa.gov/ozone/comments.htm or 1-800-296-1996

Toxic Substances Control Act (TSCA) Hotline

tsca-hotline@epa.gov or 1-202-554-1404

Small Entity Compliance Guides

<http://www.epa.gov/sbrefa/compliance-guides.html>
EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

<http://www.epa.gov/sbo/rsbl.htm>
The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/statetools
The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

www.epa.gov/sbo/507program.htm
State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

EPA's Tribal Portal

www.epa.gov/tribalportal/
The Portal provides access to information on environmental issues, laws, and resources related to federally recognized tribes.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www2.epa.gov/enforcement/small-businesses-and-enforcement
This Policy offers small businesses special incentives to come into compliance voluntarily.

EPA's Audit Policy

www2.epa.gov/compliance/epas-audit-policy
The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.