

ENCLOSURE A

Industrial Stormwater Non-Filer Inspection Findings, Alleged Violations, and Proposed Penalty Form

1. Acme Block and Brick, Inc. (Respondent) owns and operates the concrete block manufacturing facility located at 2421 South Main Street, Corbin, Kentucky (Facility). The Facility is identified by Standard Industrial Classification (SIC) Code 3271.
2. Pursuant to Section 402(p)(2)(B) of the CWA, 33 U.S.C. § 1342(p)(2)(B), a National Pollution Discharge Elimination System (NPDES) permit is required for “a [stormwater] discharge associated with industrial activity.”
3. Pursuant to 40 C.F.R. § 122.26(b)(14)(ii), “[f]acilities classified within Standard Industrial Classification... 32 (except 323)...” which would include SIC Code 3271 are considered to be engaging in “industrial activity” for purposes of 40 C.F.R. 122.26(b)(14).
4. On July 24, 2019, representatives of the EPA, in conjunction with the Kentucky Department of Environmental Protection (KDEP), performed a Compliance Stormwater Evaluation Inspection (CSWEI) at Acme’s Facility to evaluate the Respondent’s compliance with the requirements of Sections 301 of the CWA, 33 U.S.C. § 1311; and the regulations promulgated thereunder at 40 C.F.R. § 122.26.
5. On September 11, 2019, the EPA issued an Inspection Report to the Respondent. During the CSWEI, the EPA inspectors observed the following:
 - A. The Facility, previously owned and operated by Pennington Block, was purchased by Acme Block and Brick in December 2015.
 - B. The facility had outdoor industrial processes, including but not limited to, loading and unloading operations of raw materials, and raw material and waste material storage with exposure contributing to stormwater contamination.
 - C. The Facility is a concrete block manufacturing plant (SIC Code 3271) but has not submitted an NOI for coverage under the existing Permit.
6. Section 402(p)(2)(B) of the CWA, 33 U.S.C. § 1342(p)(2)(B), and its implementing regulations at 40 C.F.R. § 122.26(b)(14)(vi), as referenced above, require that an industrial facility discharging stormwater into a surface water of the United States must obtain an NPDES permit. The EPA’s industrial stormwater guidance anticipates potential discharges from an industrial site to occur with rain events greater than 0.1 inch. In EPA’s industrial penalty policy, -0.5 inches during a 24-hour period is used as the benchmark for likely stormwater runoff. According to the rain data available for this area, forty-five (45) months during the period of December 2015 to April 2020 have had one or more daily rain events greater than 0.5 inches. Due to the hydrology of the Facility, which consists entirely of

impervious surfaces, the EPA has determined that from December 2015 to April 2020, stormwater associated with industrial activities generally traveled to either the water conveyance along the east side of the property, parallel to the railroad track, or to the conveyance paralleling the adjacent road on the west side of the property. These conveyances direct runoff south to the section of Bacon Creek roughly 0.1 mile south of the facility. Bacon Creek then flows east to Lynn Camp Creek roughly 0.15 mile east of the facility. Lynn Camp Creek is listed as an impaired water for multiple pollutants including sediment.

7. Lynn Camp Creek is a traditionally navigable water of the United States as defined by Section 502(7) of the CWA, 33 U.S.C. § 1362(7) and its implementing regulation 40 C.F.R. § 122.2.
8. Respondent has violated Sections 301 of the CWA, 33 U.S.C. §§ 1311, by discharging stormwater from the Facility without proper authorization to waters of the United States.
9. Pursuant to Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), and 40 C.F.R. § 22.13(b), and in accordance with the EPA's September 8, 2016 Supplemental Guidance to the 1995 Interim Clean Water Act Settlement Penalty Policy for Violations of the Industrial Stormwater Requirements, the EPA is assessing a penalty of \$10,000 for the above-mentioned violations