ENLOSURE A

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

1. Palm Beach Cast Stone, Inc. (Respondent) owns and operates a cast concrete and stone manufacturing facility located at 809 North Railroad Avenue, West Palm Beach, Florida (Facility). The Facility is identified by Standard Industrial Classification (SIC) Code 3272.

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 3272 are considered to be engaging in "industrial activity" for purposes of 40 C.F.R. 122.26(b)(14).

4. On July 8, 2019, representatives of the EPA, in conjunction with the Florida Department of Environmental Protection (FDEP), performed a Compliance Stormwater Evaluation Inspection (CSWEI) at the 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 August 12, 2019, the EPA issued an Inspection Report to the Respondent. During the CSWEI, the EPA inspectors observed the following:

    A. The Facility had outdoor industrial activity including but not limiting to truck loading, outdoor forming and casting of concrete and stone, and an open trash bin with potential exposure and contribution to stormwater contamination.

    B. The facility had outdoor storm drains, which are connected to the City of West Palm Beach stormwater system along North Railroad Avenue. These street drains also capture surface runoff from both sides of North Railroad Avenue and drains to waters of the United States.

    C. The Facility is a cast concrete and stone manufacturing plant (SIC Code 3272) 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 from West Palm Beach airport station, fifty-two (52) months during the period of May 2015 to May 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 May 2015 to May 2020, stormwater associated with industrial activities flowed into the facility's two yard drains, which are connected to the City of West Palm Beach stormwater drainage system along North Railroad Avenue. Storm drains along North Railroad Avenue drain eastward traveling approximately 2,000 feet and discharge directly into Lake Worth Lagoon, an intercoastal waterway to the Atlantic Ocean.

7. Lake Worth Lagoon 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 $7,500 for the above-mentioned violations.