

**Claxton Smith Concrete Company**  
**NOTICE OF INTENT TO FILE CONSENT AGREEMENT AND FINAL ORDER**  
**ASSESSING ADMINISTRATIVE PENALTY**  
**AND OPPORTUNITY FOR PUBLIC COMMENT**

**U.S. ENVIRONMENTAL PROTECTION AGENCY MID-ATLANTIC REGION**  
**Enforcement and Compliance Assurance Division (3ED32)**  
**1600 John F. Kennedy Boulevard**  
**Philadelphia, Pennsylvania 19103**

**Date of Notice: July 7, 2025**

**Permit Numbers:** WV0117170 (Charleston Permit), WVG610500 (Culloden Permit),  
WVG610635 (Poca Permit)

**Docket Number:** CWA-03-2025-0119

**Comments will be accepted until: August 15, 2025**

In accordance with Section 309(g) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g) and 40 CFR § 22.45, notice is hereby given that the U.S. Environmental Protection Agency Region 3 (EPA Mid-Atlantic Region) is proposing to file a Consent Agreement and Final Order (CAFO) assessing an administrative civil penalty in the amount of fifty-five thousand dollars (\$55,000.00) against the Respondent named below for alleged violations of the CWA.

**RESPONDENT:**

Claxton Smith Concrete Company  
3133 Charleston Road  
Poca, West Virginia 25159-7261

**FOR FACILITIES:**

Charleston Facility  
2262 Pennsylvania Avenue  
Charleston, West Virginia 23302

Culloden Facility  
1960 US Route 60  
Culloden, West Virginia 25510

Poca Facility  
3133 Charleston Road  
Poca, West Virginia 25159-7261

**SUMMARY OF VIOLATIONS:**

The EPA Mid-Atlantic Region alleges the following violations of Section 301 of the Clean Water Act, 33 U.S.C. § 1311, which were discovered at 2262 Pennsylvania Avenue, Charleston, West Virginia 23302 (Charleston Facility):

1. Failure to Maintain the Stormwater Pollution Prevention Plan (SWPPP)

At the time of the Charleston inspection on June 28, 2022, Respondent violated Section C.16 of the Charleston Permit by failing to have an accurate description of site operations included in the Charleston SWPPP.

2. Failure to Comply with Discharge Limitations

From May 31, 2022 through January 1, 2024, the Charleston Facility experienced 7 effluent limit exceedances from Outlets 001 and 002, which it reported in its Discharge Monitoring Reports (DMRs). Respondent violated Sections A.001 and A.002 of the Charleston Permit by failing to comply with discharge limitations.

3. Failure to Comply with Monitoring Requirements

The Charleston Facility failed to timely submit 23 complete DMRs from March 31, 2022 through February 25, 2025. Respondent violated Sections A.001 and A.002 of the Charleston Permit by failing to comply with monitoring requirements.

4. Failure to Maintain Good Housekeeping

At the time of the Charleston inspection on June 28, 2022, Respondent violated Section C.1 of the Charleston Permit by failing to maintain good housekeeping at the Charleston Facility, as indicated by the observations of the EPA inspection team.

5. Failure to Contain Pollutants

At the time of the Charleston inspection on June 28, 2022, Respondent violated Section C.20 of the Charleston Permit by failing to contain pollutants at the Charleston Facility, as indicated by the observations of the EPA inspection team.

These failures constitute a violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a) and the NPDES permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

The EPA Mid-Atlantic Region alleges the following violations of Section 301 of the Clean Water Act, 33 U.S.C. § 1311, which were discovered at 1960 US Route 60, Culloden, West Virginia 25510 (Culloden Facility):

1. Failure to Revise the SWPPP After Benchmark Exceedances and Take Corrective Actions to Prevent the Discharge of Pollutants

At the time of the Culloden inspection on June 6, 2023, Respondent had failed to modify the Culloden SWPPP as required by Section A Table E.2, Section B.6.a.1, and Section B.6.a.4 of the Culloden Permit.

2. Failure to Conduct Self-Inspections of Outlet 002

For at least the months of March 11, 2022 through at least June 6, 2023, Respondent violated Section B.10 and Section B.17.A.2.a.8 of the Culloden Permit by failing to conduct and document inspections for Outlet 002.

3. Failure to Develop, Implement, and Modify the SWPPP, Including the Site Map

At the time of the Culloden inspection on June 6, 2023, Respondent was in violation of Section A, "Monitoring Requirements," Section B.17.A.2.a.3, and Section B.17.A.2.a.8 of the Culloden Permit by failing to include and implement a preventive maintenance

program for the maintenance of stormwater pollution prevention devices in the Culloden SWPPP, and violated Section B.17, including Section B.17.A.1.a.1 of the Culloden Permit by failing to develop and implement the Culloden SWPPP, including the site map.

4. Failure to Maintain Good Housekeeping

At the time of the Culloden inspection on June 6, 2023, Respondent was in violation of Section B.17.A.2.a.4 of the General Permit by failing to maintain good housekeeping at the Culloden Facility, including failing to develop in its SWPPP a description of good housekeeping practices and to implement those practices by maintaining a clean, orderly facility, as indicated by the observations of the EPA inspection team.

5. Failure to Install Complete Outlet Markers

At the time of the Culloden inspection on June 6, 2023, Respondent was in violation of Appendix A, Section I.13 of the Culloden Permit by failing to install complete outlet markers at the Culloden Facility.

These failures constitute a violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a) and the NPDES permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

The EPA Mid-Atlantic Region alleges the following violations of Section 301 of the Clean Water Act, 33 U.S.C. § 1311, which were discovered at 3133 Charleston Road, Poca, West Virginia 25159-7261 (Poca Facility):

1. Failure to Comply with Monitoring Requirements

Respondent failed to timely submit 15 DMRs for the Poca Facility from December 31, 2021 through July 25, 2024. Respondent violated Appendix A, Section III.1 of the Poca Permit by failing to submit timely DMRs for the Poca Facility.

2. Failure to Retain Records

At the time of the Poca inspection on September 18, 2023, Respondent was in violation of Appendix A, Section III.6 of the Poca Permit by failing to retain required records of monitoring information for the Poca Facility.

3. Failure to Develop and Modify the SWPPP, Including the Site Map

At the time of the Poca inspection on September 18, 2023, Respondent was in violation of Section A, "Monitoring Requirements," of the Poca Permit by failing to modify the Poca SWPPP in accordance with Section B.17.C [sic] when conditions warrant, including failing to include a site map showing "each drainage and discharge structure" as required by Section B.17.A.1.a.1 of the Poca Permit and failing to "include a preventive maintenance program that involves inspection and maintenance of stormwater pollution prevention devices... as well as inspecting and testing plant equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters" as required by Section B.17.A.2.a.3 of the Poca Permit.

4. Failure to Mitigate Discharge

At the time of the Poca Inspection on September 18, 2023, Respondent was in violation of Appendix A, Section I.3 of the Poca Permit by failing to mitigate discharge at the Poca

Facility through failing to take all reasonable steps to minimize or prevent any discharge which has a reasonable likelihood of adversely affecting human health or the environment, as indicated by the observations of the EPA inspection team.

5. Failure to Properly Operate and Maintain the Facility

At the time of the Poca inspection on September 18, 2023, Respondent was in violation of Appendix A, Section II.1 of the Poca Permit by failing to properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit, as indicated by the observations of the EPA inspection team.

6. Failure to Maintain Good Housekeeping

At the time of the Poca inspection on September 18, 2023, Respondent was in violation of Section B.17.A.2.a.4 of the General Permit by failing to maintain good housekeeping at the Poca Facility, including failing to develop in its SWPPP a description of good housekeeping practices and to implement those practices by maintaining a clean, orderly facility, as indicated by the observations of the EPA inspection team.

These failures constitute a violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a) and the NPDES permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

**OPPORTUNITY FOR COMMENT:** Persons wishing to comment on the CAFO are invited to submit via email a statement to the EPA Mid-Atlantic Region Enforcement and Compliance Assurance Division Director. This statement should be emailed directly to the Regional Hearing Clerk (email below) within forty (40) days of the date of this public notice. Comments received within this forty-day period will be considered. All comments must include the name, address, and telephone number of the writer and a concise statement of the basis for any comment and any relevant facts on which it is based.

**All comments should be either emailed to:**

EPA Region 3 Regional Hearing Clerk: [r3\\_hearing\\_clerk@epa.gov](mailto:r3_hearing_clerk@epa.gov)

**OR**

Mailed/Submitted to:

U. S. Environmental Protection Agency, Region 3  
Regional Hearing Clerk – Mail Code 3RC00  
1600 John F. Kennedy Boulevard  
Philadelphia, PA 19103

**AVAILABILITY OF INFORMATION:** Information relevant to the Consent Agreement may be requested through the Regional Hearing Clerk.

**REGISTRY OF INTERESTED PERSONS:** Any person interested in a particular case or group of cases may leave their name, address, and telephone number on a registry of interested persons which will be maintained in each file. The list of names will be maintained as a means for persons with an interest in the case to contact others with the same interest.

**FOR FURTHER INFORMATION.** Interested parties may contact the following EPA representatives to learn more about this action.

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