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Exempt Action: Final Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-193
VAC Chapter title(s)	Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Concrete Products Facilities
Action title	Update and amend the regulation that expires on December 31, 2023 in order to continue to offer general permit coverage for this industry.
Final agency action date	June 22, 2023
Date this document prepared	March 31, 2023

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The regulation specifies requirements for concrete products facilities to discharge process wastewater and industrial stormwater to protect water quality. The most significant amendments to this regulation are to reissue the permit for the next five-year term and updating the stormwater requirements. This regulatory action is proposed to amend and reissue the existing general permit, which expires on December 31, 2023.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

The impetus of the regulatory change is Virginia Code § 62.1-44.15 (5a) which states, "All certificates issued by the Board under this chapter shall have fixed terms. The term of a Virginia Pollutant Discharge Elimination System permit shall not exceed five years." This general permit expires on December 31, 2023 and must be reissued in order to make coverage available for concrete products facilities that discharge to surface waters after that date. If this permit is not re-issued in a timely manner, no new coverage is available to any new facility owner or operator and such owners or operators would be required to obtain individual VPDES permits, which require more time to develop and issue, and impose significantly greater burden and costs on permittees and increased administrative burden on DEQ.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the “Definitions” section of the regulation.

- CEDS: Comprehensive Environmental Data System
- DEQ: Department of Environmental Quality
- DMR: Discharge Monitoring Report
- EPA (U.S. EPA): United States Environmental Protection Agency
- ICIS: Integrated Compliance Information System
- NPDES: National Pollutant Discharge Elimination System
- SCC: State Corporation Commission
- SWCB: State Water Control Board
- SWPPP: Stormwater Pollution Prevention Plan
- TMDL: Total Maximum Daily Load
- TDS: Total Dissolved Solids
- TSS: Total Suspended Solids
- TAC: Technical Advisory Committee
- USC: United States Code
- VAC: Virginia Administrative Code
- VPDES: Virginia Pollutant Discharge Elimination System

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On June 22, 2023, the State Water Control Board adopted the Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Concrete Products Facilities – 9VAC25-193 as a final regulation.

Legal Basis

Identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the

promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity’s overall regulatory authority.

The promulgating entity is the State Water Control Board. The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia (State Water Control Law). Specifically, § 62.1-44.15(5) authorizes the Board to issue permits for the discharge of treated sewage, industrial wastes or other waste into or adjacent to state waters and § 62.1-44.15(7) authorizes the Board to adopt rules governing the procedures of the Board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the Board to adopt such regulations as it deems necessary to enforce the general water quality management program, §62.1-44.15(14) authorizes the Board to establish requirements for the treatment of sewage, industrial wastes and other wastes, § 62.1-44.16 specifies the Board's authority to regulate discharges of industrial wastes, § 62.1-44.20 provides that agents of the Board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations, and § 62.1-44.21 authorizes the Board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991 to authorize the Commonwealth to administer a General VPDES Permit Program.

Changes to this chapter of the Virginia Administrative Code are exempt from Article 2 of the Administrative Process Act (2.2-4006 A 8).

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it’s intended to solve.

This proposed regulatory action is needed to establish and update permitting requirements for discharges from concrete products facilities in order to protect the health, safety and welfare of citizens. The existing general permit expires on December 31, 2023 and must be reissued to cover existing and new concrete products facilities. The goal is to update the permit and the regulation to be consistent with other VPDES general permits and protect water quality. If this permit is not re-issued in a timely manner, no new coverage is available to any new facility owner or operator and such owners or operators would be required to obtain individual VPDES permits, which require more time to develop and issue, and impose significantly greater burden and costs on permittees and increased administrative burden on DEQ.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.

Substantive provisions include adding new definitions for “corrective action” in section 10, clarifying that consistency with a TMDL is based on an applicable TMDL that is approved prior to the term of the general permit in section 50, and clarifying registration questions and adding electronic submission registration requirements in section 60. In the permit requirements of section 70, Part I, dust suppression allowances have been clarified and TMDL requirements have been updated and clarified. Many of the stormwater management requirements of section 60, Part II have been updated to reflect the requirements of the VPDES General Permit Regulation for Discharges of Stormwater Associated with Industrial Activity (9VAC25-151) including adding a section on corrective actions. In section 70, Part III (Conditions Applicable to All VPDES Permits), a requirement has been added to submit electronic discharge monitoring reports when these are made available by the department.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The advantages to the public and the agency of reissuing this permit are that a VPDES general permit will continue to be available to facilities with eligible discharges enabling them to discharge to surface waters in a manner that is protective of those waters without the increased cost and more complicated application process associated with issuing an individual permit. There are no known disadvantages to the public, agency or regulated community.

Requirements More Restrictive than Federal

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.

There are no changes to previously reported information. There are no requirements that exceed applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.

There are no changes to previously reported information.

There is no locality particularly affected under the Board's statutes

Other State Agencies Particularly Affected:
None

Localities Particularly Affected:
None

Other Entities Particularly Affected:
None

Public Comment

Summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. Ensure to include all comments submitted: including any received on Town Hall, in a public hearing, or submitted directly to the agency or board. If no comment was received, enter a specific statement to that effect.

There were no comments received in response to impact to small businesses.

The existing permit regulation is needed because it expires on December 31, 2023 and must be reissued for another term to remain available to new and current permittees. If this permit is not re-issued in a timely manner, no coverage is available to any facility owner or operator and such owners or operators would be required to obtain individual VPDES permits, which require more time to develop and issue, and impose significantly greater burden and costs on permittees and increased administrative burden on DEQ.

Most comments were from the EPA and were recommendations to make the permit more like federal regulations, for clarifications within the permit and explanations in the fact sheet.

The regulation is a technical regulation but written as clearly as possible to convey the requirements to maintain water quality.

The regulation does not overlap, duplicate, or conflict with federal or state law or regulation.

The regulation was evaluated during periodic review in March 2021 and before that at permit reissuance which was effective January 1, 2019.

Commenter	Comment	Agency response
Jennifer Fulton Acting Chief, Clean Water Branch USEPA Mid-Atlantic Region	The draft permit allows for automatic transfer of coverage to a new permittee if the current permittee notifies the department within 30 days of the transfer of the title to the facility or property. This permit condition appears to be inconsistent with 40 CFR 122.61(b)(1) which requires the permittee to notify the Director at least 30 days in advance of the proposed transfer date. EPA recommends VADEQ revisit the automatic transfer of coverage condition and ensure it is consistent with the regulations.	Ownership changes vary from the federal regulation (30 days within transfer vs 30 day prior to transfer) because most real estate transactions are agreed upon only days before transfer. For a permittee to expect a new owner to take full responsibility of permit requirements 30 days prior to an ownership transfer is burdensome on the permittee. It is also problematic for staff because if the 30 days prior to transfer is not met, there is no regulatory alternative to change ownership for general permits except to terminate the original permit and issue new permit coverage for the new owner or process an automatic ownership change that is not in compliance with the due date specified in the regulation. Requiring 30 days within transfer is more likely to occur without raising concerns. No change has been made to the regulation in response to this comment.
Jennifer Fulton Acting Chief, Clean Water Branch USEPA Mid-Atlantic Region	The draft permit requires benchmark monitoring in Part I.A.2 on an annual basis. Type, intervals, and frequency of monitoring must yield sufficient data to be representative of the monitored activity. See 40 C.F.R. § 122.48(b). VADEQ did not include its rationale or any data/information they used to assist in deciding that collecting only one sample per year for stormwater discharges is appropriate. If VADEQ has a rationale explaining how the sampling frequencies in the draft permit will yield representative information, that rationale has not been set forth in the fact sheet as required by 40 C.F.R. §§ 124.8 and	This industry has had annual monitoring since the first concrete products general permit in 1998. DEQ will add a rationale in the fact sheet explaining how the annual sampling is representative given the specific monitoring parameters (within 15 minutes of storm event, 72-hours since the last storm event) and supported by quarterly visual monitoring and site inspections. Furthermore, this monitoring increase is a significant change and was not discussed during the TAC meetings. This could jeopardize a timely reissuance if the agency decides to meet with the TAC again for additional discussion. Also, to offer discontinued monitoring over time and potentially restart in the 4 th year of reissuance is not a practice that VA DEQ has staff resources to track and administer. Staff

	<p>124.56. The fact sheet should be updated to include this information consistent with the regulations. EPA, as documented in the 2021 MSGP, has determined that quarterly benchmark monitoring is representative.</p> <p>EPA's MSGP requires quarterly benchmark monitoring, and permittees with no benchmark exceedances for two years may discontinue monitoring. EPA's fact sheet for the 2021 MSGP explains that quarterly stormwater event samples collected over one year are inadequate to characterize industrial stormwater discharges or describe industrial BMP performance. As a result, the benchmark monitoring in EPA's MSGP was extended to the first and fourth year of permit coverage. This monitoring schedule combined with quarterly inspections under the 2021 MSGP aims to ensure that operators have current data on their industrial stormwater discharges and stormwater control measure effectiveness and will help identify any adverse effects from modifications in facility operations and personnel over time.</p>	<p>would have to track compliance, notify the permit writer if the limits could end because of good compliance, the permit writer would have to adjust CEDS (DEQ's Comprehensive Environmental Data System), notify the ICIS (EPA's Integrated Compliance Information System) liaison that the limits are stopping and then track and restart the limits in the 4th year if needed. With the multitude of permits and limited compliance and permit staff, this is currently not feasible for VA DEQ.</p> <p>No change has been made to the regulation in response to this comment</p>
<p>Jennifer Fulton Acting Chief, Clean Water Branch USEPA Mid-Atlantic Region</p>	<p>The presentation of benchmark monitoring requirements in Part I.A.2 is misleading. The table contains a row for benchmark monitoring but only contains discharge limitations. We recommend clearly defining the benchmark monitoring pollutant levels in the table and not as a footnote.</p>	<p>The benchmark monitoring requirements have been moved to the limits table and the phrase "Discharge Limitations" in the table has been deleted and only the phrase "Benchmark Monitoring" remains.</p>
<p>Jennifer Fulton Acting Chief, Clean Water Branch USEPA Mid-Atlantic Region</p>	<p>We recommend revising Footnote 2 of the Limitations Table in Part I.A.2 to discuss or reference the corrective actions in Part II.A.4.</p>	<p>Corrective actions (Part II.A.4) have been referenced in footnote 2 of the table in Part I.A.2.</p>
<p>Jennifer Fulton Acting Chief, Clean Water</p>	<p>EPA recommends defining the acronym TPH in Part I.B.15 or as part of Part I.A.1.</p>	<p>The TPH acronym has been defined in Part I.A.1.</p>

Branch USEPA Mid-Atlantic Region		
Jennifer Fulton Acting Chief, Clean Water Branch USEPA Mid-Atlantic Region	Part I.B.17. states “The permittee may add new or delete existing outfalls at the facility as necessary and appropriate.” Are there certain conditions that make it not appropriate to add or remove an outfall? EPA recommends clarifying what constitutes “necessary and appropriate” if it does not intend to review and approve changes to outfalls.	Part I.B.17 requires submittal of a new registration statement with an updated SWPPP site map which would normally dictate a response and an update of the comprehensive environmental database (CEDS) from DEQ. The changes are effectively approved even though the regulation doesn’t specifically state that. DEQ can add to staff implementation procedures clarification on what constitutes “necessary and appropriate” (e.g., new construction, expansion or shutting down of an industrial area) or inappropriate (outfall has not been capped or completely removed). No change has been made to the regulation in response to this comment
Cliff Bocchicchio, Titan America LLC	Titan worked cooperatively with DEQ to produce a good permit and appreciates the DEQ support.	DEQ acknowledges the comment.
Oldcastle APG Mid-Atlantic (Michael Deyo)	General permit Part I.B.14 requires that “Water used for dust suppression may be discharged provided that it has been filtered, settled, or similarly treated.” This requirement may imply that physical structures are “required” to filter, settle, or treat the dust suppression water. However, these structures may not be necessary. Natural conditions may exist at the facility that achieve these objectives, and some dust suppression water may not require treatment to achieve discharge standards. Therefore, we request that this condition be revised as follows: “Water used for dust suppression may be discharged provided that it has been filtered, settled, or similarly treated, or if other site conditions exist that ensure that the water discharge meets permit standards.”	DEQ thinks that the condition does require some type of structure or BMP to meet the requirements of the condition. Any “site condition” that is identified in the SWPPP and actively maintained as a control measure or BMP (including a natural condition such as a forested buffer) would constitute a similar treatment as a filter or settling basin or other man-made structure. No change has been made to the regulation in response to this comment. Clarification will be added to implementation procedures.
Oldcastle APG Mid-Atlantic (Michael Deyo)	General Permit Part II.B includes “frequency of discharge” as a criteria for evaluating “representative outfalls.” This criteria does not appear to be necessary for this evaluation. Discharges considered to be “substantially identical” to the representative outfall may	“Frequency of discharge” is just one of the criteria to be evaluated for substantially identical outfalls. Substantially identical outfalls may not discharge at the same rate but they should discharge at similar rates depending on the structure of the industrial site. An outfall that discharges constantly while another rarely discharges is a reason

	<p>discharge at a less frequent basis than the representative outfall, but that does not necessarily mean that the discharge from that outfall would be substantially different than that of the representative outfall. Therefore, we request that the reference to “frequency of discharge” be removed from Part II.B.</p>	<p>for the permit writer to question the similarities of the outfalls.</p> <p>No change has been made to the regulation in response to this comment.</p>
<p>Oldcastle APG Mid-Atlantic (Michael Deyo)</p>	<p>General Permit Part II.D.2.d(2) requires the permittee to “perform the following good housekeeping measures... (a) Include a schedule for regular pickup and disposal of waste materials, along with routine inspections for leaks and conditions of drums, tanks, and containers; (b) Sweep or vacuum as feasible; (c) Store materials in containers constructed of appropriate materials...” It may not be necessary for a “schedule for regular pickup and disposal of waste materials.” Waste generation rates may vary, and the “pick-up” of stored waste may be done “as necessary.” Therefore, we request that this item be removed from this section of the permit.</p> <p>In addition, the requirement to “Store materials in containers constructed of appropriate materials.” The term “materials” could be construed to describe virtually anything. For instance, final cured concrete products (e.g. – concrete blocks) are “materials” but are not required to be stored in “containers.” We believe that the intent of this condition may have been to require that “waste materials” be stored in containers constructed of appropriate materials. Therefore, we request that the term “materials” be revised to be specific to “waste materials.”</p>	<p>Waste materials should have a schedule for regular pickup and disposal. A schedule or a pickup or disposal can be changed if unneeded but then it is being actively managed and inspected for the need of disposal.</p> <p>These housekeeping measures are intended for potential sources of pollutants in stormwater. Final cured concrete could be a source of pollutants if the cured concrete was accumulating in the receiving stream. Then a container or a berm of some sort would be appropriate to prevent that from happening.</p> <p>DEQ also disagrees the intent of “materials” does not just refer to waste materials. Materials includes fuels, oils, acids or other chemicals used on site.</p> <p>No change has been made to the regulation in response to this comment.</p>
<p>Oldcastle APG Mid-Atlantic (Michael Deyo)</p>	<p>General Permit Part II.D.2.d(5) similarity contains the generic term “material” which is overly broad for</p>	<p>Any material that is exposed can potentially contribute to stormwater pollution at any site. This requirement to cover materials is already caveated by “to the extent</p>

	use in this condition. At a minimum, the term should be clarified to include “materials that could substantially contribute to stormwater pollutants.”	practicable” and “unless infeasible, facilities shall implement the following to minimize exposure.... DEQ doesn’t agree the clarifications suggested are needed. No change has been made to the regulation in response to this comment.
Oldcastle APG Mid-Atlantic (Michael Deyo)	General Permit Part II.D.2.e.(3)(c) references the observation of “concrete product in the stream or turbidity.” We believe that the reference to “stream” is incorrect. There may be no “stream” at the site, and the receiving water body may be significantly far from the facility. We believe that this condition should read “concrete product in the “facility’s discharge” ...”	This reference to concrete product in the stream is just an example and is included because of a direct result of staff observations of cured concrete spilled into the stream. If the discharge is not to a stream, then that observation would be made. Streams can include conveyances, ephemeral streams, wetlands and ditches with connections to streams. No change has been made to regulation in response to this comment. Clarification will be added to implementation procedures.
Oldcastle APG Mid-Atlantic (Michael Deyo)	General Permit Part II.D.2.e(4) requires that “the results of the inspections shall be documented in the SWPPP.” Maintaining the “results of the inspections” as part of the actual SWPPP document is unnecessary so long as the records are maintained in a format easily accessible to site personnel and DEQ as requested. We request that the condition be revised to read “the results of the inspections shall be documented in the facility operating record in an easily accessible manner.”	Results of all stormwater requirements must be documented in the SWPPP. An addendum to the SWPPP, a link to facility inspections or a reference to an easily accessible document elsewhere is one way to maintain or document the results of the inspection in the SWPPP. No change has been made to the regulation in response to this comment. Clarification will be added to implementation procedures.
Oldcastle APG Mid-Atlantic (Michael Deyo)	General Permit Part II.F.2 requires that “The SWPPP shall include documentation that all stormwater outfalls associated with industrial activity have been evaluated annually for the presence of unauthorized discharges.” Similar to our comment to General Permit Part II.D.2.e(4), we believe that maintaining this documentation in the SWPPP is unnecessary and therefore, we request be revised to read “The facility shall maintain documentation that all stormwater outfalls associated with....”	Results of all stormwater requirements must be documented in the SWPPP. An addendum to the SWPPP, a link to facility inspections or a reference to an easily accessible document elsewhere is one way to maintain or document the results of the inspection in the SWPPP. No change has been made to the regulation in response to this comment. Clarification will be added to implementation procedures.

Details of Changes Made Since the Previous Stage

List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. ** Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements
9VAC25-193-10		Not a new requirement. It is a clarification.		Deleted the word “Virginia” from the definition of “Department “or “DEQ” to match the 2022 Board bill definition.
9VAC25-193-70 Part I A 1		Not a new requirement. It is a clarification.	Added an acronym for total petroleum hydrocarbons (TPH) in Part I A 1 as the acronym is used later in the regulation in Part I B 15.	This change was made in response to EPA comments. EPA recommended defining the acronym TPH in Part I.B.15 or as part of Part I.A.1. It is a clarification.
9VAC25-193-70 Part I A 2		Not a new requirement. It is a clarification.	The benchmark monitoring requirements have been moved to the limits table and the phrase “Discharge Limitations” in the table has been deleted and only the phrase “Benchmark Monitoring” remains.	This change was made in response to EPA comments. The presentation of benchmark monitoring requirements in Part I.A.2 is misleading. The table contains a row for benchmark monitoring but only contains discharge limitations. We recommend clearly defining the benchmark monitoring pollutant levels in the table and not as a footnote
9VAC25-193-70 Part I A 2 footnote 2		Not a new requirement. It is a clarification.	Added an acronym for total suspended solids (TSS) as the acronym is used later in the regulation in Part I B 15 and Part II A 2.	For clarification.
9VAC25-193-70 Part I A 2 footnote 2 and Part II A 2		Not a new requirement. It is a clarification.	A reference to corrective actions (Part II.A.4) was added to footnote 2 of the limitations table in Part I.A.2. Corrective actions are required per Part II.A.4 when an exceedance of a	This change was made in response to EPA comments. EPA recommended revising Footnote 2 of the limitations Table in Part I.A.2 to discuss or reference the corrective actions in Part II.A.4.

			benchmark monitoring parameter (e.g., TSS) results in a determination that modifications to stormwater control measures are necessary to meet permit requirements.	The change in Part II A 2 here was done to be consistent with the change made in footnote 2 of the table in Part I.A.2.
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Details of All Changes Proposed in this Regulatory Action

List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-193	NA	The term “board” is generally used throughout the regulation when referencing permit requirements.	Throughout the regulation, the term “board” has been replaced with the term “department” resulting from changes to Chapter 356 of the 2022 Acts of Assembly (Senate Bill 657) which address the authority of the SWCB to issue and enforce permits. All references to the “board” in reference to permit requirements has been changed to “department.” No impact.
9VAC25-193-10. Definitions.	NA	No definition for “corrective action.”	Added definition for “corrective action.” This definition was added to clarify this requirement in the regulation.

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-193-15. Applicability of incorporated references based on the dates that they became effective.	NA	Effective date for the Title 40 CFR is July 1, 2018	Effective date for the Title 40 CFR changed to July 1, 2022. No impact.
9VAC25-193-40. Effective date of the permit.	NA	Effective date of permit is January 1, 2019 and expiration is December 31, 2023.	Effective date of permit is changed to January 1, 2024 and expiration to December 31, 2028. Updated to cover a new permit term. If these dates are not changed, no existing or new permittees can obtain coverage under the general permit.
9VAC25-193-50. Authorization to discharge.	NA	Owners are not eligible for coverage if the discharge is not consistent with the assumptions and requirements of an approved TMDL.	Specified that an approved TMDL is one that is approved prior to the term of this general permit. No impact.
9VAC25-193-60 C 2	NA	Requires facility contact if different from owner.	Requires a facility, owner and permit contact. This change is to be consistent with e-reporting electronic registrations. The permittee will need to provide some additional contact information on the registration. The contacts may be the same person in some cases.
9VAC25-193-60 C 11	NA	A schematic drawing of the facility is required.	Clarified that the schematic drawing was for existing facilities and new facilities that had commenced discharge. No impact.
9VAC25-193-60 C 14	NA	Information regarding representative and substantially identical outfalls is required and includes the size of the drainage area in square feet.	Clarified that the size of the drainage area can be in acres or square feet and includes the total pervious and impervious area within the property boundary. Minor impact if the drainage area was calculated differently in previous years then the permittee would have to recalculate the drainage area.
9VAC25-193-60 C 15	NA	An indication of whether a SWPPP has been prepared is required.	Clarified that the date of the plan or the most recent update or review of the plan is required. No impact.

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-193-60 C 18	NA	An SCC entity identification number is required.	Clarified that the SCC entity number is needed if the facility is required to obtain an entity identification number by law. No impact.
9VAC25-193-60 C 19	NA	A certification is required and includes a statement that duly authorized agents of DEQ may enter the property.	A certification signature is still required but the statement that permission is granted to duly authorized agents of the DEQ to enter the property is deleted. No impact since this required is already in Part III W of the permit.
9VAC25-193-60 E	NA	Registration statements shall be delivered to DEQ by either postal or electronic mail.	Following three months prior notification from the department, registration statements shall be electronically submitted to the department.
9VAC25-193-70	NA	Effective and expiration dates of the permit are January 1, 2024 – December 31, 2028.	Effective and expiration dates of the permit are updated to January 1, 2024 – December 31, 2028. The impact is that existing and new concrete products facilities can continue coverage or get new coverage under this permit instead of having to apply for an individual permit. General permits are less expensive to obtain.
9VAC25-193-70 Part I A 1		Total petroleum hydrocarbons are depicted as the acronym “TPH” later in the regulation in Part I B 15 but not defined anywhere in the regulation.	Added an acronym for total petroleum hydrocarbons (TPH) in Part I A 1 as the acronym is used later in the regulation in Part I B 15. This change was made in response to EPA comments. EPA recommended defining the acronym TPH in Part I.B.15 or as part of Part I.A.1. It is a clarification
9VAC25-193-70 Part I A 2		Stormwater monitoring concentration benchmarks for TSS and pH are stated in footnote 2 (and repeated in Part II A 2 under stormwater management monitoring requirements).	The benchmark monitoring requirements have been moved to the limits table and the phrase “Discharge Limitations” in the table has been deleted and only the phrase “Benchmark Monitoring” remains. This change was made in response to EPA comments. EPA stated that the presentation of benchmark monitoring requirements in Part I.A.2 is misleading. The table contains a row for benchmark monitoring but only contains discharge limitations. We recommend clearly defining the benchmark monitoring pollutant levels in the table and not as a footnote. It is a clarification.

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-193-70 Part I A 2 footnote 2		Total suspended solids are depicted as the acronym "TSS" later in the regulation in (Part I B 15 and Part II A 2) but not defined anywhere in the regulation.	<p>Added an acronym for total suspended solids (TSS) as the acronym is used later in the regulation in Part I B 15 and Part II A 2.</p> <p>It is a clarification.</p>
9VAC25-193-70 Part I A 2 footnote 2 and Part II A 2		There is no reference to corrective actions (Part II A 4). A corrective action determination is required when an exceedance of a benchmark occurs.	<p>A reference to corrective actions (Part II.A.4) was added to footnote 2 of the limitations table in Part I.A.2. Corrective actions are required per Part II.A.4 when an exceedance of a benchmark monitoring parameter (e.g., TSS) results in a determination that modifications to stormwater control measures are necessary to meet permit requirements.</p> <p>This change was made in response to EPA comments. EPA recommended revising Footnote 2 of the limitations Table in Part I.A.2 to discuss or reference the corrective actions in Part II.A.4.</p> <p>The change in Part II A 2 here was done to be consistent with the change made in footnote 2 of the table in Part I.A.2.</p> <p>It is a clarification.</p>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-193-70 B 14	NA	Settled wastewater may be used for dust suppression as a best management practice but run-off or ponding cannot occur.	<p>Specified that dust suppression water may be discharged if it is treated. There is no prohibition to ponding and discharge may occur if the dust suppression water is treated. The TAC discussed how potable water was often used for dust suppression (uncontaminated potable water is an allowable nonstormwater discharge), and wondered whether discharge of water from dust suppression into a stormwater basin would constitute a direct discharge and be in violation of this condition. The construction general permit (9VAC25-880-70) allows treated dust suppression water to be discharged. The condition was amended to recognize that allowance.</p> <p>No impact to permittees although DEQ inspectors will have to be made aware that ponding is no longer prohibited and dust suppression water may be discharged if treated.</p>
9VAC25-193-70 B 16	NA	Discharges to waters with TMDL shall implement measures and controls that are consistent with the assumptions and requirements of the TMDL.	<p>The TMDL requirement is expanded and clarified to mean these are TMDLs that have been approved prior to the term of the permit and that the department will provide written notification that the facility is subject to a TMDL requirement and that if the TMDL establishes a numerical WLA for that facility, the owner shall monitor and implement measures to meet the allocation. Also, at permit reissuance, the permittee shall submit a demonstration that the WLA is met.</p> <p>There will be an impact because now there are specific monitoring requirements for any facilities that have a numeric WLA in a TMDL. Currently all TMDLs applicable to these facilities are for TSS (sediment) and the facilities already monitor for TSS as part of the water quality limitations. There is a TDS TMDL currently under development that may present additional monitoring requirements for some concrete facilities in the future.</p>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-193-70 Part II	NA	Stormwater management requirements are in Part II. Contains collection, analysis and rainfall data requirements, representative outfall instructions, quarterly visual, monitoring requirements, hazardous substances requirements, SWPPP deadlines and contents including routine facility inspections, maintenance of BMPs, allowable nonstormwater discharge allowances and monitoring requirements, and SWPPP review and signature requirements.	Stormwater management requirements have been updated and re-ordered to match the order and language in the 2019 ISW general permit. For example, monitoring requirements (visual and benchmark) have been moved to the beginning of Part II Corrective actions, control measure “considerations” and eliminating and minimizing exposure requirements have been added. Also, routine facility inspections have been moved out of the “Stormwater Controls” and into its own subdivision of “Contents of the SWPPP.” Other changes are being proposed because of TAC stakeholder suggestions. This includes, deletion of the requirement to report duration of rainfall event on the DMR. Signature and SWPPP review and maintaining and updated SWPPP subsections have been moved to the end of Part II.
9VAC25-193-70 Part III C	NA	No electronic reporting DMR requirement.	<p>Added that once the 9VAC25-31-1020 (Electronic Reporting) date is established for this industry discharge monitoring reports shall be submitted electronically. Three months’ notice shall be given by the department about this requirement.</p> <p>Some impact because once electronic reporting dates are established and technology is developed at the department, the permittees will be required submit discharge monitoring reports electronically. This may be difficult if the registrant has no available internet access (even via a public library) or computer/internet skills. Waivers are available under very limited circumstances.</p>

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC25-193-70 Part III I 3		Contains immediate notification requirements for noncompliance which may adversely affect state waters or may endanger public health.	This subsection amended to reflect more recent reporting requirements after discussions with DEQs Pollution Response Program (PREP) staff who requested all after hours reporting be done online via the PREP portal. This portal automatically notifies regional offices and logs the report in the database. This may have an impact on concrete industries that have no immediate internet access who will have to find internet access within 24-hours to report a noncompliance event if it occurs outside of normal working hours.
9VAC25-193-70 Part III L		Requires the permittee to comply with standards for sewage sludge use and disposal under § 405(d) of the Clean Water Act.	Removed references to sewage sludge requirements since these industrial permittees do not discharge sewage or create sewage sludge under this permit. No impact.

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

The reissuance of the VPDES general permit accomplishes the objectives of applicable law and minimizes the costs to a small business owner and simplifies the application process. Without the general permit, a small business owner would be required to obtain an individual permit, which would increase the complexity of a permit application and permit costs.

Family Impact

In accordance with § 2.2-606 of the Code of Virginia, please assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

There is no potential impact of the proposed regulatory action on the institution of the family and family stability.