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## Periodic Review and Small Business Impact Review Report of Findings

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 for Concrete Products Facilities
Date this document prepared	January 11, 2021

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the **Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code**.

## Acronyms and Definitions

*Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.*

NPDES- National Pollutant Discharge Elimination System  
U. S. EPA- United States Environmental Protection Agency  
VPDES- Virginia Pollutant Discharge Elimination System  
VRMCA- Virginia Ready Mixed Concrete Association

## Legal Basis

*Identify (1) the promulgating agency, 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 agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.*

The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. 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.

**Alternatives to Regulation**

*Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.*

One alternative considered was the repeal of this regulation. This alternative was rejected. This regulation provides the regulated community with a streamlined permitting process. Without this regulation, regulated entities that are currently eligible to operate under the provisions of the general permit would be required to obtain individual permits to operate. This regulation is the least burdensome alternative available for achieving the purpose of the regulation.

**Public Comment**

*Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

An informal advisory group was not formed to assist with the periodic review.

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
Jonathan Williams, Virginia Ready Mixed Concrete Association (VRMCA)	The VRMCA believes that the current regulation is a useful and effective permitting mechanism that both consolidates relevant regulatory requirements while providing the regulated community an efficient process for permitting its facilities. VRMCA believes that the current regulation "... i) is necessary for the	The agency agrees the regulation should be retained.

	<p>protection of public health, safety, and welfare ...; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.” Supports retaining regulation in current form.</p>	
<p>Thomas Foley, Virginia Concrete/Vulcan Materials</p>	<p>Believes that the current General Virginia Pollutant Discharge Elimination System Permit for Concrete Products Facilities, (9 VAC 25-193) is a good permit in its current form. Believes that the permit offers the necessary protection for public health, safety and welfare. This general permit was developed using a Technical Advisory Committee, that included individuals from industry and DEQ and the permit that was ultimately developed is a good permit. Does not see a need to open the permit at this time and feels this regulation should be retained in its current form.</p>	<p>The agency agrees the regulation should be retained.</p>

**Effectiveness**

*Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.*

This regulation is necessary for the protection of public health, safety, and welfare. The regulation is clearly written and easily understandable.

**Decision**

*Explain the basis for the promulgating agency’s decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

The regulation is effective and continues to be needed and will be retained.

**Small Business Impact**

*As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.*

This regulation continues to be needed. The general permit covers the discharge of process wastewater and storm water associated with industrial activity from concrete products facilities, provided that the discharge is through a point source to surface waters. If this regulation were repealed, individual permits would be required to conduct these activities.

All commenters supported retaining the regulation without changes.

This regulation establishes procedures for obtaining coverage under this general permit, and portions of the regulation may be viewed as complex due to the technical requirements criteria included in the regulation. This regulation is clearly written and easily understandable.

The regulation does not overlap, duplicate, or conflict with federal or state law or regulation as the State Water Control Board is the delegated authority to regulate point source discharges to surface water.

The State Water Control Board last re-issued this regulation in 2019. This regulation is evaluated and necessary changes are made to the regulation when the permit is re-issued.

The reissuance of the general VPDES permit accomplishes the objectives of applicable law, 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 the costs to obtain permit coverage.

**Family Impact**

*Please assess the potential impact of the regulation's impact on the institution of the family and family stability.*

This regulation does not have a direct impact on the family or family stability.