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Exempt Action Final Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) citation(s)	9VAC25-193
Regulation title(s)	Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Concrete Products Facilities
Action title	Amend and reissue the Concrete Products Facilities General Permit
Final agency action date	September 20, 2018
Date this document prepared	August 13, 2018

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, is encouraged to provide information to the public on the Regulatory Town Hall using this form. Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This rulemaking is proposed in order to reissue the existing VPDES general permit which expires on September 30, 2018. The general permit contains limitations and monitoring requirements for point source discharge of treated wastewaters from concrete products facilities to surface waters. The permit also contains stormwater management requirements. The general permit regulation is being reissued in order to continue making it available for these facilities to continue to discharge.

Substantive changes to the existing regulation include:

- Moving the effective and expiration dates ahead because permit coverage will be administratively continued past the current expiration date;
- Requiring Municipal Separate Storm Sewer owner notification with the registration statement;

- Requiring State Corporation Commission identification number to attain the proper legal owner name of the company for permitting and enforcement purposes;
- Removing the limits and requirements for noncontact cooling water as this industry does not use these systems;
- Clarifying that any waste concrete and any dredged solids from the settling basins are two different types of waste and any associated wastewater or stormwater must be collected for recycle or treated prior to discharge as this was always the intent;
- Clarifying that the O&M manual requirements for wastewater treatment process units do not apply to facilities that do not operate such units in response to public comment;
- Removing the one foot freeboard log reporting requirement for the settling basins in response to public comment;
- Requiring reports per Part III H of an unusual or extraordinary discharge for facilities designed to operate as ‘no discharge’ when or if they discharge during 25-year, 24-hour storm events and reporting of unauthorized discharge per Part III G if a discharge occurs outside of 25-year, 24-hour storm event. This provides some type of notification for discharge since DMRs are not required for these systems. The same requirement is in the non-metallic mineral mining permit since that industry also often operates in a no discharge mode;
- Adding that dust suppression spraying shall not occur during measureable rain events as it is unnecessary and more likely to result in a discharge from the site;
- Adding a requirement to conduct an annual routine facility inspection at inactive sites in accordance with the EPA MSGP;
- Removing sampling waivers for benchmark monitoring as it was generally agreed upon in the TAC that one annual stormwater sample can easily be collected during a calendar year with proper planning. The sampling waivers for quarterly visual examinations were moved to the next section. Deleting this waiver also removes the requirement for a substitute sample the following period;
- Clarifying that when visual monitoring indicates stormwater pollution, stormwater controls must be updated. This follow-up for corrective action was missing from this requirement;
- Removing the requirement to collect and treat pavement wash water because it is an allowable nonstormwater discharge. However, a requirement was added to the allowable nonstormwater discharges that pavement wash waters shall be managed to prevent the discharge of pollutants to control solids discharges and deposition off site;
- Added documentation of routine facility inspections as this was missing from this requirement;
- Removing the requirement for a signed certification for routine facility inspections;
- Adding a waiver for routine facility inspections for facilities that maintain an active Virginia Environmental Excellence Program E3/E4 status to be consistent with the VPDES Industrial Stormwater General Permit;
- Removing comprehensive annual inspections to correspond with the EPA MSGP;
- Moving the nonstormwater SWPPP documentation requirements into the SWPPP subsection;
- Where appropriate, changing language to match the EPA MSGP for Stormwater Discharges Associated with Industrial Activity; and
- Throughout the regulation, where appropriate, making due dates for various requirements 60 days (registration, outfall changes and stormwater plan updates and corrections) for consistency.

Since the proposed stage, changes have been made in sections 10, 20, 50, 60 and 70.

Acronyms and definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the “Definition” section of the regulations.

BMP: Best Management Process

DEQ: Department of Environmental Quality
EPA (U.S. EPA): United States Environmental Protection Agency
E3: Exemplary Environmental Enterprise
E4: Extraordinary Environmental Enterprise
ISWGP: VPDES Industrial Stormwater General Permit 9VAC 25-151
MS4: Municipal Separate Storm Sewer System
MSGP: NPDES Multi-Sector Industrial Stormwater General Permit
NAICS: North American Industry Classification System
NPDES: National Pollutant Discharge Elimination System
O&M: Operations and Maintenance
SIC: Standard Industrial Classification
TSS: Total Suspended Solids
VAC: Virginia Administrative Code
VEEP: Virginia Environmental Excellence Program
VPDES: Virginia Pollutant Discharge Elimination System

Statement of final agency action

Please 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 September 20, 2018, the State Water Control Board adopted 9VAC25-193 Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Concrete Products Facilities.

Family impact

Please assess the impact of this 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.

This regulation will have no direct impact on the institution of the family or family stability.

Periodic review/small business impact review report of findings

Please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review and (2) indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by §2.2-4007.1 E and F, please include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (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.

There were no comments received following the publication of the Notice of Periodic Review in the Notice of Intent Comment Period. Protecting water quality in the Commonwealth’s surface waters is necessary to protect the health, safety and welfare of citizens. The proposed regulatory action is needed in order to establish appropriate and necessary permitting requirements for discharges of wastewater and stormwater to surface waters from concrete products facilities. These discharges are considered to be point sources of pollutants and thus are subject to regulation under the VPDES permit program. The primary issue that needs to be addressed is that the existing general permit expires on September 30, 2018 and must be reissued in order to continue making it available after that date.

The complexity of the regulation and ideas to make it clearer were discussed in the technical advisory committee and appropriate changes were made. 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 regulation was evaluated in 2013 when the permit was reissued last permit term.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
10	None	Added definition of “Virginia Environmental Excellence Program” or VEEP	Allowance to remove routine facility inspections for facilities that maintain VEEP E3/E4 status added to Part II Stormwater Management. Same allowance is the ISWGP.
20 and Part I 70 A	Effective date was October 1, 2018 and expiration date was September 30, 2023	Changed effective date to January 1, 2019 and expiration date to December 31, 2023.	Coverage under the permit has been administratively continued.
50 A	Authorizes cooling water to be discharged.	Removed authorization for cooling water.	Cooling water limits were deleted in the proposal and this reference to cooling water was overlooked initially.
50 D 2 b	Provides options to the DEQ when permit coverage has been continued but the owner has violated the terms of the permit.	Options have not changed, clarifications added and unneeded words deleted.	For clarity.
60 A 2	Requires owners covered under the expiring or expired general permit to submit registration statements in order to continue coverage.	Same requirement except removed reference to “expired” general permit because late registration statements are addressed in subsection B. That is, after expiration, registrations	For clarity.

		are allowed but coverage is not retroactive.	
60 C 5	Registration question to provide current VPDES or VPA permit number was deleted.	Registration question to provide current VPDES or VPA permit number was re-inserted.	Staff decided it should remain for consistency with other VPDES general permits.
60 C 7	Registration statement question asks to indicate which treatment systems (for process wastewater, commingled and stormwater) operate as “no discharge.”	Same question but made references to treatment systems “treatment units.”	For clarity and consistency with other parts of the regulation (O&M manual).
60 C 8	Registration statement asks for date of construction of process wastewater, which may be commingled with stormwater systems to indicate the original date of construction of the settling basins.	Same question but made reference to the commingled process wastewater similar to 60 C 6.	For clarity and consistency with other parts of the regulation.
60 C 16	Requires the permittee to notify MS4 owners if they discharge to the MS4. They must provide a VPDES permit number to the MS4.	Permittees must provide a VPDES general permit number if it has been assigned by DEQ.	New issuances would not yet have a permit number to provide the MS4 at the time of registration.
70 Part I A 3 footnote (2)	Requires that the SWPPP must be evaluated when benchmark concentrations for TSS are exceeded unless the routine facility inspection or the comprehensive site compliance evaluation provides justification.	Removed reference to comprehensive compliance evaluation.	Comprehensive compliance evaluation requirement was removed from the permit to match the MSGP.
70 Part I B 9 (renumbered as 8)	Provides requirements for an O&M manual.	Same requirements, however clarified that any O&M procedures and practices related to process wastewater are only required “if applicable.” Also added allowance that if facilities do not operate process wastewater treatment units, the O&M requirements not specifically related to process wastewater units may be included in the SWPPP instead of in an O&M manual. These requirements are referenced as being included in subdivisions a (4) – (7) of the subsection.	Public comment received that the O&M requirements generally do not apply to concrete plants that do not operate process wastewater treatment units.

<p>70 Part I B 11 (renumbered as 10)</p>	<p>Requires a one-foot freeboard in the basins and lagoons after a 72-hour transition period and a daily log to document the requirement.</p>	<p>Same requirement except the daily log requirement is deleted and the description of how the log will be maintained is to be included in the O&M manual. Also clarified that this requirement applies to the process wastewater basins and lagoons.</p>	<p>Public comment received with justification for removing the daily log requirement unless the freeboard is not restored within 72-hours after a measureable rain event.</p> <p>Clarification that the requirement applies to the process wastewater basins and lagoons is to reflect the intent of the special condition.</p>
<p>70 Part I B 12 (renumbered as 11)</p>	<p>Requires notification to DEQ when process wastewater, commingles or stormwater overflows.</p>	<p>Same requirement but made references to treatment systems "treatment units."</p>	<p>For clarity and consistency with other parts of the regulation (O&M manual).</p>
<p>70 Part I B 20 (renumbered as 19)</p>	<p>Temporary closure at inactive and unstaffed sites waiver.</p>	<p>Clarified that waivers for "stormwater management requirements" at inactive and unstaffed sites means waivers to effluent, benchmark and visual monitoring and routine facility inspections (except for one annual routine facility inspection is required).</p> <p>Added a requirement for an annual routine facility inspection at inactive sites and that this annual routine facility inspection is not required during a stormwater discharge.</p> <p>Changed the requirement to notify the board "30 days prior" to reopening the facility to "within 30 days" of reopening the facility.</p>	<p>Changes made to match the MSGP.</p>
<p>70 Part II D (re-lettered as C)</p>	<p>Requirements for quarterly visual examinations which included an examination of the visual quality of the receiving stream (including observations of solids deposition and oil sheen).</p>	<p>Same requirements except the requirement to visually examine the receiving stream have been removed.</p> <p>Terminology using the word "examination" or "assessment" was replaced with "monitoring" where appropriate.</p>	<p>Visual monitoring is intended to be a visual examination of the actual stormwater discharge. This is how the MSGP and the ISWGP permits are organized. Any additional observations are part of the routine facility inspections.</p>

			“Examination” or “assessment” replaced with “monitoring” to emphasize that this is a monitoring requirement.
70 Part II E (re-lettered as D)	Allowable nonstormwater discharges are listed.	<p>Same allowable list except “pavement wash waters where no detergents are used” was expanded to exclude “pavement wash waters where no detergents or hazardous cleaning products are used.” Also added that the pavement wash waters “shall be managed to prevent the discharge of pollutants.”</p> <p>Also, “routine external building washdown that does not use detergents” was expanded to exclude “routine external building washdown where no detergents or hazardous cleaning products are used.”</p> <p>Moved the SWPPP identification requirements for allowable nonstormwater discharges to the SWPPP section.</p> <p>Removed the requirement to evaluate the cooling tower chemicals in the SWPPP.</p>	<p>Generally reflects the MSGP exceptions for allowable pavement wash waters and routine external building washdown. Also see Part II F 6 f (2) (Good Housekeeping) changes rationale for pavement washwaters.</p> <p>Other changes reflect the requirements of the MSGP or for clarity.</p>
70 Part II G 2 b (re-lettered as F)	Signature and SWPPP review.	Requirement to make the annual site compliance inspection report available to DEQ was deleted and replaced with routine facility inspections.	Reflects the requirements in the MSGP which includes the deletion of the annual site compliance inspections.
70 Part II G 6 b (2) (re-lettered as F)	Summary of potential pollutant sources includes a list of the associated pollutants and provides examples.	Added to the list “pollutant constituents or industrial chemicals” and deleted the examples.	Generally reflects the EPA MSGP.
70 Part II G 6 f (2) (re-lettered as F)	Describes good housekeeping measures.	One of the good housekeeping measures includes” washing down the area and collecting or treating and properly disposing of the washdown water” for paved surfaces.	Removed this good housekeeping measure because pavement washwaters are one of the allowable nonstormwater discharges in Part II D. However, in Part II D, added that pavement wash waters “shall be managed to prevent the

			discharge of pollutants” to minimize discharges of solids but not require the collection, treatment and disposal of the wash waters. The good housekeeping requirement for pavement wash waters seemed overly conservative considering it’s an allowable discharge in Part II D.
70 Part II G 6 f (5) (re-lettered as F)	Routine facility inspections requirements are described as well as documentation of these inspections. Inspection date and time, name and initials of inspector and a signed certification are some of the requirements.	Removed the requirement for documenting inspection time, initials of inspector and a signed certification. Added a waiver for routine facility inspections for facilities that maintain an active VEEP E3/E4 status.	Public comment documented these items were not necessary for DEQ to assess compliance. Also, the signed certifications were too burdensome for the industry to do for a routine inspection. Certifications should go on the updated SWPPP on or before the due dates required. VEEP waiver added to be consistent with the ISWGP.
70 Part II G 7 (re-lettered as F)	Maintenance of BMPs requires repairs if a routine facility inspection or a comprehensive site compliance evaluation identifies ineffective operation of BMPS.	Removed reference to comprehensive site compliance evaluations.	Reflects the requirements in the MSGP which includes the deletion of the annual site compliance inspections.
70 Part II G 8 (re-lettered as F)	Annual comprehensive site compliance evaluation requirements.	Removed annual comprehensive site compliance evaluation.	EPA removed the annual comprehensive site evaluation in the MSGP. DEQ thinks that the observations and documentation made during the routine facility inspections, the BMP evaluations or other requirements of the SWPPP is sufficient to cover the comprehensive site evaluations.

70 Part II G 8 (re-lettered as F)		Moved requirements for identification of allowable nonstormwater discharges from section 70 Part II D and requirement for annual evaluation of unauthorized discharges from section 70 Part II F 8.	For clarity and these requirements were moved from other sections.
70 Part II	“SWPPP” referred to as “plan.”	“Plan” was replaced with the acronym “SWPPP” where appropriate.	For consistency.
70 Part III B	Required sewage sludge records to be retained for 5 years.	Took out requirement for sewage sludge records retention.	Permit does not authorize sewage or sewage sludge.
70 Part III I	Reports of noncompliance	Added subdivision 3 which requires the permittee to submit relevant facts or information if it was originally submitted incorrectly with a registration or any report. Also reformatted the subdivision.	Requirement in subdivision 3 is in the federal permit regulation (122.41(I) (8)) and is being added to all general permits as they are reissued.
70 Part III Y	Transfer of Permits	Same requirement but reformatted the subsection.	For consistency with other general permit formatting.

Public Comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Agency response
Walter Beck, Vulcan Construction Materials, LLC	As an industry member that must comply with the VPDES permit for Concrete Products Facilities, we are concerned and disappointed that there are several comments made during the regulatory process that the DEQ did not act upon and are therefore voicing those items again prior to final approval. Any modifications or lack of changes to the current permit has potential to affect or continue to affect our facilities and their process of operating. We respectfully request that the DEQ take these comments under consideration during this final stage of the process and amend the proposed regulations accordingly. Our operation feels that the regulatory changes noted below are either needed or not warranted and if left unchanged have a negative impact on our operation and compliance:	Noted – see responses to individual recommendations from the industry below.
Walter Beck, Vulcan Construction Materials, LLC	As previously detailed during the Industry TAC members January 10th email submittal, the concrete industry feels it can maintain 1 foot of freeboard without the need to document the freeboard on a daily basis. The Industry has always felt this documentation to be excessive, unnecessary, and can easily be administered as a requirement for facilities like most other permit requirements. This permit is currently the only existing Virginia VPDES General Permit that has a requirement which requires daily monitoring and recording of freeboard on process water storage facilities. There are	DEQ agrees and has changed the language as follows: 10. The permittee shall ensure that all <u>process water</u> basins and lagoons maintain a minimum freeboard of one foot at all times except during a 72-hour transition period after a measurable rainfall event. During the 72-hour transition period, no discharge from the basins and lagoons shall occur unless it is in accordance with this permit. Within 72 hours after a measurable rainfall event, the

	<p>requirements in other GP permits to ensure and perform items on a routine, and sometimes daily, basis, however those items are not required to be documented on a daily basis (provided several examples of this from the permit).</p> <p>The industry recommended alternate language which removes the daily freeboard log requirement but still requires a description of how the permittee will manage the facility to adhere to the 1 foot freeboard in the Operations & Maintenance Manual.</p>	<p>freeboard in all basins and lagoons shall be returned to the minimum freeboard of one foot. Where basins are operated in a series mode of operation, the one-foot freeboard requirement for the upper basins may be waived provided the final basin will maintain the freeboard requirements of this special condition. <u>A description of how the permittee will manage the facility to adhere to one foot of freeboard shall be included in Part I (B) 8 a (1) of the O&M manual.</u> Should the one-foot freeboard not be <u>maintained-restored by the end of the 72 hour transition period</u>, the permittee shall immediately notify the DEQ Regional Office, describe the problem and corrective measures taken <u>take measures</u> to correct the problem <u>before the next rain event</u>. <u>In addition, the permittee shall immediately begin to monitor and document the freeboard on a daily basis until the freeboard is returned to the minimum of one foot.</u> Within five days of notification, the permittee shall submit a written statement to the DEQ Regional Office with an explanation of the problem and corrective measure taken. In order to demonstrate compliance with this special condition, the permittee shall conduct daily inspections while the facility is in operation and maintain an inspection log. The inspection log shall include at least the date and time of inspection, the weather data including the occurrence of a measurable rainfall event, the printed name and the handwritten signature of the inspector, the freeboard measurement in inches, a notation of observation made, and any corrective measures, if appropriate, taken. The log shall be kept onsite and be made available to the department upon request.</p>
<p>Walter Beck, Vulcan Construction Materials, LLC</p>	<p>The request as highlighted within Part II - titled "Routine Inspections" appears to be an addition to the permit which was not previously discussed or reviewed during TAC meetings. This additional language requires sites to complete additional information unnecessary in regards to completing a "routine" inspection. We feel these excessive requirements turn a "routine" inspection into a very detailed inspection requiring additional unnecessary documentation. In addition, it appears the language requests a detailed summary of multiple site items, some of which are duplicative to other requirements of the permit. For example, a more detailed annual comprehensive site evaluation inspection, which already incorporates items in excess of the common routine inspection, already exists in the current permit in this same section. Considering all of the proposed changes are already addressed through other areas of the permit, or are included within other inspections, we request that the majority of this section be returned to its original language. It seems the goal was to add language similar to the EPA multi sector general permit language; however, the multi-sector general permit removed the requirements for a separate annual comprehensive site evaluation and a separate visual discharge monitoring point inspection and combined all these into one quarterly inspection. These items were not removed and still exist</p>	<p>DEQ thinks that the stormwater requirements in general permits should include the requirements in the EPA MSGP which includes these specific observations and these observations are relevant to the concrete industry. DEQ also thinks the routine facility inspection documentation was missing and needs to be included to demonstrate the routine facility inspection was done.</p> <p>DEQ does agree the annual comprehensive exam is duplicative and can be removed. EPA removed the comprehensive exams and increased the requirements of the routine inspections to cover the eliminated parts of the comprehensive exams. DEQ has followed the EPA example in the MSGP.</p> <p>DEQ has also removed the duplicative observations of visual quality of the receiving stream (including observations of solids deposition and oil sheen) from the visual monitoring requirement in Part II section (C).</p>

	<p>in this permit which is causing additional burden and duplication.</p> <p>We don't support the change to combining all into one inspection for the following reasons:</p> <ul style="list-style-type: none"> - It takes away the routine nature of the inspections and makes for a comprehensive evaluation quarterly. - The signature requirements make the use of onsite personnel who operate the site daily unable to perform the routine inspections for operations. - The annual comprehensive evaluation requiring the signature is a way to have a fresh set of eyes engage and evaluate the entire site, SPPPP plan and their effectiveness. - The visual monitoring inspection is required quarterly which already requires that the discharges be observed quarterly during a rain event/discharge with any identified pollutants observed in the discharge having to be investigated. This existing requirement requires an inspection during a rain event quarterly already and adding this requirement to the routine inspection is duplicative. - When it's raining, many employees don't want to be outside in the rain. <p>Additionally, it can lead to putting personnel in unsafe conditions. As well, in our experience, inspections will tend to be less thorough due to asking personnel to perform duties in uncomfortable conditions and thus may try to avoid being put in that position. Facility inspections can be just as effective when done in the dry to evaluate the entire site. If problems were to exist then indicators of the problems are still evident from previous rainfall events.</p> <p>Below is our position on the changes being made – it should be noted that these are the same items the industry would have discussed, and possibly already resolved, if the changes were proposed during the TAC discussion process.</p> <p><u>- 5 d(i) Inspection date and time:</u> We feel the request to monitor the time of the inspection is both unnecessary and, in many cases, not possible as many inspections may occur over the course of an entire day between other job tasks and while other duties will allow. The date a routine inspection occurred is sufficient documentation of when an inspection occurred without adding additional unnecessary information to the paperwork.</p> <p><u>- 5 d(ii) Name and initials of inspector:</u> This is a routine inspection and who performs is not as important as ensuring that it was completed and the results. In addition, current permit language, and as also detailed in section 5(c), requires that a member of the stormwater pollution prevention team perform the inspection. If this is already a requirement, then the need to put name and initials is not necessary (Considering it is required that a member of the pollution prevention team whose names are listed in the plan have performed the inspection). Again, it is already required that one detailed comprehensive site evaluation be completed annually in which names are provided.</p> <p><u>5 d(iii) Observations of any discharges, the physical condition of and around all outfalls (e.g., concrete product in the stream or turbidity), leaks or spills from industrial equipment, drums, tanks or other containers, offsite tracking of industrial materials or</u></p>	<p>DEQ thinks the stormwater requirements should reflect the EPA MSGP, where practical, and the removal of the annual comprehensive site evaluation was a change that is also being proposed in the ISWGP and the nonmetallic mineral mining general permit. DEQ has agreed to remove several requirements of the routine facility inspections in response to public comment (see below response).</p> <p>DEQ agrees the time of the inspection is unnecessary and has removed it.</p> <p>DEQ agrees the initials of the inspector is unnecessary and has removed it.</p>
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	<p><u>sediment, any additional best management practices that need to be repaired, maintained or added, any incidents of noncompliance and a signed certification).</u></p> <p>- This is a routine facility inspection not a comprehensive site evaluation.</p> <p>The intent of this inspection and form was for a quick and simple inspection to be completed and problems documented, if they existed. The inspection was not created to document detailed inspections and descriptions of areas with no problems. The annual comprehensive site evaluation found in this same SWPPP plan requirements section F.8 already requires a more detailed site review and documentation in order to assess how the entire SWPPP is performing.</p> <p>This is a facility inspection which, by definition, includes an inspection of the entire facility. The need to list each item on the inspection form is redundant since it requires an inspection of the entire facility. In addition, other areas of the SWPPP discuss the areas where BMPs exist as well as areas which need measures to prevent violations. Again the intent is to document any problems found of the entire facility during the inspection to rectify the concerns.</p> <p>“Observations of discharges:” are already required to be looked at quarterly in Part II section (C) (1-6). The newly added Item 6 requires that if the visual assessment shows stormwater pollution then the stormwater controls must be updated. To again address it as another inspection is redundant.</p> <p>- Sections 5a (i) and (iii) currently require that all areas exposed to stormwater be inspected along with all best management practices. The date of the inspection, a description of any problems found at the facility that could impact the quality of storm water discharges, actions taken to remedy the problem, and when the problem was rectified should be those items to be documented. Routine facility inspections and routine maintenance of the facility should not require a Certification Statement. The already required annual Comprehensive Site Evaluation requires a certification which is warranted since the entire site and program is being evaluated for effectiveness and modification, repairs and changes may be undertaken based on the results of the evaluation. There is a distinct difference in intent between inspections and evaluations and the level of certification should coincide with each.</p> <p>The industry recommended alternate language to address their concerns.</p>	<p>DEQ agrees the signed certification for routine inspections is unnecessary and has removed it. Only the revised SWPPP needs to be signed and certified.</p>
<p>Michael Deyo, Deyo and Associates, LLC representing Allied Concrete Products, LLC</p>	<p>A review of the requirements listed in Parts I.B.8(a) and I.B.8(b) reveal that the O&M manual is clearly intended to include operation and maintenance procedures for the operation for process water “treatment works” facilities such as concrete truck wash-out pits where process water is treated and potentially discharged to waters of the State.</p> <p>These pits are common at concrete batch plants that are covered under the General Permit.</p> <p>However, other facilities covered under the General Permit such as concrete block and paver plants, may not operate concrete batch plants at their site and therefore, do not operate “treatment works” such as wash pits and treatment pits.</p>	<p>DEQ partially agrees with the comments. Most of the O&M manual does apply to only the process water treatment works and facilities such as concrete block and paver plants that do not operate concrete batch plants at their site do not operate “treatment works” and those aspects of the O&M manual do not apply to them. However, there are certain O&M manual requirements Part 1 B 8(a) (4) – (7) that do apply to <u>all</u> plants. This includes certain aspects of the closure plans, testing requirements and procedures, recordkeeping and reporting and duties and roles of responsible officials (which goes beyond the stormwater pollution prevention team). DEQ has</p>

	<p>Disregarding the O&M manual requirements in Part I.B.8(a) that are specific to process water treatment works units, the remaining requirements in Part I.B.8(a) include practices for chemical and material storage areas (Part I.B.8(a)(1)), general recordkeeping and reporting requirements (Part I.B.8(a)(6)), and "Duties and roles of the responsible officials" (Part I.B.8(a)(7)). These requirements are already required to be included in the permittee's Stormwater Pollution Prevention Plan (SWPPP) that is required under Part II.F of the General Permit. Therefore, the requirement to develop and maintain an O&M manual for a facility that does not operate process water "treatment works" such as a wash-out pit, would be entirely duplicative of the SWPPP and create undue burden on such facilities.</p> <p>To resolve what we believe to be an unintended consequence of General Permit Condition I.B.8, Allied recommends that General Permit Part I.B.8 be revised to require that only facilities that operate process water treatment units such as concrete wash-out and treatment pits be required to develop an O&M manual. Proposed revised language for Part I.B.8(a) and additional language to be included as Part I.B(c) is provided as follows (changes in strikethrough and underline format to identify changes):</p> <p>8. Operation and maintenance (O&M) manual. a. Within 180 days after the date of coverage under this general permit, the permittees operating process water treatment works (e.g. - concrete wash-out and treatment pits) shall develop or review and update, as appropriate, an operation and maintenance (O&M) manual <u>for the process water treatment works permitted facility</u>. The O&M manual shall include procedures and practices for the mitigation of pollutant discharges for the protection of state waters from the facility's <u>treatment works operations</u> and to ensure compliance with the requirements of the permit. The manual shall address, at a minimum..." b. ... c. <u>The requirement to develop an O&M manual does not apply to the operation of routine stormwater BMPs and/or settling basins that do not include chemical treatment.</u>"</p>	<p>inserted "where applicable" to O&M requirements related to process wastewater and added a condition which states that "For facilities that do not operate wastewater treatment process units, O&M requirements included in subdivisions a (4) – (7) of this subsection shall be included in either the O&M manual or the SWPPP." Therefore, the plants that do not operate process water treatment works do not have to keep an O&M manual as long as these items are addressed in the SWPPP.</p>
Jay Lipscomb, Branscome, Inc.	We would still like DEQ to consider deleting daily freeboard inspections/documentation.	DEQ agrees. See response to Walter Beck, Vulcan Construction Materials, LLC above.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
10		Definitions contain Standard Industrial Classification (SIC) Codes.	Added North American Industry Classification System (NAICS) Codes that correspond to the concrete industry. NAICS codes are a more up to date industry classification system. No impact.
10		Definition of MS4.	Definition of MS4 deleted. The definition of MS4 is in the permit regulation (9VAC25-31-10) and

			incorporated by reference so it does not need to be repeated in this regulation. No impact.
10		No definition of “minimize”, “no discharge system” and “25-year, 24-hour storm event.”	Definitions of “minimize”, “no discharge system” and “25-year, 24-hour storm event” added. These terms are used in the permit and these are clarifications of those terms. No impact.
10		Added definition of “Virginia Environmental Excellence Program” or VEEP.	Allowance to remove routine facility inspections for facilities that maintain VEEP E3/E4 status added to Part II Stormwater Management. Same allowance is the ISWGP.
15		Effective date for the Title 40 CFR is July 1, 2012	Effective date for the Title 40 CFR changed to July 1, 2018. No impact.
20		Purpose governs the discharge of process and stormwater for SIC codes 3271, 3272 and 3273.	Added NAICS codes to the list.
40		Effective date of permit October 1, 2013 to September 30, 2018.	Updated effective dates of permit to January 1, 2019 to December 31, 2023 because permit coverage is administratively continued until that time.
50 A		Authorizes cooling water to be discharged.	Removed authorization for cooling water because cooling water limits were deleted in the proposal and this reference to cooling water was overlooked initially.
50 C		Authorization to discharge.	Authorization –Clarified that "Compliance with this general permit constitutes compliance for purposes of enforcement with the federal Clean Water Act §§ 301, 302, 306, 307, 318, 403 and 405 (a) through (b), the State Water Control Law, and applicable regulations under either, with the exceptions stated in 9VAC25-31-60 of the VPDES Permit Regulation" which better mirrors the language in the permit regulation at 9VAC25-31-60. No impact as this is a clarification.
50 D		Continuation of permit coverage.	Updated and clarified continuation of permit coverage dates. No impact.
60 A and B		Registration statement due date.	Updated due dates for registration statements. Made all due dates 60 days prior to expiration or commencement of discharge. This gives the industry more time to submit registration statements but DEQ less time to process them.
60 A		Requires owners covered under the expiring or expired general permit to submit registration statements in order to continue coverage.	Same requirement except removed reference to “expired” general permit because late registration statements are addressed in subsection B. That is, after expiration, registrations are allowed but coverage is not retroactive.
60 C		Registration statement question 5 asks for a current VPDES or VPA permit number.	Removed requirement to provide any current VPDES or VPA permit numbers. Not needed as DEQ can easily track this. Clarified questions about “no discharge” systems and settling basin liner materials. No impact.
60 C		Registration statement question 6 asks to indicate which treatment systems (for process wastewater, commingled and stormwater) operate as “no discharge.”	Same question but made references to treatment systems “treatment units” for clarity and consistency with other parts of the regulation (O&M manual). Similar changes made in question 7.
60 C		Registration question number 9 asks about noncontact cooling water chemicals.	Removed question about noncontact cooling water chemicals. This process is no longer used in the industry so the question is not needed. No impact.
60 C		Registration question number 15 is a requirement to notify the MS4 owner within 30 days of coverage.	Requirement for notification of MS4 owner at time of registration. The MS4 owners prefer the notification sooner and DEQ has been making this change in all general permits as they come up for reissuance. It is a minimal impact as only a limited number of permittees discharge to an MS4 and the requirement only asks for the notification (e.g.,

			an email to the MS4). It does not require a response from the MS4 owner.
60 C		Registration question number 15 requires the permittee to notify MS4 owners if they discharge to the MS4. They must provide a VPDES permit number to the MS4.	Noted that the permit number is only required if assigned by DEQ because new issuances would not yet have a permit number to provide the MS4 at the time of registration.
60 C		No requirement for State Corporation Commission entity identification number.	Added requirement (question 17) for the State Corporation Commission entity identification number. The agency recently decided to ask for this information to be clear on the owner's name is for permitting and enforcement purposes.
60 E		No subsection E.	New subsection E explains the registration statement shall be delivered to the department's regional office by postal or electronic mail. No impact, although allowing electronic submittals of registration statements to DEQ is a recent allowance in all General Permits as they are reissued and should make it easier to submit registration statements.
70		The reference to the permit regulation is 9VAC25-31.	Clarified the reference to the permit regulation to 9VAC25-31-170. No impact.
70		Effective dates are 2013 – 2018.	Effective dates updated to 2018-2023.
70		Opening paragraph states the authorized discharge is in accordance with the cover page, Part I Effluent Limitations, Monitoring Requirements, and Part II Conditions Applicable to All VPPDES permit.	Added that the authorized discharge is also in accordance with the information submitted with the registration statement (because that is what DEQ uses to determine if the discharge can be authorized). Added also Special Conditions to Part I authorization because the special conditions are also part of the permit requirements. No impact, wording is similar to other general permits and individual permits.
70 Part I A 2		Contains effluent limitations for noncontact cooling water.	Removed effluent limitations for and references to noncontact cooling water as this process is not used by the industry any more. No impact.
70 Part I A 3 (renumbered to 2)		Footnote 2 contains instructions to evaluate the SWPPP when benchmarks are exceeded unless justification is provided in the routine facility inspection or the comprehensive site compliance evaluation.	Removed justification requirement in the comprehensive site compliance evaluation because this evaluation was removed from the permit (Section 70 Part II subsection F) to be consistent with the EPA MSGP.
70 Part 1 B 5		Special condition that requires any waste concrete and dredged solids from settling basins to be managed within designated areas and wastewaters and stormwater must be collected for recycle or treated before discharge	Clarified requirement is for any waste concrete and <u>any</u> dredged solids. Clarification that waste concrete and dredged solids are two different types of waste. Waste concrete can be leftover wet concrete emptied from the concrete trucks. Dredged solids are the waste solids removed from the bottom of the settling basins. This may require some procedure changes at some facilities to ensure the wet concrete is emptied near the settling basins so water is funneled to the basins for treatment.
70 Part I B 8		Requires prior approval of noncontact cooling water chemicals.	Removed requirement since noncontact cooling water is no longer used by this industry. No impact. But this does change the numbering of the special conditions from this point forward.
70 Part I B 9 (renumbered as 8)		Requirements for an O&M manual.	Clarified that O&M requirements for process wastewater treatment units do not apply to facilities that do not operate these units and allowed for the other O&M requirements unrelated to the process wastewater treatment units to be included in the SWPPP. Public comment received that the O&M requirements generally do not apply to concrete plants that do not operate process wastewater treatment units.
70 Part I B 10		Requirement that if a facility discharges to an MS4, they must notify the MS4 owner within 30 days	Changed to that if a facility discharges to an MS4, they must notify the MS4 owner at the time of registration. The MS4 owners prefer the

(renumbered as 9)		of coverage under the general permit.	notification sooner and DEQ has been making this change in all general permits as they come up for reissuance. It is a minimal impact as only a limited number of permittees discharge to an MS4 and the requirement only asks for the notification (e.g., an email to the MS4). It does not require a response from the MS4 owner. The requirement is repeated here as a reminder in the permit itself that they will be required to notify the MS4 owner and include that notification with their registration statement.
70 Part I B 11 (renumbered as 10)		Requirement for one-foot freeboard in basins and lagoons and inspection daily log requirements.	Daily log requirement is deleted and the description of how the log will be maintained is to be included in the O&M manual based on public comment. Also clarified that this requirement applies to the process wastewater basins and lagoons to reflect the intent of the special condition.
70 Part I B 12 (renumbered as 11)		Requirement that systems designed as "no discharge" may only discharge during extreme storm events (25-year 24-hour storm events).	Same requirement except now the discharge must also be reported as an unusual or extraordinary discharge per Part II H of the permit and reporting of unauthorized discharge per Part III G if a discharge occurs outside of 25-year, 24-hour storm event. This same requirement is in the non-metallic mineral mining permit. The industry will have to be observant of overflows during extreme rain events. A 25-year 24-hour rain event is 6 inches of rainfall for most of Virginia.
70 Part I B 12 (renumbered as 11)		Requires notification to DEQ when process wastewater, commingles or stormwater overflows.	Same requirement but made references to treatment systems "treatment units" for clarity and consistency with other parts of the regulation (O&M manual).
70 Part I B 13 (renumbered as 12)		Boilerplate notification for certain toxic pollutants.	Clarifications. No impacts.
70 Part I B 15 (renumbered as 14)		Requirement for dust suppression of stockpiles to be used as a BMP but there shall be no direct discharge to surface waters.	Same requirement but reworded to match the same requirement in the non-metallic mineral mining general permit to clarify that there should be no ponding or direct run-off from the site. Also added that dust suppression shall not occur during a measureable rain event (a storm event that results in a discharge from the site). This was added in response to a staff concern that dust suppression was observed when it was raining (which is unnecessary and more likely to result in a discharge from the site). This may result in some facilities changing their operating procedures and the storm water pollution prevention plan.
70 Part I B 16 (renumbered as 15)		Requirement for laboratory quantification levels (QLs).	Same requirement except added "The QL is defined as the lowest concentration used to calibrate a measurement system in accordance with the procedures published for the test method." This is the definition of QL used in all permits. No impact.
70 Part I B 18 (renumbered as 17)		Requirements for adding or deleting outfalls. DEQ must be notified within 30 days of the change.	Same requirement with some rewording to match the ISWGP language. Changed notification to DEQ to within 60 days of the change. No impact.
70 Part I B 19 (renumbered as 18)		Requirements for termination notification.	Same notification with some clarifications. No impact.
70 Part I B 20 (renumbered as 19)		Requirements for temporary closures at inactive and unstaffed sites.	Same requirement except added that the contact information, reason for the request, date of inactivity, date of closure plan completion and a signed certification is also required. Clarified that

			<p>waivers for “stormwater management requirements” at inactive and unstaffed sites means waivers to effluent, benchmark and visual monitoring and routine facility inspections (except for one required annual routine facility inspection). This information is required in the EPA MSGP and makes sense for this industry as well. Also added that the Board retains the right to revoke this waiver when it is determined that the discharge is causing, has a reasonable potential to cause, or contributes to a water quality standards violation to match the same requirement in the EPA MSGP. No significant impact for most of these additions.</p> <p>Added that an annual routine facility inspection is required at inactive sites. This is new for this permit and will incur an impact (there are currently 3 inactive sites) but this annual inspection is routine in other industrial stormwater inactive sites and should be consistently applied throughout industries with stormwater requirements. This requirement is consistent with the EPA MSGP.</p>
70 Part II A		Stormwater monitoring requires the permittee explain on the DMR why a grab sample during the first 30 minutes was impractical.	Stormwater monitoring requires the permittee explain in the SWPPP why a grab sample during the first 30 minutes was impractical. The SWPPP is where this information is required to be kept per the EPA MSGP.
70 Part II B		Requirements for representative discharges and substantially identical outfalls.	Same requirements with some clarifications. Added that they must report that the observations from the representative outfall also apply to the substantially identical outfalls. No significant impact.
70 Part II C		Sampling waivers allowed for benchmark monitoring and visual examinations.	Deleted this subsection and moved sampling waivers for quarterly visual monitoring to Part II D (renumbered to C because of the deletion). This deletion removes sampling waivers for benchmarks because it was generally agreed upon in the TAC that one annual stormwater sample can easily be collected during a calendar year with proper planning. Deleting this waiver also removes the requirement for a substitute sample the following period. All following subsections are renumbered because of the deletion.
70 Part II D (re-lettered as C)		Requirement for quarterly visual examinations of stormwater quality.	<p>Similar requirements with the clarification that the samples will be collected in a clean, colorless glass or plastic container and examined in a well-lit area. This is a requirement in the EPA MSGP and made sense to include it here. Added the adverse weather conditions waiver from the deleted subsection C above. Clarified that the adverse weather waiver is documented in the SWPPP for each measureable storm event in the monitoring period. Added a requirement that whenever the visual assessment shows obvious indicators of stormwater pollution, the SWPPP and stormwater controls shall be updated per Part II F. This follow-up for corrective action was missing from this requirement. Removed the requirement to visually examine the receiving stream. Visual monitoring is intended to be a visual examination of the actual stormwater discharge. This is how the MSGP and the ISWGP permits are organized. Any additional observations are part of the routine facility inspections.</p> <p>“Examination” or “assessment” replaced with “monitoring” to emphasize that this is a monitoring requirement.</p>

			Some of the sentences were moved around for clarification.
70 Part II E (re-lettered as D)		Allowable nonstormwater discharges.	<p>Slightly reworded to match the ISWGP and for clarification. Same allowable list except “pavement wash waters where no detergents are used” was expanded to exclude “pavement wash waters where no detergents or hazardous cleaning products are used.” Also added that the pavement wash waters “shall be managed to prevent the discharge of pollutants.”</p> <p>Also, “routine external building washdown that does not use detergents” was expanded to exclude “routine external building washdown where no detergents or hazardous cleaning products are used.”</p> <p>Moved the SWPPP identification requirements for allowable nonstormwater discharges to the SWPPP section.</p> <p>These changes generally reflect the MSGP exceptions for allowable pavement wash waters and routine external building washdown. Also see Part II F 6 f (2) (Good Housekeeping) changes rationale for pavement washwaters.</p> <p>Other changes reflect the requirements of the MSGP or for clarity.</p> <p>No impact.</p>
70 Part II G (re-lettered as F)		SWPPP requirements.	Some deadlines for plan preparation and compliance were made more generic and any 30 day notification due dates were changed to 60 days. This was done, where appropriate, to make due dates consistent and less confusing. Clarified that SWPPPs for inactive sites may be kept at the nearest office of the permittee. “Plan” was replaced with the acronym “SWPPP” where appropriate for consistency. Removed references to the comprehensive site evaluation since this requirement was removed per the EPA MSGP.
70 Part II G (re-lettered as F)		Signature and SWPPP review.	The requirement to make the annual site compliance inspection report available to DEQ was deleted and replaced with routine facility inspections. This reflects the requirements in the MSGP which includes the deletion of the annual site compliance inspections.
70 Part II G (re-lettered as F)		SWPPP summary of potential pollutant sources includes a list of the associated pollutants and provides examples.	Added to the list “pollutant constituents or industrial chemicals” and deleted the examples. The changes were done to be more like EPA’s MSGP.
		SWPPP good housekeeping measures.	Similar requirements, except the wording for sweeping and enclosing certain materials was adjusted.
70 Part II G (re-lettered as F)		SWPPP good housekeeping measures.	Added procedures for labeling containers to encourage proper handling and facilitate rapid response if spills or leaks occur
70 Part II G (re-lettered as F)		SWPPP routine facility inspections.	Added documentation of inspection date, name of inspector, observations of discharges, outfall conditions, leaks or spills, offsite tracking and BMP practices that need to be repaired and other wording adjustments to be more similar to the EPA MSGP. The additions were missing, are sensible and make the routine facility inspections more robust. The additional documentation will take more time to do the routine facility inspections and add to documentation kept at the facility.

			Added a waiver for routine facility inspections for facilities that maintain an active VEEP E3/E4 status.
70 Part II G (re-lettered as F)		Annual comprehensive site compliance evaluation requirements.	Removed annual comprehensive site compliance evaluation because EPA removed the annual comprehensive site evaluation in the MSGP. DEQ thinks that the observations and documentation made during the routine facility inspections, the BMP evaluations or other requirements of the SWPPP is sufficient to cover the comprehensive site evaluations.
70 Part II G (re-lettered as F)		Identification of allowable nonstormwater discharges and annual evaluation of unauthorized discharges.	Moved requirements for identification of allowable nonstormwater discharges from section 70 Part II D and requirement for annual evaluation of unauthorized discharges from section 70 Part II F 8. This was done for clarity.
70 Part III B		Conditions applicable to all permits - required sewage sludge records to be retained for 5 years.	Took out requirement for sewage sludge records retention because the permit does not authorize sewage or sewage sludge.
70 Part III I		Conditions applicable to all permits – Reports of noncompliance.	Added subdivision 3 which requires the permittee to submit relevant facts or information if it was originally submitted incorrectly with a registration or any report. Also reformatted the subdivision. Requirement in subdivision 3 is in the federal permit regulation (122.41(l) (8)) and is being added to all general permits as they are reissued.
70 Part III D, L and X		Conditions applicable to all permits.	Removed references to modifications and revoke and reissue because these permit actions are not done on general permits.
70 Part III L, M, X, and Y		Conditions applicable to all permits.	Changed references to the “permit” to “permit coverage” since registrants do not apply for the permit, they apply for permit coverage
70 Part III K and L			Changed reference to the “permit application” to the “permit registration” as that is the correct terminology for general permits.
70 Part III Y		Conditions applicable to all permits. Notification of transfer of permit must be done at least 30 days in advance of the proposed transfer of the title.	Changed transfer of permit coverage requirement to be within 30 days of the transfer of title. This change is being made to all general permits since permittees are rarely able to notify the department 30 days prior to a transfer. Also reformatted the section.
10 - 70		Storm water in various sections two words.	Replace “Storm water” with “stormwater” (one word) throughout regulation to match current ISWGP and EPA terminology.

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) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of 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 proposed regulation.

The reissuance of the general VPDES 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.