

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Energy and Environment

Comment Reconciliation for Draft Permit 6451-R2 for Virginia Concrete Company, LLC dba Vulcan Materials Company Concrete Plant

On May 24, 2024, the Air Quality Division (AQD) of the District of Columbia (District) Department of Energy and Environment (DOEE) provided notice to the public that Virginia Concrete Company, LLC dba Vulcan Materials Company (Vulcan) had applied for renewal of an air quality permit to continue to operate an existing ready-mix concrete batch plant and associated appurtenances at the facility located at 2 S Street SW, Washington DC. At that time, a draft permit and associated technical support memorandum was issued for public review for a period of 30 days to end June 26, 2024 (see [71 DCR 6384 \(May 24, 2024\)](#)). At the same time DOEE provided 30-days notice of a public hearing scheduled for June 26, 2024. Several requests to extend the public comment period were received. Consequently, the public comment period was extended through July 10, 2024.

Discussion

DOEE received numerous comments on the draft permit. This document responds to those comments. Some comments have been paraphrased or combined with other similar comments for efficiency of response. When more than one similar comment was received, they are listed in sequence and, after the last of the similar comments, a DOEE response is provided.

Dust/Particulate Matter Concerns

Dust is generated by the operations of any concrete mix plant. This permit incorporates additional dust control strategies not required in previous permits for this facility, such as requirements to perform quarterly street wash-downs, regularly use a wet sweeper and truck wash system, increase maintenance and monitoring of dust collectors, and develop and implement a dust control plan. Additionally, temporary fenceline monitoring of particulate matter will be required for a minimum of one year in order to evaluate the effectiveness of the control techniques. These controls are expected to substantially reduce dust and particulate matter emissions resulting from facility operations.

Air Pollution Permitting

Air pollution is inherent in concrete production. This permit incorporates the requirements of various federal and District air pollution regulations that limit such emissions. Commenters raised concerns about the health effects of the various air pollutants from the facility. The relevant District and federal regulations incorporated into the permit ensure that operations and emissions are permitted at levels that protect public health and the environment. The permit is substantially more stringent than the prior permit and is expected to reduce air emissions of pollutants from the facility.

Conclusions

DOEE has concluded that issuance of permit 6451-R2 as drafted, but with one minor correction to address a conflict in record keeping frequency found in the draft permit, is appropriate and consistent with the requirements of 20 DCMR § 201.

Based on this conclusion, DOEE will promptly issue this permit.

Appeals

Under D.C. Official Code § 8-101.05h(a) and 20 DCMR § 107, any person impacted by this final action may appeal the action to the Office of Administrative Hearings within fifteen (15) days of the action, pursuant to D.C. Official Code § 2-1831.03(a).

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Energy and Environment

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COMMENT RESPONSES

The comments and responses below have been organized into subject matter categories. DOEE has paraphrased and quoted necessary language from the comments to ensure they are addressed properly. Subject matter categories are bolded. Comment summaries or quotes are in plain text, and DOEE responses are in italics.

1. COMMUNICATIONS/OUTREACH

a. Data Availability

Comment: “Include provisions for sharing data with the public. The monitoring plan needs to include timely reporting of data to the public, along with any explanations about causes and actions taken.”

Comment: “**Making data publicly available.** Data should be publicly available in a form that can be easily understood by the public in order to support both corrective action and accountability. These reports should include actions taken and records of starts, stops, and malfunctions. Public availability of data holds industry accountable. If the dust control plan is strictly enforced, public data can be used to reassure residents.”

Comment: “At the very least, there should be real-time air monitors with data available on a public website for residents to review. We know that DOEE is not in the business of denying air permits or shutting down problematic facilities, unfortunately. But what you all can do is ensure that our communities have full transparency.”

Comment: “Given that there is significant public interest in ensuring that this facility operates in continuous compliance with its permit and the law, Vulcan Materials should be required to develop, implement and maintain a public-facing, plain English website (or other public communication tool) that allows the public to actually see and feel comfortable with how the company is demonstrating continuous compliance every day of the year. A very good example of how DC DOEE could require Vulcan Materials to develop, implement and maintain such a communication or ‘transparency’ tool or system can be found in the MDE regulations for natural gas compressor stations.”

Comment: “The proximity of this plant to many new residential apartment buildings, older townhomes such as my own, schools, and parks makes it imperative to ensure stringent monitoring and adherence to the proposed emission limits. At minimum, there should be real-time air monitors that publish the data on a public website for residents to inspect.”

***DOEE Response** – The District does not currently require facilities to provide emissions or fenceline monitoring data on a public-facing dashboard in its air quality regulations and thus does not have the authority to unilaterally place such a requirement in this permit. Data reported to DOEE may be obtained by the public through a Freedom of Information Act (FOIA) request.*

2. COMPLIANCE

a. Compliance History/Expired Permit

Comment: “The article also mentions that the business has been operating on extensions of an expired permit, and has also violated both the Clean Air Act and the Clean Water Act, specifically higher levels of pollutants in the Anacostia.”

Comment: “DOEE has allowed Vulcan Materials Company to operate for years without an active air permit, which is problematic and a clear indication of unjust air permitting practices. This is also a violation of the Clean Air Act, which requires any operating facility to have a permit to operate.”

***DOEE Response** - Vulcan submitted a timely renewal application that DOEE was not able to act on by the expiration deadline. Vulcan took all necessary actions to remain in compliance with DOEE air permitting requirement. Vulcan’s inability to obtain a permit renewal before the expiration of its existing permit was not within its control.*

There have been occasional violations identified at the facility in the past, but they have not been chronic or recalcitrant violations. Prior violations are not, in themselves, a basis for denying an air quality permit under Chapter 2. Also, an air quality permit is not a venue to address Clean Water Act violations.

b. Enforcement/Future Compliance

Comment: “Although the permit outlines operational limitations and emissions controls, we are worried about how effectively these measures will be enforced and monitored. Historically, in our District, data and incidents from similar industrial settings often reveal lapses in compliance, resulting in increased pollution levels given the plant's proximity to new and residential apartment buildings, older townhomes, schools, and recreational centers. It is crucial to ensure strict monitoring and adherence to the proposed emission limits.”

Comment: “While the permit includes operational limitations and emission controls, I am concerned about the enforcement and monitoring of these measures. Historical data and incidents in similar industrial settings often show lapses in compliance, leading to increased pollution levels. The proximity of this plant to many new residential apartment buildings, older townhomes such as my own, schools, and parks makes it imperative to ensure stringent monitoring and adherence to the proposed emission limits.”

***DOEE Response** – This permit establishes extensive monitoring, testing, and record keeping requirements that the facility must comply with to document its compliance or identify non-compliance. DOEE inspectors will perform periodic inspections and will respond to complaints by examining those records and observing facility operations to independently determine facility compliance with permit and regulatory requirements.*

3. Dust Control

a. Buffer Zone/Vegetation

Comment: DOEE should consider “creating a vegetative buffer zone around the plant to help offset the particulate matter. The buffer zone should [include] plants and other greenery placed around the plant.”

Comment: DOEE should require a site plan that incorporates a buffer zone that redesigns the plant to have some green space to mitigate some of the problems from the plant.

Comment: “Ideally in [the case of] Vulcan Materials, we need the site to be redesigned with proper vegetation buffers.”

DOEE Response – *The air quality regulations do not require the establishment of vegetation buffer zones around stationary sources. Therefore, DOEE cannot unilaterally impose such a requirement upon a regulated entity as part of a permit. However, DOEE has required a fabric cover on the fencing surrounding the plant to provide a wind break and to minimize dust migration offsite (see Condition III(p)).*

b. Other Sources

Comment: A commenter stated that there is an “Enormous amount of dust from construction areas in Southwest and Navy Yard housing built on brownfield land.”

DOEE Response – *This permit solely addresses activities under the control of Vulcan, and consideration of these other sources is outside the scope of Vulcan’s permit.*

c. Plant Equipment

Comment: The commenter recommends “equipment updates” to help ensure compliance with limits placed on particulate emissions.

Comment: “Ideally in [the case of] Vulcan Materials, we need the site to be redesigned with... equipment updates to ensure proper ventilation.”

DOEE Response – *DOEE expects that the equipment at the site, in particular the baghouse dust collectors, if properly maintained, will ensure compliance with the particulate emission limits established in the permit. Updated monitoring and testing requirements, including the aforementioned fenceline monitoring, have been established in the permit to ensure such compliance. If compliance is not demonstrated, DOEE will take action to ensure additional compliance actions are taken by the facility.*

Comment: The commenter requests “that the dust collectors shall maintain a particulate matter control efficiency of 99.9% at all times when the ready mix portable batch concrete plant is operating or one or more silos are being loaded.”

DOEE Response – *An equivalent requirement was proposed in the draft permit and is incorporated in the final permit. See Condition III(c) on page 3 of the permit.*

Comment: The commenter requests that “a full set of replacement dust collector cartridges and bag filters shall be kept on site at all times to allow for prompt replacement should a cartridge or filter fail.”

DOEE Response – *An equivalent requirement was proposed in the draft permit and is incorporated in the final permit. See Condition III(g) on page 5 of the permit.*

Comment: The commenter recommends that “all dust generated from batching operations shall be captured and vented through the Central Dust collector. All dust generated from silo loading shall be captured and vented through the silo cartridge dust collectors.”

DOEE Response – *As noted in the commenter’s submission, some of these recommendations are based on the former Superior concrete plant permit. In this case, the plant operates in a somewhat different manner, so incorporating identical requirements is not appropriate. However, an equivalent set of requirements was proposed in the draft permit and is incorporated in the final permit. See Condition III(b) on page 3 of the permit.*

Comment: “Does Vulcan employ any pollution abatement to reduce dust? I recall a particular day when I was either on a boat or driving through Southwest, but I recall a particular day when there seemed to be a lot of dust. I was wondering if it was from construction or what, and I couldn't think of any construction projects that were going on. It is possible it was a sand pile or something that this dust was coming from. I was wondering if that should be misted or... - that shouldn't happen, because that is basically a cloud of dust and sometimes it is hard to see, but you can taste it.”

DOEE Response – *Vulcan currently employs numerous dust control procedures, such as dust collectors, facility sweeping, truck washes, and watering of aggregate piles. However, this permit further tightens dust control requirements, in part to make the existing procedures more enforceable, and to add requirements such washing down the street in front of the facility on a quarterly basis and covering the sand pile and the sand conveyor. Additionally, fenceline monitoring is required for one year to evaluate the concentration of dust produced by the facility.*

d. Reporting

Comment: “Given that both the visible emissions and fugitive dust requirements are daily requirements, Vulcan Materials should be required to submit daily reports to DC DOEE that document all of the required permit actions and good management practice actions that the company is taking each day to comply with the visible emissions and fugitive dust requirements in the future permit.”

DOEE Response – *Daily reporting would be administratively challenging to implement and DOEE does not have the resources to effectively review this volume of data. DOEE plans to conduct regular inspections at the facility, both scheduled and in response to complaints, to ensure that the facility is complying with fugitive dust and visible emission requirements. The permit also requires the facility to perform onsite compliance*

monitoring and maintain compliance records, for example records of weekly visible emissions observations, which DOEE can review during inspections.

4. MONITORING

a. Ambient

Comment: “**Using real-time monitoring to inform mitigation action.** Real-time monitoring should be used to identify short bursts of high PM, so that they can be lowered with immediate corrective action. Residents should be notified immediately so that they can make choices based on monitoring data. Capturing periods of high PM intensity is also important for better understanding the causes of asthma and other respiratory diseases. Air pollution from cook stoves, which has been associated with increased cardiovascular/respiratory illnesses and mortality, for example, manifests as short periods of intense PM exposure.⁴ This implies that beyond averages, the distribution of particle size may be an additional determinant of health outcomes.”

Reference:

⁴Qi, Meng et al., “Fluctuation in time-resolved PM_{2.5} from rural households with solid fuel-associated internal emission sources,” *Environmental Pollution* 244, 304-313, 2019.

DOEE Response – *This permit establishes extensive monitoring, testing, and record keeping requirements with which the facility will be required to comply to document compliance or identify non-compliance. In particular, with respect to particulate matter monitoring, the permit requires monitoring for coarse and fine particulate matter for a minimum of a year. DOEE expects that one year of monitoring will provide the necessary data on whether there are any high intensity periods and will provide additional information on the impacts of the facility on the surrounding community.*

b. Emissions

Comment: “There is a lack of regulatory, legislative, and public access to self-monitoring data, particularly at the site in question. The facility in Southwest is known to produce pollutants, hence the air permit, that are harmful to human health and a District environmental regulation via permit issuance places a cap in tons on the emissions of these pollutants per year. In addition, there are limitations on fugitive dust discharge at certain sites and operating of specific equipment. No single point source data is available to the public at this time with respect to compliance with pollutant tons per year. Without this essential data, no vested party, including your agency, the District, the legislature, or the public can effectuate their privileges, roles, responsibilities or rights.”

DOEE Response – *DOEE expects that the permit contains sufficient monitoring and record keeping requirements to allow DOEE to effectively perform oversight of the facility and for DOEE inspectors to evaluate compliance with the permit. Any reports submitted to DOEE or inspection reports generated by DOEE may be accessed by the public by submitting a FOIA request.*

c. Fenceline

Comment: “Fenceline monitoring for coarse and fine particulate should be extended indefinitely until the duration of the operations of the facility at that site concludes.”

Comment: “DOEE and Vulcan Materials need to work together with other local agencies to ensure that there are fenceline monitors making sure that residents are protected from soot and other emissions from the facility. As a resident just identified, chemicals are entering her building.”

DOEE Response – *The permit requires Vulcan to monitor for coarse and fine particulate matter for a minimum of a year. At the conclusion of that period, Vulcan would be responsible for justifying why fenceline monitoring should be discontinued. DOEE believes one year of monitoring will provide necessary data on the seasonality of pollutant concentrations and the impacts of the facility operations on the surrounding community. If Vulcan cannot justify discontinuing fenceline monitoring after one year, DOEE will require Vulcan to continue the monitoring.*

d. Operations

Comment: The commenter states the permit should require Vulcan to “monitor the quantity of concrete produced and operating hours of the ready mix concrete batch plant each day to ensure compliance with conditions.”

DOEE Response – *An equivalent requirement was proposed in the draft permit and is incorporated in the final permit. See Condition IV(a) on page 12 of the permit.*

5. OTHER AGENCIES

a. Dust Control

Comment: The commenter states: “We also request that the streets around the plant be pressure washed with appropriate regularity as a part of the new permit requirements to reduce the particulate matter threatening the community and that this be a regular cleaning by the Department of Public Works (DPW) that mirrors the street sweeping schedule.”

DOEE Response – *This permit does not have authority over DPW and therefore cannot be used to require any action by DPW. However, the permit requires Vulcan to wash down S Street SW, between Half Street SW and the end of the street where it turns north in front of the facility at least once per calendar quarter. See Condition III(m) on page 9 of the permit.*

b. Safety

Comment: The commenter proposes: “DOEE work with DDOT to put in additional safety measures that makes it safer for [pedestrians] to cross the street near the plant including signage”

DOEE Response – *This proposal is not relevant for inclusion in this permit as it does not apply to Vulcan, the entity regulated by this permit, nor is it related to air quality.*

c. Traffic/Parking

Comment: “My problem is the traffic. We're having problems with that because we're sitting up here as residents and housing or metropolitan, nor the meter people are not doing anything about the problem that we're having. When they have games and everything, you have people parking on both sides of the streets. As residents, we can't even park. We go the final place to park in Dinnerview (?) park in a parking lot. Housing will come and give you a \$250 ticket plus tow your car. I don't feel that that's fair to the residents that are living down there. And they had a game the other day and you got metropolitan, you got the meter people, you have housing, and nobody is doing anything. They say they can't do anything, but that's not fair to us. So we need a resolution for that because we're not supposed to live like that. If my son comes to my house, he can't even park. And if he parks, his car gets towed or he gets a ticket. They you have the bus lane that takes up at least four spaces. If you park in the bus lane, you get a \$200 ticket. Why are they doing all this to them? And we don't even have any say about where we're living, and I don't think that's fair to us. So we need a solution for that.”

***DOEE Response** – DOEE is unable to address traffic and parking issues in an air quality permit because parking and traffic rules do not fall under the air quality regulations.*

6. OTHER LAWS/REGULATIONS

a. Environmental Justice

Comment: “As has been mentioned about the environmental justice bill that is making its way through DC Council, there are, as we know, rapid redevelopment in and around this community that warrants considerable consideration as you deliberate on the permit application.”

Comment: “The key issue that creates these inequitable high-risk air pollution exposures in environmental justice areas like Buzzard Point is that the residents are breathing many air pollutants (sort of an urban soup of toxic air) at the same time. This “cumulative exposure” is a critical issue if the DC DOEE goal is to protect public health. The key requirement in 20 DCMR 903.1 is to ensure that public health is protected.

It is my recommendation that DC DOEE require Vulcan materials to use the procedures established in the EJ Amendments Act of 2023 proposed by DC Councilman Zachary Parker to demonstrate that the public health protection requirements of 20 DCMR 903.1 are met. I know that DC DOEE is supportive of this new bill and has the authority to ask Vulcan Materials to strengthen its permit application.”

Comment: “The draft Permit needs to be reviewed for compliance with DC laws pertaining to environmental justice.”

***DOEE Response** – The proposed Environmental Justice Amendments Act of 2023 has not been enacted and is not a requirement that can be placed upon the applicant. The District does not currently have any statutes that would add specific environmental justice criteria to air quality permits.*

However, DOEE has still taken into consideration the impacts of the facility on the surrounding community. This permit substantially tightens requirements on the plant compared to its prior permit, including tighter emission limits and enforceable requirements for quarterly street wash-downs and use of a wet sweeper and truck wash system. Fenceline monitoring is also required for a minimum of one year to ensure that the facility is not causing National Ambient Air Quality (NAAQS) exceedances. DOEE expects that this permit will contribute to improved air quality in the neighborhood. The activities governed by this permit are not expected to disturb soil and cause the release of any existing land contamination, if present.

b. EPCRA

Comment: The permit should “include a requirement to submit a Tier II form as required under Section 312 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA).”

***DOEE Response** – EPCRA is a separate program from an air quality program with separate legal authorities. EPCRA requirements therefore do not belong in an air quality permit.*

c. Mobile Source Emissions

Comment: “The Permit should include a requirement that vehicles used to supply materials to the facility and that vehicle transporting finished product from the facility must meet relevant requirements for air emissions.”

***DOEE Response** – Mobile source emissions are not regulated under 20 DCMR Chapter 2 permits for stationary sources, except for the engine idling requirements included in 20 DCMR 900. This exception exists because a facility can reasonably be held responsible for the activities of drivers sitting stationary on their property. Mobile vehicle emissions are regulated by means other than 20 DCMR Chapter 2 permits.*

d. Public Space

Comment: “The Permit should include a requirement for the Applicant to remove spills of or intentional dumping of concrete from the DC right of way (ROW).”

***DOEE Response** – Encroachment into the public right-of-way is not an issue that can be remedied through an air quality permit. Spills or dumping of concrete that discharges or threatens to discharge into sewer systems are regulated under the Water Pollution Control Act. Dumping into the public right-of-way can be reported to 911 if the dumping is in progress or 311 if not in progress. If dust results from such activities, they would be subject to the requirements for stockpiles, trackout, etc. specified elsewhere in the permit.*

e. Regulation Adoption/Revision

Comment: “**Implement stricter PM standards.** Especially because residents are particularly susceptible to adverse effects from poor air quality, this permit should adopt stricter standards and action levels. For example, the World Health Organization 24-hour standard for PM10 is

three times lower than the NAAQS, indicating the reasonableness of implementing stricter standards.”

Comment: Establish “**stricter standards for PM10 in this neighborhood.** Concrete dust is 30-70% PM10 and 6% PM2.5. Because PM10 levels drop quickly with distance,³ it primarily affects those in close proximity to the source. Since residents closest to the plant are also from the most vulnerable groups and given the possible role of PM10 in coronavirus spread, stricter regulations should be instated for this area. The US EPA level is three times higher than limits set by the state of California and the World Health Organization. There is clearly room and precedent for setting limits that better protect our citizen’s [sic] health.”

Comment: “DC DOEE should adopt toxic air pollutant programs like those that are already in place in Maryland and Virginia.”

***DOEE Response** – World Health Organization standards, and Maryland and Virginia's Air Toxics standards, have not been adopted in the District and so DOEE does not have authority to include them in a permit. Additionally, a permit action is not an appropriate venue to adopt more stringent ambient air quality standards or other regulatory requirements that would have broad applicability.*

f. Water Pollution

Comment: “We must ensure our Anacostia Watershed is fully protected. If Audi Field was classified as a Brownfield, then I'm sure there is dangerous runoff that has entered the Anacostia. The same could be said about Vulcan Materials and its operations, which may have violations from the Clean Water Act.”

Comment: “Request that the DOEE Watershed Protection Division review the proposed permit for compliance with CWA and applicable DC laws and regulations.”

***DOEE Response** – Clean Water Act requirements are not included in air quality permits. However, the Inspection and Enforcement Division/Industrial Stormwater and Wastewater Branch Branch (formerly the Illicit Discharge and NPDES Branch¹) reviewed aspects of the draft related to street washing.*

Comment: “The proposed Permit is defective in that it both requires and allows the Applicant to wash sediment onto the storm drains. The Applicant must obtain an NPDES permit from US EPA or a Pre-treatment permit from DC WASA for and [sic] discharge to the storm or sanitary sewer systems.”

***DOEE Response** – This is an inaccurate statement. The permit specifies that the street washdowns shall be performed in compliance with the requirements of the District's Water Pollution Control Act of 1984. The permit specifically states that it does not authorize discharge of wash water to any storm sewer and notes that the washdown*

¹ This name change to the Industrial Stormwater and Wastewater Branch is reflected in the final permit.

process will be incorporated into the facility's Stormwater Pollution Prevention Plan (SWPPP). See the details specified in Condition III(m) of the permit.

7. PERMITTING/PROCEDURAL

a. 20 DCMR § 201

Comment: The commenter states: “The law requires that DOEE make six (6) findings (D.C. Code § 20-201.1). Establishment of permit conditions is not sufficient. DOEE must make a finding of fact consistent with the law. Findings are additive, meaning that all findings must be made. Further, ‘Findings of fact and conclusions of law shall be supported by and in accordance with the reliable, probative, and substantial evidence’ (D.C. Code § 2-501 et seq). DOEE did not establish any findings of fact (See Technical Memorandum and draft permit).

1. DOEE did not make a finding that ‘that the applicant’s proposed equipment, facilities, and procedures are adequate to minimize the danger to public health and welfare’. DOEE acknowledges, ‘The 2 S Street SW site has been the subject of a number of complaints and concerns expressed by the community surrounding the plant in recent years’ (See Technical Memorandum), but does not make any finding on public health and welfare, particularly with respect to the Southwest community.
2. DOEE did not make a finding that ‘that the issuance of the permit will not be inimical to the public health and welfare’.
3. DOEE did not make a finding that ‘That the operation of the source will not prevent or interfere with the attainment and maintenance of any applicable national ambient air quality standard and will not result in the contravention of any provision of the Federal Clean Air Act or the regulations promulgated under the Act’. DOEE did not reference or attempt to reference any clean air quality standards or attainment goals.
4. DOEE does not make a finding with respect to DCMR Title 20, Chapter 2, Section 201.1(f). DOEE did not establish a finding that ‘continuous’ (emphasis added) monitoring devices for opacity and for all pollutants for which the source is a major source are in operation’ for any or all of the regulated pollutants.”

DOEE Response – D.C. Code § 20-201.1 does not exist. However, DOEE believes that the commenter intended to refer to 20 DCMR § 201.1, which indicates that the Mayor may issue a permit upon finding six items to be true.

In the Technical Memorandum associated with the draft permit, AQD discussed various permit limits it deemed necessary to meet the requirements of 20 DCMR § 201. The issuance of the permit is in and of itself a confirmation that DOEE has made the requisite findings required under the regulation as long as the permit limits and conditions are met.

Additionally, in the “Comment Period and Public Hearing” section of the Technical Memorandum, AQD stated: “Based on AQD’s evaluation of the application and review of applicable regulations, the operation of the existing ready mix concrete batch [plant] as

proposed in the application, and the draft operating permit as written, are consistent with all applicable federal and District air pollution control laws and regulations.”

With regard to the commenter’s assertion that DOEE did not find that continuous monitoring devices are in place, it should be noted that this requirement applies only to a “major stationary source”. Vulcan’s 2 S Street SW plant does not meet the definition of a “major stationary source” as defined in 20 DCMR § 199. See the emissions table in the Technical Information section on page 2 of the Technical Memorandum.

b. 20 DCMR § 903.1

Comment: “It is very clear that the applicant has not demonstrated compliance with 20 DCMR 903.1 and that the permit should be rejected until a robust and definitive demonstration of compliance with this critical provision of District law is completed and approved by DC DOEE.

The public hearing notice identifies the following as a mandatory requirement that must be met before any permit can be issued:

h. **An emission into the atmosphere of** odorous or other **air pollutants** from any source **in any quantity** and of any characteristic, **and duration** which **is, or is likely to be injurious to the public health or welfare**, or which interferes with the reasonable enjoyment of life or property **is prohibited**. [20 DCMR 903.1] ... Yellow highlights added.

No such demonstration has been made or even attempted. It is a glaring omission that is even more critical as the facility is to be located in a community that is already overburdened by air pollution, and likely to be more susceptible to damage from air pollution because of other socioeconomic issues like access to health care.”

Comment: “Furthermore, the potential for fugitive dust emissions and odorous pollutants can significantly degrade the quality of life in our neighborhood. The requirement that “odorous or other air pollutants which interfere with the reasonable enjoyment of life or property are prohibited” must be strictly enforced to protect our community. While jogging in the neighborhood, I notice the roads around the plant aren’t even paved. Every truck coming in and going out kicks up a huge amount of dust particles into the air. It’s very disappointing and concerning as a resident of the neighborhood.”

DOEE Response – 20 DCMR 903 applies solely to odor and other nuisance air pollution.

Firstly, odorous air pollution is specifically cited in 20 DCMR 903 as a nuisance. The Vulcan facility has no history of complaints regarding odor, and DOEE does not expect that odorous pollution would be emitted from regular operations of this facility.

Dust is also typically considered a nuisance pollutant. This permit substantially tightens dust-control requirements on the plant, including requiring quarterly street wash-downs, enforceable use of a wet sweeper and truck wash system, and tighter emission limits in order to reduce the impact of dust on the community.

Finally, smoke is also typically considered a nuisance pollutant. The Vulcan facility has no history of complaints regarding smoke emissions, and DOEE does not expect that smoke would be emitted from regular operations of this facility.

Other health-impacting pollution, such as fine particulates, are regulated by other parts of Title 20 of the DCMR and are not considered nuisance pollution.

c. Affirmative Defense

Comment: “On July 5, 2024, DOEE proposed an agency rule to remove emergency affirmative defense provisions from Title V programs to meet a new requirement set by the U.S. Environmental Protection Agency. The draft permit included provisions for affirmative defenses on malfunctioning equipment, which should be removed. Inclusion of this language is not consistent with federal requirements and violates provisions about non-attainment areas because it loosens requirements.”

Comment: “**Include a limit on malfunctions.** The statement that “violation of the requirements of [II.h] that occur as a result of unavoidable malfunction... shall be an affirmative defense....” appears to be new and to my knowledge not included in Permit 6451-R1. It becomes relevant perhaps – and concerning -- if this facility is continuing to use aging equipment. DOEE’s definition of a “reasonable time” for eliminating malfunctions should be defined or a maximum time given, especially if malfunctions are expected.”

DOEE Response – *The only reference to an affirmative defense in the permit is the incorporation of the language of 20 DCMR § 903.13(b) in Condition II(h) of the draft permit. This pertains to the District’s “Odor or Other Nuisance Air Pollutants” regulation that has been established pursuant to the Air Pollution Control Act of 1984. This regulation is not a part of the District’s State Implementation Plan (see 40 CFR Part 52, Subpart J), nor is it a part of any program delegated or approved for implementation by the U.S. Environmental Protection Agency (EPA), such as the referenced Title V program. Rather, it is a District-only regulation. Thus, any affirmative defense provision included in the regulation is at the discretion of the Government of the District of Columbia. This provision was not included in the prior version of the permit because it was not in the applicable regulation when that permit was issued. The regulation was revised to include this provision in 2023. Because this affirmative defense provision applies, it is appropriately included in the permit.*

Note that this affirmative defense provision does not excuse violations resulting from malfunctions. Instead, it allows the permittee to put forth a defense that the malfunction was unavoidable in order to mitigate penalties. If a malfunction was avoidable, for example, through appropriate maintenance, repair, or replacement of the equipment, then the defense would not apply.

d. Compliance History

Comment: “The Applicant's application needs to include a summary of its past compliance record. Request that the Permit include the results of DOEE and EPA compliance audits and inspection of the facility.”

***DOEE Response** – This is not a requirement in the District's air quality regulations. It is not necessary for the facility to include a compliance history with its application as DOEE already has access to the facility's environmental compliance records. Further, including a facility's compliance history in its Chapter 2 permit is not appropriate because the permit applies to future operations of the facility.*

e. Emission Limits

Comment: “The proposed permit may also allow significant actual emission increases of particulate matter. This needs to be fixed. A shrinking annual cap on actual annual particulate matter and fine particulate matter emissions needs to be established.”

***DOEE Response** – This comment presumably refers to the fact that, if the facility increased production beyond historic production levels while still remaining below allowable throughput levels, actual emissions could increase. No increase in allowable throughput is authorized by this permit. There is no legal basis to restrict the facility from increasing throughput because this is not a factor limited by any law or regulation.*

Comment: “Given that DC DOEE has already recognized the Buzzard Point area as being an area that is significantly overburdened by air pollution and air pollution sources and is an area that is subject to inequitably high public health risks from air pollution ... and that recent monitoring studies show that PM_{2.5} levels in the Buzzard Point area are already above the PM_{2.5} standard (sometimes almost double the standard) ... any permit issued to Vulcan Material must include a shrinking annual “actual” (not allowable) emission cap for each year. The procedure for calculating actual emissions should be in the permit and the first year of the permit should have an actual emission cap that is at least half of the annual actual emissions averaged over the past 5 years. Each subsequent annual actual emission cap should be at least 5% lower than the cap for the previous year.”

***DOEE Response** – There is no basis to establish a shrinking cap on emissions as proposed. DOEE finds that the permit is protective of public health and the environment and complies with 20 DCMR § 201. With this determination, there is no basis to further tighten emission limits on an annual basis.*

Furthermore, we assume that the commenter, when discussing a recent study, is referring to “Hyperlocal Ambient Air Pollution Mapping: Washington D.C. Pilot Study,” which would have been available at the time of the comment period. In this study, data was collected over the course of two weeks in June of 2023 by sensors on a vehicle traveling through the Buzzard Point neighborhood and several others. Given the way the data was collected, in one (1)-second intervals and by a vehicle that was continuously changing locations in a roadway, there is no way to directly compare the data collected to either

the annual or 24-hour particulate matter NAAQS, which require analysis of three years' worth of data collected at a stationary, federally compliant monitor. During this very brief period, there could have been particular circumstances that resulted in temporarily higher particulate matter levels. A subsequent six-week study in 2024, conducted similarly, saw much lower levels of PM2.5 in the vicinity of Vulcan. Additionally, the subsequent study included collocation testing, which the June 2023 study did not, and found strong evidence that PM2.5 is oversampled by the sensors used in the studies and that the Mean Average Error was 2.35 micrograms per meter cubed higher than the federal monitors on an hourly basis. We would also note that a federally compliant monitor in Buzzard Point at the King Greenleaf Recreation Center has not exceeded any particulate matter NAAQS, including the recently strengthened annual PM NAAQS.

f. Fenceline Monitoring

Comment: “**Include provisions for ensuring that the monitoring and dust abatement plans proceed in a timely fashion.** While the permit holds the facility responsible to deadlines such as 30 or 60 days, there is still the potential for delay on the part of DOEE that will leave the community unprotected. If the permit were issued with actionable requirements, beyond the mention of plans, defined steps already in place that do not require later approval by DOEE, the community will be better protected. If plans are typically what are asked for in permits, DOEE needs to have a timeline and process that include public involvement.”

***DOEE Response** – Fenceline monitoring plans and dust control plans are not specifically required by any regulation. DOEE has established minimum requirements for such plans that are in the permit. The requirement to develop and submit monitoring and dust abatement plans for DOEE review is a reasonable way to ensure that the plans will be effective, but also allows changes to be made to address minor technical issues in an efficient and expeditious way. DOEE will do its best to minimize delays in the review process. Further, a permit establishes facility requirements and not timelines for DOEE or agency action.*

g. HAPS and Other Pollutants

Comment: “The Permit should include a requirement to monitor and to control emissions of lead, mercury, arsenic, cadmium, hexavalent chromium, and crystalline silica, which are component materials typically present in concrete.”

Comment: “According to EPA and AP-42, concrete batch plants like the Vulcan Materials Company proposal emit many different air pollutants.

Some of the emissions from Vulcan Materials are considered toxic air pollutants. The facility will emit heavy metals like arsenic, beryllium, cadmium, chromium, lead, manganese, nickel, phosphorus and selenium. Most of these toxic air pollutants are linked to cancer, birth defects and other serious public health risks. These emissions of toxic air pollutants have not even been looked at by Vulcan Materials.

Other known highly toxic emissions from concrete batch plants like crystalline silica have also been ignored. Before any permit is issued, Vulcan Materials needs to demonstrate (consistent with 20 DCMR 903.1) that their emissions will not result in high cancer risks and other risks associated with the specific toxic emissions released by concrete batch plants. Both Maryland and Virginia have methodologies that allow sources like Vulcan Materials to demonstrate that emissions of toxic air pollutants are not injurious to public health.”

DOEE Response – *It is true that there are trace metals in the materials used for concrete production. DOEE has not historically considered these metals when reviewing air quality permits for concrete mix plants because trace metals are present in extremely low concentrations. In response to this comment, DOEE has estimated potential emissions of arsenic, beryllium, cadmium, chromium, lead, manganese, nickel, phosphorus, and selenium with the use of EPA's AP-42 factors and associated average material inputs to produce a cubic yard of concrete. Based on these factors and an assumption that the facility produced its full allowance of 300,000 cubic yards of concrete over a 12-month period, the total annual emissions of all of those metals, combined, would be approximately 0.6 pounds. DOEE considers this insignificant.*

Crystalline silica was not considered separate from particulate matter because it is a constituent of particulate matter and particulate matter is heavily regulated by this permit and will be the subject of monitoring to ensure the facility is not causing a localized exceedance of the relevant NAAQS.

h. Radioactivity

Comment: “The Permit should include a requirement to monitor air emissions for radioactivity.”

DOEE Response – *There is no basis to believe that the operations being permitted will produce radioactive emissions at levels that pose a risk to human health and therefore it is not necessary to address this issue in this permit.*

i. Non-Attainment New Source Review (NNSR)

Comment: “Washington, DC and the Southwest neighborhood [is] in a non-attainment area for environmental regulation (<https://www.epa.gov/green-book>). DC law has additional regulatory requirements for non-attainment areas (20 DCMR § 204). DOEE has drafted a permit application that violates the provisions of this law, specifically with respect to the ‘most stringent emission limit’ or ‘lowest achievable emission rate’.

- DOEE does not establish or attempt to establish that its permit condition meets standards for ‘most stringent emission limit’.
- DOEE does not determine, ‘The applicant for a permit for the source will cause to have reduced... will result in decreased emissions of the pollutant in question, and will not adversely affect the air quality in any area not attaining the national ambient air quality standards.’ DOEE does not establish or attempt to establish a decreased [sic] in emissions. As opposed to Vulcan’s previous permit, DOEE provides for affirmative defenses that directly contravenes air quality attainment and violates federal requirements.

- DOEE does not allege a ‘credit’ transfer (20 DCMR § 204.5).”

DOEE Response – 20 DCMR § 204.1 applies to the construction of any new major stationary source or any major modification of an existing major stationary source in an area designated as nonattainment under § 107(d)(1)(A)(i) of the Clean Air Act.

Vulcan is not an existing major stationary source, nor do they propose the construction of a new major stationary source. See the definition of a “major stationary source” as defined in 20 DCMR § 199. Also see the emissions table in the Technical Information section on page 2 of the Technical Memorandum.

Therefore, 20 DCMR § 204 does not apply to this facility at this time.

Comment: “DOEE must review and evaluate the polluters’ history.

- DOEE did not establish a finding consistent with this provision, ‘**All** (emphasis added) major stationary sources owned or operated in the District by the applicant (or by any entity controlling, controlled by, or under common control with the applicant) are in compliance with, or on binding agreement to comply with, all emission limitations and standards under this subtitle and under the **Federal Clean Air Act** (emphasis added)’ (20 DCMR § 204.4(b)). DOEE did not perform or attempt to perform its statutory obligations with respect to this provision. It needed to expand the scope of its regulatory review beyond this single site to the District of Columbia and all Vulcan facilities under the Federal Clean Air Act.”

DOEE Response – 20 DCMR § 204.4(b) does not exist, nor does this language appear elsewhere in 20 DCMR § 204. Regardless, as discussed in the response to the previous comment, 20 DCMR § 204 does not apply to this permitting action.

j. Other Party Review

Comment: “The draft Permit needs to be reviewed internally by the Watershed Protection Division, by DC DOH, and externally by DC WASA.”

Comment: “Request that the proposed Permit be forwarded to EPA Region III with a request that EPA Region III staff review the draft Permit before the Permit is issued.”

Comment: “The draft Permit needs to be reviewed by a DC DOH public health professional.”

DOEE Response – Any concerned party, including EPA Region 3, DC WASA, and DC DOH personnel, had the opportunity to comment on this permit during the public comment period. No comments were received from these entities. The DOEE Inspection and Enforcement Division/Illicit Discharge and NPDES Branch reviewed aspects of the draft related to street washing prior to proposal of the draft permit.

k. Permit Author

Comment: “The draft Permit looks as if it were written by the applicant, Virginia Concrete Company. Request that the Permit be re-written by someone other than Mr. Ours, whose skills seems [sic] dated and who seems unaware of current best practices in the control of air and water pollution.”

DOEE Response – *The permit was not written by the applicant. Air quality permits are drafted by air quality permitting staff and reviewed by the Permitting Branch Chief before a draft is released. All relevant air quality regulatory requirements have been incorporated in the permit, which would be the case regardless of who drafted it. Water pollution requirements are not relevant for incorporation in an air quality permit issued pursuant to 20 DCMR 200. See DOEE response at section 6.f. above.*

I. Other Permitting/Procedural

Comment: “Your website that provides notice of this public meeting did not have any analysis available to the public, much less the data that has been mentioned on the mobile air pollution monitoring that you’ve conducted down in Buzzard Point. So, DOEE cannot act on its purpose, as set forth in the law: ‘The purpose of the air quality regulations is to prevent or minimize emissions into the atmosphere and thereby protect and enhance the quality of the District’s air resources.’ So the District cannot solely rely on the good faith of environmental or of polluters in determining its environmental enforcement and regulation.”

DOEE Response – *There is no requirement that DOEE provide monitoring data to the public prior to issuing a permit to construct or operate pursuant to 20 DCMR § 200. In this permit, DOEE establishes stringent permit requirements that are expected to result in reduced emissions to the Buzzard Point neighborhood.*

Comment: “In a case on federal environmental regulations, the Court, this is the Court of Appeals for the District of Columbia, decided that 1) there must be quality monitoring data that the government itself collects. So this is federal precedent. The second in this case, this was *Sierra Club vs the EPA*, was that data must be made available to the public at a public hearing in regards to these types of issues, in terms of air permit renewal. Again, on the website, there is neither data provided in advance of this public meeting.”

DOEE Response – *DOEE is unable to respond to the specific case referenced by the commenter because no case citation is included. However, DOEE did conduct a legal review and the only cases that appear similar to that described by the commenter apply only to major sources of air pollutants. Vulcan is a minor source.*

Comment: “And so that gets to a second point, which is that this lack of data on DOEE’s monitoring, inspections, and NOI citations have circumvented the public’s capacity to substantively weigh in on these issues backed by data that your office has and that the polluter themselves have. And I strongly encourage in fact community appeal and litigation against any approval of this permit give that these efforts are not in substantial compliance with neither federal nor District laws on environmental regulation.”

DOEE Response – *20 DCMR 210 states what must be provided in a permit public notice pursuant to 20 DCMR Chapter 2. It does not require that DOEE provide these data to the public with the publication of the draft permit. However, monitoring, inspection, and enforcement data may be obtained by the public through a FOIA request.*

8. PUBLIC HEALTH

a. Environmental Justice/Environmental Racism/Cumulative Impacts

Comment: “Much like many Black and Brown communities in the District and in our nation, our government continuously upholds environmental racism with no clear indication of real remediation and plans to lower the burdens that these communities face. For example, in a 2016 report, DOEE classified Audi Field as an industrial brownfield. They found dangerous contaminants in the soil like benzo pyrene, arsenic, and lead to name a few. These substances can cause a range of pulmonary and cardiovascular issues of which long existing border communities around Buzzard Point were found to have higher rates of chronic lower respiratory diseases as well as higher rates of death rates related to heart disease and cancer. Residents' health needs to be at the forefront of any action that impacts our air quality.”

Comment: “It is difficult to keep things clean in our residences due to the dust from the plant.”

Comment: “I strongly urge the Department of Energy and Environment to reconsider the issuance of this permit or to implement more stringent controls and continuous monitoring requirements to safeguard public health. Please prioritize the well-being of our community over industrial operations. While I understand the site produces much of the material that has built much of the community recently, it is a disservice that we SW residents must live next to an industrial site that directly emits toxins that harm our health.”

Comment: “When will communities' lives and lived experience be considered when drafting these air permits? When will we finally start to look at cumulative impacts of overburdened communities?”

Comment: “I am deeply concerned about the impact and effects the chemicals that the Virginia Concrete Company has had and continue to have on our children, young adults, seniors - in fact, on all of our citizens, not only in SW but throughout the city. You have heard many testimonies from so many of our citizens about how their health has already been affected; many of them irreversible. Have you thought about how these chemicals can continue to affect those with asthma, allergies, heart problems, respiratory issues and how these problems can be a beginning to certain health problems that we have never experienced in this area in the past?

Surely you have an insurance policy that covers your concerns but we have no assurance policy that the quality of air caused by these chemicals will not continue to affect our health. Monetary allocations cannot always address the everlasting pain and sufferings that have been experienced by our citizens.

I have seen and experienced how the whole SW area has been adversely affected by all the construction of new apartments, condos, and other facilities. This plant will result in more people coming into the area - causing more congestion and inconveniences that already exist. When there are baseball and soccer games, it affects our quality of life. We are unable to find a parking space in our immediate area. Many times we have to not move our car just to be assured of having a parking space. We are also affected by the subway system having to change its routing

of passengers when there are games scheduled. This plant will contribute to the above-mentioned problems.

Finally, the plant will continue to add more congestion, unsafe and unhealthy quality of life and air. Based on the above circumstances, I strongly recommend JUST DON'T APPROVE A PROBLEM..."

DOEE Response – *This permit substantially tightens requirements on the plant compared to its prior permits, including by adding requirements for quarterly street wash-downs and use of a wet sweeper and truck wash system, and tighter emission limits. Fenceline monitoring is also required for a minimum of one year to ensure that the facility is not causing NAAQS exceedances. DOEE expects that the permit conditions imposed by this permit will contribute to improved air quality in the neighborhood. The activities governed by this permit are not expected to disturb soil and cause the release of any existing land contamination, if such contamination is present.*

Comment: “**Take cumulative exposure into account.** Human health does not care whether the emissions come one concrete batching plant or another. Emissions are incrementally more harmful when PM is already high. To be truly protective, in addition to stipulations for PM10 and PM2.5 “concentration contribution” from the facility, there need be concrete thresholds that trigger action, so that the facility does not contribute to emissions at times where levels are already high enough to endanger human health.”

DOEE Response – *The permit requires the facility to establish a monitoring plan, including a requirement to take contingency measures if the facility is substantially contributing to an exceedance of established action levels of air pollution. DOEE determined that the requirement to take contingency measures only occurs if the contribution is substantial because it is unreasonable to require the facility to cease operations when doing so would have only a small impact on pollutant concentrations. For example, there could be a structure fire causing large amounts of smoke nearby while the permitted facility contributes only a small amount of particulate matter (as happened at a nearby, now closed, concrete plant).*

Comment: “While I have relocated my work to New York City, I continue to be involved in the work in the Buzzard Point neighborhood. My colleagues and I have worked with this community since 2017. We began our work with Air Quality monitoring at the level that is closest to the residents. We continue to monitor PM2.5, Black Carbon in Buzzard Point in tandem with the Federal Reference Monitor situated at King-Greenleaf Recreation Center. Our monitoring continues to validate the concerns of the residents in the Buzzard Point neighborhood in that they continue to be impacted by the poor air quality secondary to the Vulcan Materials Company. We recognize that Vulcan company is not solely responsible for all of the poor air quality; however, we recognize their productivity are a large component of the lived experiences of the residents in this community.

As you know, Buzzard Point is an Environmental justice impacted community and having a large operation like Vulcan Material operating in this very neighborhood only compounds the problem

and significantly pose negative health impact on these communities. And while the District of Columbia is required to monitor the air quality in these communities, there is a disconnect in what the Federal Reference Monitor (FRM) reports and what residents in these communities' experience (Hsieh, et al., 2021). It is very likely that asthma and other chronic conditions are undercounted as residents do not relate these asthma-like symptoms to an asthma diagnosis.

Many of our residents in Buzzard Point remain vulnerable to poor air quality, which decreases their quality of life. We understand that Vulcan Materials Company is an economic benefit to the District of Columbia; however, we ask the District of Columbia to consider the lifespan of the citizens of this community and determine ways in which the health of this community is prioritized. We are aware that even the District of Columbia continues to be concerned about the air quality when it commissioned Aclima, Public Benefit Corporation, to conduct a pilot study on the air quality in Brentwood, Mayfair, and Buzzard Point. It is not lost on any of us that determining air quality by measuring CO₂, PM_{2.5}, NO₂, CO, O₃, Black Carbon, methane, and TVOCs from June 15 to June 28, 2023 is a good reason to pause. Aclima findings suggest two things in Buzzard Point neighborhood; 1) poor air quality can be linked to high diesel emissions likely caused by the number of trucks that transverse this area near and around the Frederick Douglas bridge, and 2) the concentration of PM_{2.5} in Buzzard Point was consistently higher during this two-week period. Their report was inconclusive as to the source of PM_{2.5}; but nonetheless, this in and of itself is a likely source of resident's poor quality of health."

References:

Hyperlocal Ambient Air Pollution Mapping: Washington D.C. Pilot Study Nov 13, 2023 Version 1.2

Hsieh, S., Harrison, E., Phoenix, J. A., & Hamilton, R. (2021). Asthma and particulate matter pollution: Insights from health survey and air quality monitoring in the Buzzard Point, Washington, DC neighborhood. *Environmental Justice*, 14(4), 254–266.
<https://doi.org/10.1089/env.2020.0066>

DOEE Response – *DOEE recognizes that Vulcan is an emitter of air pollutants in the Buzzard Point community. AQD is issuing a stringent air quality permit that it expects will reduce existing dust emissions from the facility. The permit contains monitoring requirements to ensure that emissions from the facility are not creating exceedances of the NAAQS. While vehicle traffic is also a contributor to pollution in the neighborhood, an air quality permit for a stationary source such as Vulcan does not deal with mobile sources other than those actively operating on the facility property. See the response to the second comment in Section 7.e (Permitting/Procedural – Emission Limits) for additional discussion of the 2023 monitoring results.*

Comment: "DC DOEE has routinely and openly acknowledged that the Buzzard Point area is an area that is already severely overburdened by air pollution and many air pollution sources. To quote my friend and Associate Director Ashenafi discussing why the Buzzard Point area and other environmental justice areas were focused on in recent air monitoring studies:

We wanted to focus on communities that we know historically have been overburdened by air pollution from historically racist development practices, citing residential areas near industrial areas”

It is very clear that it is the Mayor's position, based upon the numerous DC policies on environmental justice and racial equity, that these types of high-risk areas that have been created by antiquated policies that now are known to be a form of systemic environmental racism must be addressed as part of decision making in the District. This includes decisions on permits.”

***DOEE Response** – DOEE takes these environmental justice concerns seriously. As a result, DOEE is significantly tightening emission and dust control requirements in this permit compared to the prior permit. It is also requiring fence line monitoring to ensure that the plant is not creating high levels of particulate matter in the vicinity of the plant.*

b. Enforcement

Comment: “My story is just like so many others. My challenge is how does a healthy person become an unhealthy person in a couple of years where you have all these challenges around your breathing. And if we are sitting here sharing our story, and you still continue to grant this application to Virginia [Concrete] plant, then what is their responsibility and their role to us as residents for wanting to be here? And they're contributing to our challenges. So, how do we hold them accountable for their actions? And what are the steps that we can take to do about it to make sure to ensure that they do what they say they're going to go? And how will that be applicable to us in terms where we can understand it in our day-to-day life?”

***DOEE Response** – DOEE has established more stringent emission controls for the facility in this permit than in prior permits. DOEE will also inspect the facility periodically to ensure compliance with permit terms. Residents may also submit complaints to report any suspected violations of the permit to DOEE (typically through the District's 311 web application or reporting line). DOEE will respond promptly to evaluate compliance.*

c. Land Use

Comment: “As a resident of Buzzard Point, I'd like to voice opposition to the proposed permit renewal. The neighborhood is much more residential than it once was and the plant is putting the health of thousands of residents at risk.”

***DOEE Response** – The air quality permit process is designed to ensure that air quality regulatory requirements are met by the facility. Issues of zoning or plant location cannot be addressed through an air quality permit process.*

This permit mandates numerous actions to be taken by the facility to further restrict emissions and improve monitoring and testing to ensure improved compliance and protection of public health and the environment.

d. Particulate Matter

Comment: “DC DOEE has conducted monitoring of particulate matter in the Buzzard Point area where Vulcan Materials will be located. DC DOEE has already identified this area as an area overburdened by air pollution and air pollution sources. The DC DOEE monitoring concludes that fine particulate levels in the Buzzard Point Area are already above the EPA standard for fine particulates and can at times be almost twice as high as the federal standard.

Exposure to fine particle levels above the standard can affect both the lungs and the hearts of individuals breathing the air. Numerous scientific studies have linked particle pollution exposure to a variety of problems, including: premature death in people with heart or lung disease, nonfatal heart attacks, irregular heartbeat, aggravated asthma, decreased lung function and increased respiratory symptoms, such as irritation of the airways, coughing or difficulty breathing.

Allowing a source to potentially add significant additional fine particulate emissions and air pollution to an area that already has extremely high fine particle levels is also a violation of 20 DCMR 903.1 as exposures to fine particle pollution in the Buzzard Point area are clearly not protective of public health. Equally important, although not driven by regulations, DC DOEE has a moral responsibility to not ignore the fact that the residents and their children who will have to breathe the new air pollution potentially created by Vulcan Materials are already breathing unhealthy air.”

DOEE Response – The data from DOEE's 2023 hyperlocal monitoring pilot project was a short-term evaluation and is not an indicator of attainment or non-attainment of the PM2.5 NAAQS, which is measured as an annual mean value averaged over three years. In fact, a similar analysis performed in 2024 found drastically lower PM2.5 concentrations in the same neighborhood.

This permit is not authorizing any increase in emissions, but rather tightens the permit requirements significantly and is expected to result in reduced emissions to the neighborhood. Additionally, it establishes requirements for temporary fence line monitoring to ensure that the facility is not creating high levels of particulate matter (PM10 or PM2.5) in the vicinity of the plant.

Comment: “You've defined an action level, and these one-hour averages combined with analysis of upwind and downwind to figure out who is actually emitting the high PM10 and high PM2.5. That doesn't protect people immediately. Instead, what you're going to get is a record of what you all have been exposed to, and the data instead should be used to stop, right? And you have a model for this because you did this, DOEE had Audi Field Stadium construction requirements that activity needs to stop when there was a 15-minute rolling average of PM10 exceeding 100 ug/m³.”

Comment: “**Expand the “action level” criteria.** The definition of an ‘action level’ should allow for the implementation of immediate abatement action. One-hour averages combined with analysis upwind and downwind are not practical for short-term issues. A model that DOEE

implemented for the Audi Field Stadium construction included a provision to stop activity, assess and abate when 15-minute rolling PM10 averages exceeded 100 micrograms per cubic meter.”

DOEE Response – *DOEE is focused on ensuring that the NAAQS are not being exceeded; the permit action levels reflect the magnitude of the NAAQS, but use a much shorter averaging period, so that action can be taken in time to avoid any exceedance of the health-based 24-hour and annual NAAQS for PM10 and PM2.5. The permit requires that the fenceline monitoring plan include contingency measures that Vulcan must take to reduce particulate matter emissions, should an action level be exceeded and the plant is determined to be substantially contributing to the particulate matter concentration (see Condition IV(m)(8)).*

e. Risk Assessment

Comment: The commenter recommends collaboration and coordination with the community to conduct a risk assessment since particulate matter levels are high around the plant.

DOEE Response – *An air permit cannot require a facility to collaborate with the community in conducting a risk assessment. However, to assess risk, AQD has engaged in additional monitoring of the area since this comment was submitted through its expansion of the Aclima hyperlocal monitoring in 2024 and by placing a Purple Air particulate sensor and Clarity Node multipollutant sensor in the area.*

f. Personal Health

Comment: The commenter indicated that she fell on the concrete. She opposed the stadium, but the stadium was constructed anyway. She expressed concern that the hearing would not result in anything and the permit would be issued.

Comment: “I have a question. This pollution is just like giving them a cigarette in the past, you can't open the way, you can't wash them out to protect yourself. The dust and everything is everywhere. You can't sit on your porch. You can't really do anything. These children, we're just putting them out there to die.”

Comment: “I have family and friends who live down there in Buzzard Point. From my understanding of not checking anything within the 25-mile radius, with the inside of that radius with a real high danger zone when comes to cement plants, and I'm pretty sure when the built it right there, if they had anything else that was actually going up around it. Pretty sure they actually do that. Just wanted to know as far as if they're really going to start taking these people serious because lives are a lot more important than money. So, it seems like if they're not watching all the bill back and forth with them, nobody's really concerned.”

Comment: “I've been here for 30 years and I have never experienced anything like this. So much dirt, dust. I can't breathe so much stuff coming from my nose, they have headaches, they're having heart problems, chest problems. You can't even clean your windows, your floors. That is how much stuff is in my house.”

Comment: “So, I’ve been down here for four years. Since I came down here, my asthma, my allergies got real bad on me. I get stressed and all that. I don’t really open the windows because it is so dusty.”

Comment: “I’m here as a concerned parent. My son goes to school, Eagle Academy, which is right there inside Buzzard Point. Since that time, he has been hospitalized from the age of three to five, he had pneumonia. While attending Eagle Academy along the concrete plant. And it’s not fair to my son, it’s not fair to his peers, It’s not fair to the parents as well. We have to think about it every time they build something, they cut down the trees. So yes, the air quality is terrible to this day. My son is 11 years old; he still suffers from asthma. And it’s not only that now I have to keep an eye on his younger brother as well. So what I’m saying is: No plant! No plant Permit! No plant at all!”

Comment: “I travel the area of Buzzard Point. I’m in a wheelchair and to bring that type of soot and chemicals into my own home and to have to continually wash my chair with the bad help that I have, as well as other seniors and even pregnant women and people of all ages in Washington in this Southwest area. Traveling throughout the city, we carry this stuff into our homes. We breathe it in. So there has to be a more strict way before you issue Vulcan a new permit of any kind to make sure that the people that live here in this community are well protected because they don’t care and we want DOEE to also care about what we are telling you all that is happening to the people in this community. Priority over issuing a company to bring in more chemicals, more concrete, dust particles throughout this area. It is a big concern for our health. So please don’t issue them a permit just because they have a business. Because the people’s business of living here should be the number one priority on both sides. Asthma, headaches, sinus problems, these things are adding to the health of the community. Skin breakouts, hearts, lungs, kidneys, livers, we need to realize that this company Vulcan is adding to the problem of the health and take it on as it’s been given by the people who are speaking here. Letting you know that this is a major problem and put the people first.”

Comment: “This year, actually the beginning of Spring, I experienced some serious upper respiratory problems. Never have I ever had any problems medically breathing or whatever, and I’ve gone to the hospital and everything, so I have an appointment now to see a pulmonologist. I don’t know this year why (I’ve been in Southwest for years), and I am not sure why this year this happened. I’ve never had a problem. So, I won’t know exactly what is going on until I see the pulmonologist, but I am very close to this concrete place, and I just don’t know what has caused it to happen this year and no other year. So that’s why I’m mentioning the respiratory problem that has occurred in this meeting and several other people in my neighborhood.”

Comment: “I have been plagued with bronchitis, asthma, and pneumonia since I moved to Navy Yard in 2019.”

Comment: “I’ve been on the resident council board, and since I’ve been down here, I [unintelligible in recording] and that doesn’t work, and I’ve been on a CPAP machine, and I’m on 3 or 4 counters for my asthma, and I have a lung problem, and every time I walk far I have a breathing problem. I have go go back and forth to specialty [unintelligible in recording] and stuff

under the doctor's care, and it don't do me no good and stuff. So the dust and stuff, I'm going through a whole lot. So it's a problem with the dust and stuff. I'm on a CPAP machine and it's not happening. And I just came from the hospital on the weekend, overnight. I can't walk. I have a breathing problem real bad. I've got four or five pumps I use. Terrible.”

Comment: “I grew up here as a kid; I suffered with severe asthma disease, even to the point that I had to be on a machine. Then I was hospitalized for a good time, and then I found out that they got my breathing regulated and then I was able to use the pump. So Buzzard Point was one of those things when we was kids we didn't know any better. We played around the sand, we played around the fields around there. It looked to us like fun to play around; we just didn't know. We didn't have my mother to say, "Don't do that." She didn't know where we was at, but us kids, maybe 20 of us, we had just played, you know? So, and it took effect, it took effect to our bodies. I wanted to discuss that I currently have a friend that is also dealing with air pollution problems where she have to have a double lung surgery, so they have to replace both of her lungs. And it was, it was hard to see her breathing digress. It's hard to see her need and somebody to feel her oxygen tank and lift that heavy oxygen tank everywhere we go. You know, it's just hard and now she had to go through this surgery where they have to cut her whole body and open it to replace it. And we have to be around her for 24/7 for eight months until she improved. So, I just want everybody to think about the people and think about what if it's your stuff going through something like that or your loved one at home is going through problems with breathing because the air is polluted. And no one is there to fight or advocate for them to say "no, this is not good!" We have to think about each other instead of corporations in ourselves because it's entrenched in greed and selfishness. So that's all I have to say. Just please think about it. Everybody has to get to an age where their body's not that great and they're gonna need somebody to care for them. And you don't like it like being sick so nobody wants to be sick because they cannot.”

***DOEE Response** – DOEE understands that residents may face specific health issues in their lives, but the commenters do not provide a clear connection tying them to Vulcan Materials or the permit at issue. Because of this, DOEE does not find that these comments can result in actionable changes to the draft permit.*

Furthermore, DOEE is substantially tightening emission and dust control requirements on the plant, including quarterly street wash-downs, enforceable use of a wet sweeper and truck wash system, and tighter emission limits in order to ensure that the plant is not producing air pollution that would exceed the NAAQS. Fenceline monitoring is also required for a minimum of one year to ensure that the facility is not causing NAAQS exceedances.

g. Other Public Health

Comment: The commenter explains that there are several sources of air pollution in the neighborhood, including the Vulcan plant, construction projects, and traffic, including traffic on the Frederick Douglas Bridge. The commenter also points out that historically, there were additional sources such as the now closed Superior Concrete plant. The commenter asserts that the community is an overburdened community (as a fenceline community). The commenter

indicates that the Vulcan plant's emissions add to the cumulative impacts that the community experiences.

The commenter states that there are a number of residents who live with compromised immune systems, respiratory ailments, and other chronic health conditions that are exacerbated by exposure to fugitive dust from Vulcan and other sources. The commenter also references young elementary school children that attend Eagle Academy who “have to walk along dusty blocks and inhale toxic dust with detrimental chemicals as they walk along the plant and prepare to enter their school building.”

The commenter indicates that “We should know what [definite] steps this permit put in place to consistently reduce the fugitive dust this plant will release and be reassured that this will be the case as long as it is in operation within the community.”

DOEE Response – *DOEE recognizes the cumulative impacts on the community resulting from operations at this plant and numerous other sources. As a result, in developing this permit, DOEE incorporated significant new limitations on emissions from the plant as well as increased monitoring of facility operations. These new limits were summarized in a “Fact Sheet” that was released with the draft permit.*

Improved dust control procedures, including quarterly wash-downs of a portion of S Street SW, twice daily use of a wet sweeper in and around the facility, operation of a truck wash system, and development and implementation of a dust control plan for the facility, are all being required for the first time.

An explicit particulate matter emission limit was introduced for the facility's main exhaust point. Additionally, requirements for a small boiler at the site were made conditions of the permit for the first time, and updated regulatory requirements for visible emissions, were included. Engine idling requirements, including a requirement to post “no idling” signs in both English and Spanish around the plant, were also incorporated into the permit for the first time.

Increased monitoring requirements have been established in the permit, including a minimum of one year of fenceline monitoring for coarse and fine particulate matter. Additionally, new maintenance and monitoring requirements covering dust collectors controlling emissions from the plant's silos and cement weigh batcher were incorporated.

Many of these requirements were adopted from recommendations submitted by community members, including from this specific commenter, prior to issuance of the draft permit. DOEE expects that the new requirements will effectively reduce the emissions of this facility and its impact on the community.

In reviewing this comment, DOEE recognized a conflict in the draft permit between the frequencies of readings of differential pressures across the CP-Series fabric filter dust collectors, and their associated record keeping frequencies. To resolve this conflict, Condition V(b)(3) of the permit was revised to require daily records rather than weekly records.

Comment: “As a resident of the Buzzard Point neighborhood, I am greatly worried about the potential health and environmental impacts of the emissions from this concrete batch plant continuing to operate in the neighborhood. The pollutants, including particulate matter (PM), nitrogen oxides (NOx), and carbon monoxide (CO), pose serious risks to our community’s health, especially to vulnerable populations, such as children and the elderly.

The emission of 5.78 tons of total particulate matter annually is particularly alarming, as particulate matter is known to cause respiratory issues and other health problems. Additionally, the emissions of volatile organic compounds (VOC) and nitrogen oxides (NOx) contribute to ground-level ozone formation, which can exacerbate asthma and other lung conditions.

According to an article I found while doing research on the matter, published in The Southwester on June 9, 2022 by Matt Koehler, available at <https://thesouthwester.com/2021/06/09/buzzard-point-a-historic-struggle-with-dust-and-ill-health/resident-of-the-20024-ZIP-code-have-higher-rates-of-lower-respiratory-diseases,-as-well-as-higher-rates-of-heart-disease-and-cancer/>.”

DOEE Response – *While the total allowable pollution (Potential To Emit or PTE) of 5.78 tons of particulate matter may seem high, this is well below the threshold to be classified as a major stationary source, which is 100 tons per year. While Vulcan is well below this threshold, this permit substantially tightens emissions limits and dust control requirements on the plant, including requiring quarterly street wash-downs and enforceable use of a wet sweeper and truck wash system. DOEE expects that compliance with the conditions of this permit will contribute to improved air quality in the neighborhood.*

Further, as noted above, data collected from a federally compliant monitor in Buzzard Point at the King Greenleaf Recreation Center has not exceeded any particulate matter NAAQS, including the recently strengthened annual PM NAAQS.

The equipment permitted at Vulcan will produce minimal levels of CO, NOx, and VOCs that are similar to emissions one would expect from a fuel-fired heating system in an apartment building.

Comment: The commenter requested the DOEE release the number of people who submitted requests to support the permit versus the number of people who are against the permit. The commenter indicated that, to her, everyone at the meeting is against Vulcan being granted a permit. The commenter wants the numbers supporting vs. opposed to a permit (or a temporary permit) for Vulcan to be considered. The commenter indicated that, to her, the numbers opposed outweigh the numbers in support of the permit, especially because of the health issues that it is causing. The most important thing that can be done is to support the people who are having the problems and provoke them to do better, not 10%, but 100%, to protect the community.

DOEE Response – *DOEE has evaluated all comments submitted during the public comment period to determine whether changes to the permit would be required. The raw number of comments in favor of the permit versus those opposed is not a consideration in the permit review process; only the content and actionability of the comments are*

relevant. To the extent the commenter would like to obtain copies of the comments submitted, they may do so through submission of a FOIA request.

Comment: “Buzzard Point is no longer the industrial area of the city that it once was. It is now home to many residents, including kids, dogs, senior citizens, and it is simply not an appropriate or safe place to maintain and operate a cement plant at this point in time. As a resident of Buzzard Point, I live in a building where fresh air is regularly circulated throughout the building. Whenever I vacuum in my residence, I have cement particulate that is in my vacuum along with whatever else is in there. There is cement particulate in my vacuum as a direct result of living in close proximity to the cement plant. Scientists that are much smarter than I am, can document how harmful breathing in cement dust is to human health. The respiratory effects, the illnesses that have been documented in many residents throughout Buzzard Point for a long time, the potential cancerous effects are well documented. Instead of certifying and recertifying the operation of the cement plant in this neighborhood, there should be a review done to determine exactly the nature of the impact that it has had so far on residents and what could happen if it would continue to operate.”

Comment: “Permit 6451-R1, the facility’s previous permit (expired on May 11, 2020) prohibited ‘...emission into the atmosphere of... pollutants... of any characteristic, and duration which is, or is likely to be injurious to public health or welfare or which interferes with the reasonable enjoyment of life or property.’ Yet residents’ descriptions and photographs show the exact opposite, due to cumulative impacts from construction and facilities such as Virginia Concrete Company. One long-time resident told me, ‘I feel like a prisoner in my own home,’ because of the dusty conditions that kept her from opening windows or going outside. In our survey of 97 residents, 77 identified ‘air pollution’ as one of their top three environmental concerns.¹

The additional measures that DOEE has included in its draft for Permit 6451-R2 are steps towards equipping it to better fulfill the requirements of 20 DCMR 903.1. However, more needs to be done both in permitting and in enforcement, to prevent emissions that are “or likely to be injurious to public health.” DC Department of Health’s 2016 *Buzzard Point Community Health and Safety Study*² identified residents near the facility, in CT064, to have lower economic and social well-being, compared to surroundings areas, and fewer resources to help navigate the consequences of adverse environmental exposures. While the study did not include health outcomes, our academic survey indicated a high prevalence of asthma, as 38% of respondents had asthma diagnoses and another 25% reported having asthma symptoms.³”

References:

¹ Hsieh, S., Harrison, E., Phoenix, J. A., & Hamilton, R. (2021). Asthma and Particulate Matter Pollution:

Insights from Health Survey and Air Quality Monitoring in the Buzzard Point, Washington, DC Neighborhood. *Environmental Justice*, 14(4), 254–266. <https://doi.org/10.1089/env.2020.0066>

² DC Department of Health, Office of Health Equity (2016). *Buzzard Point Community Health and Safety Study*.

https://doh.dc.gov/sites/default/files/dc/sites/doh/page_content/attachments/Buzzard%20P

³ Hsieh (2021).

Comment: “Both the expired permit and the draft permit include the wording: ‘...emission into the atmosphere of... pollutants... of any characteristic, and duration which is, or is likely to be injurious to public health or welfare or which interferes with the reasonable enjoyment of life or property.’ I don't need to say more; everybody just told you that there are activities in Buzzard Point that are very much injuring public welfare and public health. And the photos show visible dust, so clearly a permit with that wording is not going to be enough to protect people. So I am glad to see that the draft for permit 6451-R2 has more steps. Thank you for equipping it to better fill the requirements, but more needs to be done. More needs to be done, and that's because, not only are we hearing the health effects that people are talking about, but as pointed out by DC's Department of Health, this is a community that is already vulnerable and does not have the kind of economic and social resources that the surrounding communities do, and we have a study here; I brought you a paper. [Submitted ‘Asthma and Particulate Matter Pollution: Insights from Health Survey and Air Quality Monitoring in the Buzzard Point, Washington, DC Neighborhood’] Our survey of 97 residents, 38% of respondents had asthma diagnoses and another 25% reported having asthma symptoms, so that's a really high prevalence of asthma here. So, I have some specific suggestions. I agree with everything that has been said in terms of things needing to be more stringent and these are just some examples of where the current draft plan is not as stringent as it could be.”

DOEE Response – DOEE, and other regulatory agencies, such as the U.S. Environmental Protection Agency (EPA), recognize that concrete batch plants emit air pollutants that can be harmful to those exposed to them if these exposures are in high enough concentrations. This is why emissions from such facilities are strictly regulated.

DOEE is aware of the concerns presented by the community in the survey, as well as what was documented in the 2016 Buzzard Point Community Health and Safety Study, which is why this permit is substantially more stringent than the prior permit in many ways. Specifically, this permit substantially tightens emission limits and dust control requirements on the plant, including requiring quarterly street wash-downs and enforceable use of a wet sweeper and truck wash system. DOEE expects that this permit will improve air quality in the neighborhood.

Additionally, an individual facility permitting action is not an appropriate vehicle to require an updated study in the community. However, review of the previous study shows that there has been a clear decrease in sources of air pollution in the Buzzard Point area over the past decade.

Comment: “We’ve been dealing with the detrimental impacts of Buzzard Point for decades. We've been waiting years now for this draft permit to be issued and the community has suffered a great deal behind this. I was taken aback because I feel like our lived experiences are not taken into account when it comes to this permit. Every single day, we are exposed to particulate matter. And

this plant releases tens of thousands of tons; we can't even really calculate how much pollution it is really. What I did not see in the draft permit is the community being taken into account for our experiences on an everyday basis. We have so many people that have chronic illnesses because they have been exposed to so much contaminated air. They live every day and having to be using breathing machines. We have kids and adults with severe asthma. We have people with compromised immune systems, and this plant is coating dust all over us, all over everything that we have, our apartments, our homes, everywhere. And when the kids go to school, that are at Eagle Academy, they have to walk through particulate matter dust that we know has detrimental impacts on their health as well as the families and administrators that are down there and everyone that visits there. I feel like this should be a continued partnership and the permit should tell us what impact are we absorbing from being next to this plant? I read the numbers, the limits that you place on the plants, the restrictions that you placed on the plants. It is not strict enough. We see dust cakes in the streets. The washing down that's being required is not enough. The six months of air monitoring is not enough. What I'm asking for the Department of Energy and Environment to do is to take a deeper dive into this permit and take into account the fact that a lot of people in the community are already sick. We have dealt with two cement plants, tens of thousands of cars of diesel fumes. Your own study shows that the particulate matter and all of the things that are cumulative impacts are having detrimental impacts on us. I'm wondering when is the Department of Health going to come in and work with you collaboratively? When are you going to look at the cumulative impacts? All of the toxic chemicals that the plant is spewing out every day? And when are you going to come to the community and say we're going to assess the health of the community as it relates to the permits because it's our experiences that are critically important. When the plant closes down at the end of the day, the particulate matter still lingers in the air. Former Commissioner Anna said it very precisely; the particulate matter is getting into their homes. It's coated over everything including our bodies. I feel like you all need to look at the overall health of the community. I feel like you need to listen to all of the testimonies that are being brought to you now and create a stronger plan that takes into account that we are a fenceline community that has suffered a great deal behind these environmental injustices and we're still suffering every day. There is no on or off switch for pollution, but we know that there are better things and more stricter things that can be done, things that should be in place. How long is the plant going to be in operation? How long are we going to have to suffer and deal with this? I feel like you, DOEE, you all are familiar with the community. We've taken walks together. We've shown the plant. We sat down with numerous meetings, so we want more from this permit and we want you to look at these toxic chemicals and give us a realistic view of how they are impacting us. And give us an opportunity to have more than just this one hearing to talk about our lived experiences. Because, if you don't do more, more people are going to get sick or they're going to live with being chronically ill, and that's not good for the community. I feel like we could, you all can do better by the community by doing that cumulative impact assessments and breaking down these chemicals and letting us know what impacts and effects that they're having and taking all that into account. Because if not, if this is going to just be a standard permit, it's not going to do anything to protect our healths or protect our lives. I'm urging you to do everything that you all need to do as a regulator, as human beings, and as people who know the community and understand our suffering and to do better by us and make a permit that is stricter and do go

beyond that permit and do everything that is needed to be done and should be done to protect the healths, the lives, and our quality of life. That's critically important. We deserve to have quality of lives and we deserve to have lives free of breathing tens of thousands of tons of particulate matter that can deteriorate our health.”

***DOEE Response** – DOEE is aware of the concerns of the community and has taken those concerns seriously by incorporating many of the suggestions of a community letter to DOEE into the draft permit (and now the final permit), such as street wash-downs. This permit is substantially more stringent than the prior permit in many ways. The permit requires a minimum of 12 months of fenceline monitoring, not six months.*

Date Issued:

10/22/2026

Approved by:



Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
Department of Energy and Environment