



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Travis A. Voyles
Acting Secretary of Natural and Historic Resources

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Director
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MEMORANDUM

To: All Members of the Stormwater Management Development/Design Community
All Local Virginia Stormwater Management Program Administrators

From: Mike Rolband
Director, Department of Environmental Quality

A handwritten signature in blue ink, appearing to read "M. Rolband".

Date: April 14, 2022

Re: Implementation of the March 29 Memorandum regarding Post-Development
Stormwater Management for Solar Projects

Background

This memorandum provides additional details regarding the implementation of the Department of Environmental Quality (DEQ or Department) requirement that the surface area of solar panels are subject to the Virginia Stormwater Management Program (VSMP) and are considered impervious surfaces when applying the Commonwealth's post-development stormwater technical criteria to solar projects.

The Department's March 29, 2022, memorandum provided clarification to the regulated community that existing regulations for solar projects regarding impervious surfaces includes the solar panels as well as the base posts. This memorandum applies to *water quantity* when performing post-development water quantity calculations using the hydrologic methods specified in the Virginia Stormwater Management Program Regulation, 9VAC25-870-72. This memorandum also applies to *water quality* when performing post-development water quality calculations using the Virginia Runoff Reduction Method (VRRM).

The prior memorandum noted that this does not prohibit any alternative method that might achieve the regulatory aims of DEQ and federal regulations. Please refer to the Department's March 29, 2022, memorandum in its entirety for full context.

Implementation

The Department recognizes the contractual, financial, and other obligations with many utility-scale or community solar projects currently in design—especially for those in advanced stages of

design or implementation. Therefore, any solar project that does not obtain an interconnection approval by a regional transmission organization or electric utility by December 31, 2024 must comply with the requirements detailed in the Department's March 29, 2022, memorandum, which will be further clarified in an agency guidance document.

After the agency guidance document is approved, solar projects submitted to DEQ and accepted for evaluation or those projects completed prior to March 29, 2022, may submit adjusted design criteria for an expedited review process from the DEQ to certify compliance with state and federal regulations for no additional fee (when DEQ is the VSMP Authority).

Additionally, DEQ recognizes that the primary issue related to the VSMP is the length of time required to receive a permit. The Department is committed to a significant reduction of the time required to receive a permit, and DEQ will develop details for further implementation of federal and state regulations and an expedited review process with the stakeholder community in conjunction with the guidance document process and future additional actions. The Department reserves the right, following additional conversations with stakeholders and an evaluation of all relevant factors, to update guidance documents and relevant regulations to achieve the public policy goals of the Commonwealth.

Current Requirements

DEQ reminds all parties that:

1. This memorandum does not relieve any party from compliance with existing local, state, or federal laws and regulations—including 9VAC25-840-40 Minimum Standards,¹ and in particular Minimum Standard 19, which requires that: “Properties and waterways downstream from development sites shall be protected from sediment deposition, erosion and damage due to increases in volume, velocity and peak flow rate of stormwater runoff ...”, (ii) Virginia’s Phase III Watershed Implementation Plan goals on the Chesapeake Bay TMDL; and (iii) other local, state, or federal water quality criteria standards.
2. Early compliance with the March 29, 2022, memorandum to the extent practicable (as determined by the applicant) is encouraged as the DEQ expedites plan reviews given current staff and budget constraints.

As noted in the Department’s March 29, 2022, memorandum, DEQ staff are currently preparing an agency guidance document pursuant to Va. Code § 2.2-4101 and § 2.2-4007.2. The guidance document process provides interested parties an opportunity to comment prior to the start of public comment published in the Virginia Register. Please feel free to contact Drew Hammond (Andrew.Hammond@deq.virginia.gov; 804-698-4101) or Erin Belt (Erin.Belt@deq.virginia.gov; 757-374-4621) should you have questions.

¹ Statutory authority: Va. Code § 62.1-44.15:52. Former 4VAC50-30-40 derived from VR625-02-00 § 4; eff. September 13, 1990; amended, Virginia Register Volume 11, Issue 11, eff. March 22, 1995; Volume 29, Issue 4, eff. November 21, 2012; amended and renumbered, Virginia Register Volume 30, Issue 2, eff. October 23 2013; amended, Virginia Register Volume 31, Issue 24, eff. August 26, 2015; Volume 33, Issue 4, eff. November 17, 2016.