



Virginia DEQ Issues More Stringent Stormwater Management Policy for Solar Projects

By: Bradley J. Nowak, Christopher J. McDonald & Henry R. "Speaker" Pollard, V

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On March 29, 2022, Michael Rolband, the director of the Virginia Department of Environmental Quality (DEQ), issued a memorandum implementing a new and much more stringent post-development stormwater management policy for solar projects that are subject to Virginia Stormwater Management Program (VSMP) requirements related to Virginia Pollutant Discharge Elimination System (VPDES) permitting for construction activity-related stormwater discharges. The new policy went into effect immediately and applies to any solar project for which its stormwater management (SWM) plan had not been approved prior to March 29, 2022 ?regardless of the stage of design.?

Prior to this new policy, DEQ has not required solar projects that are subject to VPDES construction stormwater permitting to account for solar panels as impervious surfaces when applying VSMP post-development stormwater management technical criteria and performing related runoff calculations to determine water quantity and water quality controls necessary for the project. Under DEQ's new stormwater policy, DEQ will consider solar panels as unconnected impervious areas when performing post-development water quantity calculations using the hydrologic methods specified in the VSMP Regulation at **9VAC25-870-72**. Further, DEQ will consider solar panels as impervious areas when performing post-development water quality calculations using the Virginia Runoff Reduction Method (VRRM).

DEQ indicates that the new policy does not prohibit any alternative method of demonstrating the water quantity and water quality impacts of the solar panels and that any such proposal ?will be reviewed and accepted or denied based on the technical adequacy and compliance with the appropriate laws and regulations.? Also, the memorandum indicates that DEQ staff are preparing implementation guidance for the new policy, though it is not clear when such guidance will be issued.

Solar project developers should consider the implications of the new policy for their planned or ongoing projects, especially for those for which site acquisition and engineering work are underway but have not

had their SWM plans approved by March 29, 2022. Also unclear is whether any needed modification of an already approved SWM plan would cause the entire project to become fully or partially subject to the new policy.

A copy of DEQ's March 29 memorandum is available [here](#). For more information or any questions regarding DEQ's new solar stormwater policy and how it might apply to your solar project, please contact any of the authors or the Williams Mullen attorney with whom you may already work.

Related People

- Christopher J. McDonald ? 804.420.6371 ? cmcdonald@williamsmullen.com
- Bradley J. Nowak ? 202.293.8143 ? bnowak@williamsmullen.com
- Henry R. "Speaker" Pollard, V ? 804.420.6537 ? hpollard@williamsmullen.com

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