



Virginia DEQ Issues Implementation Framework for its Recent Stormwater Memorandum for Solar Projects

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

04.18.2022

On April 14, 2022, Michael Rolband, the director of the Virginia Department of Environmental Quality (DEQ), issued a memorandum addressing the framework for the implementation of more stringent stormwater management requirements for solar projects as recently announced in its March 29, 2022 memorandum. DEQ's April 14 memorandum is available [here](#), and the March 29 memorandum is available [here](#).

As described in our prior legal alert on this topic (available [here](#)), under DEQ's new stormwater policy detailed in its March 29 memorandum, DEQ will consider solar panels as unconnected impervious areas when performing post-development water quantity calculations using the hydrologic methods specified in the Virginia Stormwater Management Program (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).

The April 14 memorandum includes several key points in framing out the implementation of the new stormwater policy for solar projects:

- 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. (Emphasis added).
- *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). (Emphasis in original.)
- A reiteration from the March 29 memorandum that the requirements detailed in the March 29 memorandum will be further clarified in an agency guidance document, though a timetable for that process has not been announced.

- An acknowledgement of delays in the stormwater management planning and permitting processes for solar projects and a summary of the agency's anticipated efforts to streamline and clarify those processes generally.

Although in some respects the April 14 memorandum offers a better sense of how the March 29 policy shift might be implemented, several key aspects and issues regarding how that implementation will proceed still need to be clarified and addressed. Development of the technical guidance, once it begins, may help on both fronts.

For more information or any questions, 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

Related Services

- Solar & Energy Storage
- Renewable Energy