

Agenda
Board of Supervisors
Isle of Wight County
December 14, 2023

1. Call to Order (3:00 P.M.)
2. Approval of Agenda
3. Invocation
4. County Administrator's Report
 - A. Route 17 Arterial Plan
Discussion of VDOT Alternatives for the Route 17 Arterial Plan
 - B. Landscape Plan
Discussion of a Proposed Landscape Plan for the Courthouse Complex
 - C. CIP Committee Recommendations
Discussion of CIP Committee Recommendations re: Emergency Apparatus
 - D. Stormwater Fee - Solar Projects
Discussion of Application of the Stormwater Fee to Solar Projects
5. Adjournment

ISSUE:

Discussion of VDOT Alternatives for the Route 17 Arterial Plan

BACKGROUND:

Staff from VDOT have requested that the Board of Supervisors review and consider its preferences relative to the proposed Arterial Plan for Route 17.

The Board may wish to review and discuss this matter in more detail based on information provided by VDOT.

BUDGETARY IMPACT:

None.

RECOMMENDATION:

For the Board's information.

ISSUE:

Discussion of a Proposed Landscape Plan for the Courthouse Complex

BACKGROUND:

The landscaping in front of the Community Development building is in need of attention. Staff has drafted and will present a plan to replace the shrubs and benches to improve the aesthetics and safety of the walk way leading to the building.

BUDGETARY IMPACT:

TBD

RECOMMENDATION:

For the Board's discussion and direction.

ISSUE:

Discussion of CIP Committee Recommendations re: Emergency Apparatus

BACKGROUND:

The Board has previously received information from the Fire & Rescue Advisory Board relative to the replacement schedule for apparatus included in the County's Capital Improvements Program. Subsequently, the CIP Committee met with representatives from the Fire & Rescue Advisory Board and further discussed the information. The Board may wish to further discuss the recommendations relative to capital acquisitions.

BUDGETARY IMPACT:

None.

RECOMMENDATION:

Per the Board's discussion.

ATTACHMENTS:

Description	Type	Upload Date
Summary of CIP Committee	Backup Material	7/6/2023

Summary of CIP Committee – Emergency Apparatus

Fire and Rescue Advisory Board recommended:

1. Funding requests will be based on Fire and Rescue Advisory Board CIP.
2. Apparatus usage schedule will be 25 years for fire apparatus and 15 years for ambulances.
3. Usage schedule will also be based on mileage: Engines/Rescues – 70,000 miles; Ladders/Tankers/Brush trucks – 35,000 miles; Ambulances – 150,000 miles.
4. Alterations to CIP budget will be made by Advisory Board with a majority vote without exception.

County CIP Committee recommended:

- Committed to funding vehicle replacements through FY 25 as originally proposed in bond issues.
- Agree with recommendation for max service life of 25 years on fire trucks beginning in FY 26.
- Agree with recommendation for maximum of 150,000 miles on ambulances beginning in FY 26.

ISSUE:

Discussion of Application of the Stormwater Fee to Solar Projects

BACKGROUND:

The Virginia Department of Environmental Quality has determined that solar panels are, for purposes of stormwater, impervious.

In this regard, the County's Stormwater Advisory Committee (SAC) recommends solar panel surface areas be billed at the current stormwater utility billing rate as all other developed commercial properties within the County for the following reasons:

- The DEQ defined solar panel surface areas as impervious based on the attached memorandum dated March 29, 2022
- The ordinance requires impervious areas on developed properties to be billed for stormwater management per the attached excerpt from the County's stormwater management ordinance.
 - by the use of the word shall
 - by virtue of the property being developed
 - as it's not subject to any exceptions
- The County bills other entities, such as churches, per their impervious area
- A subsequent memorandum was released on April 14, 2022 that softened the definition for design purposes to a future date in 2025 when they will be considered impervious
 - It did not change the definition and both memos are silent on stormwater utility billing

Staff will provide additional information regarding the potential opportunities and challenges relative to the SAC recommendation.

BUDGETARY IMPACT:

TBD

RECOMMENDATION:

For the Board's information.

ATTACHMENTS:

Upload

Description	Type	Date
SAC Recommendation	Backup Material	12/8/2023
DEQ Solar Memo - March 2022	Backup Material	12/8/2023
DEQ Solar Memo - April 2022	Backup Material	12/8/2023

TO: Isle of Wight County Board of Supervisors

FROM: Isle of Wight County Stormwater Advisory Committee (SAC)

RE: **Stormwater Utility Fee billing for Solar Farm developments**

DATE: **November 26, 2023**

This memorandum is provided as a result of an SAC discussion at the September Regular meeting. The Committee has discussed alternatives to the County's approach on Solar Farm development projects as related to stormwater utility billing.

The County Stormwater Division, to date, has billed solar farm facilities based on the impervious area needed for access roads, parking areas, buildings, etc.. The solar panel surface area itself has been included as pervious cover. This categorization was allowed in concept since the surface beneath the panel can be pervious and the overland flow can travel unobstructed beneath the panel.

On March 29, 2022 DEQ issued the attached Memorandum that changed the stormwater design parameters used for defining the panel cover itself to be considered **impervious**. This definition change, coupled with the mandatory Stormwater Ordinance requirement to bill the Owner of all developed properties based on impervious cover, prompted the Stormwater Division to consider whether all (existing and future) solar farm projects should be subject to increased Stormwater Utility Fee billing to include the effective impervious solar panel surface area itself.

On April 14, 2022 the DEQ issued a subsequent attached memo that softened DEQ's position for design purposes to allow an extension of the effective date where panels must be considered as impervious.

The County attorney provided the attached legal opinion on March 9, 2023 regarding the potential to bill the panel areas as impervious.

Last, the County Stormwater ordinance, excerpt attached, outlines the criteria for billing and requires the County to bill all developed properties based on their impervious cover.

RECOMMENDATION

The SAC recommends solar panel surface areas be billed at the current stormwater utility billing rate as all other developed commercial properties within the County for the following reasons:

- The DEQ defined solar panel surface areas as impervious based on the attached memorandum dated March 29, 2022
- The ordinance requires impervious areas on developed properties to be billed for stormwater management per the attached excerpt from the County's stormwater management ordinance.
 - o by the use of the word shall
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Commonwealth of Virginia

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Travis A. Voyles
Acting Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

MEMORANDUM

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

From: Michael S. Rolband, PE, PWD, PWS Emeritus
Director, Department of Environmental Quality 

Date: March 29, 2022

Subject: Post-development Stormwater Management at Solar Projects

Dear All:

To date, the Department of Environmental Quality (DEQ) has not required solar projects that are subject to Virginia Stormwater Management Program (VSMP) requirements to account for the imperviousness of the solar panels when applying the Commonwealth's post-development stormwater management technical criteria. When performing water quantity (rainfall-runoff) calculations, DEQ's practice has been to consider only the solar panel support posts and beams as impervious areas. However, this approach has the potential to underestimate the post-development runoff volume or runoff rate from solar panel arrays, which in turn has the potential to negatively impact downstream waterways or properties. Additionally, the Environmental Protection Agency's (EPA) Chesapeake Bay Program considers the solar panels to be impervious areas for the purposes of performing water quality modeling/calculations for the Chesapeake Bay Total Maximum Daily Load.

To safeguard the protection of downstream waterways and properties as well as ensure consistency with EPA's Chesapeake Bay Program, DEQ will be implementing a stronger post-development stormwater management policy for solar projects that are subject to VSMP requirements. The new policy will go into effect **immediately** (i.e., the policy applies to all stormwater management plans not approved prior to the date of this memorandum regardless of the stage of design), and is as follows:

1. **Water Quantity.** Solar panels are to be considered unconnected impervious areas when performing post-development water quantity calculations using the hydrologic methods specified in the Virginia Stormwater Management Program Regulation, 9VAC25-870-72. Current information regarding the application of unconnected impervious areas can be found in Chapter 9 (Hydrologic Soil-Cover Complexes), Part 630 (Hydrology) of the Natural Resource Conservation Service's National Engineering Handbook.
2. **Water Quality.** Solar panels are to be considered impervious areas when performing post-development water quality calculations using the Virginia Runoff Reduction Method (VRRM). To account for the disconnection of the solar panels from the overall drainage system, the area of the solar panels may be entered into the applicable "Simple Disconnection" stormwater best management practices section of the VRRM compliance spreadsheet (i.e., 2a – Simple Disconnection to A/B Soils or 2b – Simple Disconnection to C/D Soils).
3. **Alternative Methods.** This policy does not prohibit any alternative method. If alternative proposals are made, such proposals will be reviewed and accepted or denied based on their technical adequacy and compliance with the appropriate laws and regulations.

DEQ staff are currently preparing an agency guidance document to provide additional clarity on the implementation of this memorandum. Until the guidance document is finalized, please feel free to contact Drew Hammond (Andrew.Hammond@deq.virginia.gov or 804-698-4101) or Erin Belt (Erin.Belt@deq.virginia.gov or 757-374-4621) should you have any questions.



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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 "Mike 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.