

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER DIVISION**

Subject: **Guidance Memo No. 15-2003**
Postdevelopment Stormwater Management Implementation Guidance for Linear Utility Projects under the Virginia Stormwater Management Program Regulation, 9VAC25-870

To: Regional Directors and Local VSMP Administrators

From: Melanie D. Davenport, Director 

Date: April 23, 2015

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Summary:

Section 76 (Linear Development Projects) of the Virginia Stormwater Management Program (VSMP) Regulation, 9VAC25-870, sets forth the postdevelopment stormwater management requirements for linear development projects. The purpose of this guidance document is to clarify the implementation of Section 76 with regards to the construction of linear utilities (e.g., waterlines, sewer lines, electric lines, telephone lines, oil and gas distribution pipelines, etc.) and was developed for use by the Department and local VSMP Authorities.

Electronic Copy:

An electronic copy of this guidance document in PDF format is available for staff internally on DEQNET, and for the general public on DEQ's website at:

<http://www.deq.virginia.gov/Programs/Water/Laws,Regulations,Guidance/Guidance/WaterPermitGuidance.aspx>.

Contact Information:

Please contact Drew Hammond, Office of Stormwater Management, at (804) 698-4037 or Andrew.Hammond@deq.virginia.gov with any questions regarding the application of this guidance.

Disclaimer:

This document is provided as guidance and, as such, sets forth standard operating procedures for the agency. However, it does not mandate or prohibit any particular action not otherwise required or prohibited by law or regulation. If alternative proposals are made, such proposals will be reviewed and accepted or denied based on their technical adequacy and compliance with appropriate laws and regulations.

**Postdevelopment Stormwater Management Implementation Guidance
for Linear Utility Projects under the
Virginia Stormwater Management Program Regulation, 9VAC25-870**

Definitions:

"Land disturbance" or "land-disturbing activity" means a manmade change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation, except that the term shall not include those exemptions specified in § 62.1-44.15:34 of the Code of Virginia.

"Linear development project" means a land-disturbing activity that is linear in nature such as, but not limited to, (i) the construction of electric and telephone utility lines, and natural gas pipelines; (ii) construction of tracks, rights-of-way, bridges, communication facilities and other related structures of a railroad company; (iii) highway construction projects; (iv) construction of stormwater channels and stream restoration activities; and (v) water and sewer lines. Private subdivision roads or streets shall not be considered linear development projects.

"Postdevelopment" refers to conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site.

"Predevelopment" refers to the conditions that exist at the time that plans for the land development of a tract of land are submitted to the VSMP authority. Where phased development or plan approval occurs (preliminary grading, demolition of existing structures, roads and utilities, etc.), the existing conditions at the time prior to the first item being submitted shall establish predevelopment conditions.

"Stabilized" means land that has been treated to withstand normal exposure to natural forces without incurring erosion damage.

"Stormwater management plan" means a document(s) containing material for describing methods for complying with the requirements of the VSMP Regulation, 9VAC25-870.

"Virginia Stormwater Management Program (VSMP) authority" means an authority approved by the Board after September 13, 2011 to operate a Virginia Stormwater Management Program or the Department.

Regulatory Text:

9VAC25-870-76. Linear development projects.

Linear development projects shall control postdevelopment stormwater runoff in accordance with a site-specific stormwater management plan or a comprehensive watershed stormwater management plan developed in accordance with these regulations.

Guidance:

Section 76 of the VSMP Regulation, 9VAC25-870, establishes the requirement that linear development projects control postdevelopment stormwater runoff in accordance with a site-specific stormwater management plan or a comprehensive watershed stormwater management plan. The purpose of this guidance document is to clarify the implementation of Section 76 with regard to the construction of linear utilities (e.g., waterlines, sewer lines, electric lines, telephone lines, oil and gas distribution pipelines, etc.) and was developed for use by the Department and local VSMP Authorities.

The VSMP Regulation does not distinguish between various types of linear development projects such as aboveground or underground utilities, highway construction, rights-of-way, bridges, tracks and related structures of a railroad company. The Department of Environmental Quality (DEQ) recognizes that the construction of aboveground or underground linear utilities may not result in changes to the predevelopment runoff characteristics of the land surface after the completion of construction and final stabilization. Also, the application of the postdevelopment water quantity and water quality controls to these types of projects and the preparation and implementation of a stormwater management plan may provide minimum water quality benefit. Examples of such projects include:

- The installation of underground utilities (e.g., waterlines, sewer lines, oil and gas distribution pipelines) beneath existing impervious cover (e.g., asphalt pavement, concrete pavement) that will be returned to its predevelopment condition after the completion of construction and final stabilization;
- The installation of underground utilities (e.g., waterlines, sewer lines, oil and gas distribution pipelines) beneath existing pervious cover (e.g., forest/open space, managed turf) that will be returned to its predevelopment condition after the completion of construction and final stabilization; or
- The installation of aboveground (i.e., overhead) utility lines.

DEQ staff or the local VSMP authority should utilize their best professional judgment when evaluating aboveground or underground linear utility projects. If the project will not result in significant changes to the predevelopment runoff characteristics of the land surface after the completion of construction and final stabilization, then DEQ or the local VSMP authority, at their discretion, may waive the requirement for the preparation and implementation of a stormwater management plan. DEQ recognizes that on a site specific basis a stormwater management plan may be required especially if the linear utility project will significantly alter the predevelopment runoff characteristics of the land surface.

In addition, the construction of aboveground or underground linear utilities may be conducted without requiring coverage under the General VPDES Permit for Discharges of Stormwater from Construction Activities (Construction General Permit) provided that:

- The project does not significantly alter the predevelopment runoff characteristics of the land surface after the completion of construction and final stabilization;
- The project is managed so that less than one (1) acre of land disturbance occurs on a daily basis;
- The disturbed land where work has been completed is adequately stabilized on a daily basis;
- The environment is protected from erosion and sedimentation damage associated with the land-disturbing activity;

- The owner and/or construction activity operator designs, installs, implements, and maintains pollution prevention measures to:
 - Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters;
 - Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on-site to precipitation and to stormwater;
 - Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures;
 - Prohibit the discharge of wastewater from the washout of concrete;
 - Prohibit the discharge of wastewater from the washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials; and
 - Prohibit the discharge of fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance.
- The owner and/or construction activity operator provides reasonable assurance to DEQ or the local VSMP Authority that all of the above conditions will be satisfied. This may be accomplished by incorporating these conditions into an erosion and sediment control plan developed for the project.

As previously noted, DEQ staff or the local VSMP authority should utilize their best professional judgment when evaluating aboveground or underground linear utility projects. If the owner and/or construction activity operator provides reasonable assurance to DEQ or the local VSMP Authority that all of the aforementioned conditions will be satisfied, then the linear utility project may be conducted without requiring coverage under the Construction General Permit. Please note that this does not relieve the owner and/or construction activity operator from complying with any and all other applicable federal, state, and local requirements. DEQ or the local VSMP Authority reserves the right to require a registration statement for Construction General Permit coverage if the aforementioned conditions are not satisfied.

If the linear utility project will significantly alter the predevelopment runoff characteristics of the land surface requiring postdevelopment stormwater management or if other site specific conditions warrant Construction General Permit coverage, DEQ or the local VSMP authority may require a registration statement for permit coverage.