

Date

David Paylor  
Virginia Department of Environmental Quality  
P.O. Box 10009  
Richmond, VA 23240

Re: VA DEQ Guidance Memo No. 14-2009; the Need to Incorporate MTD Sizing Criteria Linked to Performance Verification to Ensure Local and Regional Water Quality Protection

Dear Director Paylor:

The Department of Environmental Quality (DEQ) issued Guidance Memo No. 14-2009 (Guidance) – “Interim Use of Stormwater Manufactured Treatment Devices (MTDs) To Meet The New Virginia Stormwater Management Program (VSMP) Technical Criteria, Part IIB Water Quality Design Requirements” on May 15, 2014. This guidance allows the use of stormwater manufactured treatment devices (MTDs) to be utilized by the engineering and construction communities once a technology’s performance monitoring data has been reviewed by DEQ. MTDs that have been reviewed and accepted by DEQ are listed on the Virginia Stormwater Best Management Practice Clearinghouse (Clearinghouse). <http://www.vwrrc.vt.edu/swc/ProprietaryBMPs.html>

Stormwater Best Management Practices (BMPs), which include MTDs, are utilized on development sites in order to protect local and regional water quality from post-construction generated pollution. To ensure a relatively consistent level of pollution removal, BMPs are designed to treat influent at the flow rates that are observed in verified performance studies and those published in peer reviewed publications. Generally speaking, a BMP must be designed (sized) to fully treat the required regulatory design storm – 1 inch of rainfall over 24 hours in Virginia – in order for local and regional water quality to be protected. This principle is reflected in all public domain BMP standards listed on the Clearinghouse.

Unfortunately, the DEQ issued Guidance excluded reference on how to properly determine the proper sizing of MTDs. MTDs are no different than other types of stormwater BMPs in that unless they are consistently sized they will not perform as intended. This critical oversight has created confusion with stakeholders who design and review stormwater engineering plans (design engineers, locality review staff, etc.) as there is no technical standard on how to utilize each practice correctly. Additionally, there are no guarantees that local water quality will be protected as the current guidance has created a situation where MTDs can be under-designed/undersized; essentially allowing premature bypass of the regulated water quality storm event.

This coalition of diverse and experienced professional stakeholders assembled as a result of our concern and common interest in addressing this matter. The consequences of allowing this situation to continue are substantial. Water quality goals and objectives within the Commonwealth will be more difficult to achieve. MTDs listed on the Clearinghouse should have a designated maximum design treatment flow rate assigned per the observed treatment flow rates observed in the performance studies submitted for review by DEQ.

The coalition believes this matter is not difficult to address and can be easily resolved. DEQ has a number of simple options available to consider that would not require a significant time investment or change in agency policy. Perhaps amongst the simplest of these is that the MTD treatment flow rates can be added to the Clearinghouse web site in a new column beside the appropriate device. The intent of the Clearinghouse was to have a flexible vehicle to make such changes without the need to undergo regulatory adoption. This recommendation meets that intent. In addition, the Clearinghouse is designed to be the central repository of Virginia approved stormwater BMPs. For your reference we have also included a position statement with this communication with additional detail on the issue and potential solutions that we feel are easily implemented.

Given the seriousness of the situation, we respectfully request a meeting with you and your staff to discuss this matter and to find an appropriate path forward to rectifying this matter. As not all coalition members are available to meet physically, we respectfully request the opportunity to use DEQ's teleconference capabilities.

We thank you in advance for considering this request and look forward to working with DEQ cooperatively in order to reduce unnecessary regulatory confusion and ensure our water resources are adequately protected.

Respectfully,

List of all coalition members here and respective organizations