



November 8, 2012

[SW.Rule@dc.gov](mailto:SW.Rule@dc.gov)

Brian Van Wye, Natural Resources Administration; for the Director  
District of Columbia  
District Department of the Environment  
1200 First Street, NE 6<sup>th</sup> Floor  
Washington, DC 20002

RE: Proposed Rulemaking on Stormwater Management and Soil Erosion and Sediment Control

Dear Sir,

The Washington Metropolitan Area Transit Authority (Metro) is pleased to respond to your request for comment about the subject rulemaking by the District Department of the Environment (DDOE).

#### About Metro

Metro is the transit provider for the National Capital Region, providing safe, clean and reliable service to 3.5 million people within 1,500 square miles of Maryland, Virginia and the District of Columbia. Around 35 percent of rush-hour riders are federal employees, and service is provided to millions of tourists who visit the nation's Capital every year. Metro operates the second largest heavy rail transit system, sixth largest bus network and fourth largest paratransit service in the United States:

- Metrorail operates 1,104 heavy rail cars serving 86 rail stations over 106.3 miles of track;
- Metrobus operates 1,500 buses on 311 routes serving 11,490 bus stops; and
- MetroAccess provides door-to-door paratransit service to nearly 28,000 customers with disabilities, who are unable to use Metro's accessible fixed routes for some or all of their trips.

#### Specific comments

Metro shares the concern expressed by the DC Building Industry Association (DCBIA) and responded to, in part, by memorandum from Jeffrey Seltzer, PE, Associate Director, DDOE Stormwater Management Division, dated October 26, 2012. The relevant text

**Washington  
Metropolitan Area  
Transit Authority**

600 Fifth Street, NW  
Washington, D.C. 20001  
202/962-1234

*By Metrorail:  
Judiciary Square-Red Line  
Gallery Place-Chinatown  
Red, Green and  
Yellow Lines*

*A District of Columbia  
Maryland and Virginia  
Transit Partnership*

from the memorandum is copied here:

**Question III. 1:** Section 543.13 limits the maximum disturbed area during construction to 2.5 acres. This limit would severely impact (if not make impossible) large-scale projects such as McMillan Reservoir, Skyland, Hill East, Walter Reed, SW Waterfront, St. Elizabeths and many privately held, but not as high-profile sites. What is DDOE's intention in setting this limit? Would DDOE propose that these sites be built in phases based on sediment and erosion concerns alone? If waivers will be granted instead, what basis would be used for the granting of such waivers and which types of projects would likely receive a waiver?

**Response:** DDOE's intent is that no more than 2.5 acres should be exposed and unstabilized at any one time. In other words, areas should be stabilized as work proceeds so that no more than 2.5 acres is unstabilized. This requirement is based on DDOE's experience inspecting sites where larger areas are exposed and unstabilized, with the result that the perimeter controls (e.g. silt fences, hay bales, and dykes) are overwhelmed and fail, causing erosion and off-site transport of sediment. Even when initial installation of perimeter controls is properly done, inadequate maintenance can result in such failure. Reducing the area that is unstabilized translates into less burden on perimeter controls, which helps to reduce the risk of failure, and it also limits the environmental impact when a failure does occur.

The response provided provides no comfort to Metro that important public transportation projects, like our recently completed Shepherd Parkway Bus Division could be constructed under these new, more stringent requirements. Specifically, the broad definition of "grading," which overlaps with the definition of "construction activity" appears to create a situation where Metro would be unable to construct a bus or rail heavy maintenance facility in the District of Columbia, and may frustrate our ability to maintain and rehabilitate existing facilities.

The response copied above does not address the underlying concern raised or several of the questions directly asked by DCBIA:

1. Would DDOE propose that these sites be built in phases based on sediment and erosion concerns alone?
2. If waivers will be granted instead, what basis would be used for the granting of such waivers and which types of projects would likely receive a waiver?

Please clarify how a property owner will be able to build large-footprint sites under these new regulations; provide a waiver from these requirements or clarify that once a site moves to construction (after initial grading) that the 2.5 acre limitation no longer applies.

DDOE should also clarify that ballasted track, like the track found on Metro's Brentwood Yard and at-grade alignments in the District are "Stabilized" areas as that term is used in these regulations.

Said differently, ballasted track is a permanent, pervious area that supports the goals of these regulations and should not be considered “exposed” surface that counts against any grading area limitation established by DDOE.

The District Department of Transportation should define the term “contaminated”, preferably by reference to an existing District of Columbia statute. The term, undefined in the draft regulation, is vague and ambiguous.

Sincerely,

A handwritten signature in black ink, appearing to read 'Regina Sullivan', with a long horizontal flourish extending to the right.

Regina Sullivan  
Director  
Office of Government Relations