



July 5, 2013

Brian.VanWye@dc.gov
Natural Resources Administration
1200 First Street, N.E. 5th Floor
Washington, D.C. 20002

RE: Second Proposed Stormwater Rule Comments

Dear Mr. VanWye,

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 miles of track;
- Metrobus operates 1,507 buses on 325 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

1. There is currently a disconnect between definitions of Public Right-of-Way (PROW) contained in section 599 of the 2nd Proposed Ruleⁱ, and Appendix B of the 2nd Proposed Stormwater Management Guidebook (Maximum Extent Practicable Process for Existing Public Right-of-Way)ⁱⁱ. It is important that the two definitions

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

*A District of Columbia
Maryland and Virginia
Transit Partnership*

be redrafted to align with each other and unambiguously affirm that railway tracks owned and operated by the Government for the purpose of providing public transportation are to be considered Public Right-of-Way for purposes of this regulation:

- a. Proposed revision, Second Proposed Stormwater Rule - Section 599 Definitions, Public Right-of-Way (PROW):

Public Right-of-Way (PROW):

For purposes of this regulation, the PROW shall mean the surface, the air space above the surface (including air space immediately adjacent to a private structure property, located on public space or in a public right-of-way), and the area below the surface of any public transportation infrastructure owned by the Government such as streets, bridges, tunnels, railway tracks, highways, lanes, pathways and trails, alleys, sidewalks, or boulevards, where a property line is the line delineating the boundaries of public space and private property.

- b. Proposed revision, Second Proposed Stormwater Management Guidebook - Appendix B, Maximum Extent Practicable Process for Existing Public Right-of-Way

B.2 Public Right-of-Way (PROW) Projects:

For purposes of this regulation, Public Right-of-Way (PROW) projects are distinct from parcel or lot development within the District of Columbia. These projects are linear in orientation. They may consist of existing bridges, highways, commercial and residential streets, alleyways, pedestrian walkways, bicycle trails, tunnels and railway tracks. They are owned and operated by the Government. The PROW is defined as the surface, and the air space above the surface (including air space immediately adjacent to a private structure property, located on public space or in a PROW public right-of-way), and the area below the surface of any public transportation infrastructure owned by the Government such as streets, bridges, tunnels, railway tracks, highways, lanes, pathways and trails, alleys, sidewalks, or boulevards, where a property line is the line delineating the boundaries of public space and private property.

2. A critical Section 517 exemption from the stormwater management requirements has been provided for routine, linear utility work (517.3). Metro feels strongly that it would be equally appropriate for the following exemption language to be added to the final rule to exempt routine maintenance of existing Metrorail tracks:

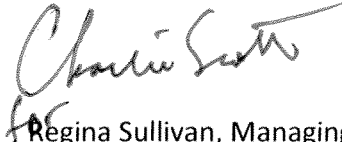
- a. 517 - STORMWATER MANAGEMENT: EXEMPTIONS, Second Proposed

Stormwater Rule

517.x A land-disturbing activity that consists solely of performing routine maintenance of existing railway tracks in the Public Right of Way, including tasks such as rail alignment, ballast and subgrade materials placement, tamping, tie replacement, rail replacement, and switch replacement is exempt from the stormwater management requirements of this chapter.

In closing, Metro would like to commend District Department of the Environment Staff for the careful process applied to this important rulemaking. The second proposed rule and guidebook are proof that engagement with stakeholders has effectively generated constructive public comment. The Department's response to that input has been thoughtful and measured. Metro is confident that this second round of comment will contribute to further refinement of the final version.

Sincerely,



Regina Sullivan, Managing Director
Office of Government Relations

ⁱ Second Proposed Stormwater Rule

<http://ddoe.dc.gov/sites/default/files/dc/sites/ddoe/publication/attachments/2nd%20Proposed%20SW%20Rule%20-%20tracked%20changes%20relative%20to%20revised%20rule.pdf>

ⁱⁱ Second Proposed Stormwater Management Guidebook, Appendix B

http://ddoe.dc.gov/sites/default/files/dc/sites/ddoe/publication/attachments/Second%20Proposed%20SWMG_Changes%20Accepted.pdf