

DISTRICT DEPARTMENT OF THE ENVIRONMENT**NOTICE OF PROPOSED RULEMAKING**

The Director of the District Department of the Environment (“DDOE”) in accordance with the authority set forth in the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code 8-151.01 *et seq.*), the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111; D.C. Official Code §§ 34-2202.06a, 34-2202.06b, and 34-2202.16c(d-3)), and Mayor’s Order 6006-61, effective June 14, 2006, hereby gives notice of his intent to convert the current flat stormwater fee for the conveyance of stormwater runoff to a fee that is based on impervious area.

The proposed rulemaking will amend regulations in Title 21, Chapter 5 of the District of Columbia Municipal Regulations (Water Quality and Pollution) to convert the current stormwater fee which is charged as a flat fee to single family residences and as a percentage of water and sewer charges for all other property classes, to a fee that attributes the cost of conveying stormwater runoff to the quantity of stormwater runoff generated from a property by use of impervious area as a surrogate metric. The metric, referred to herein as the Equivalent Residential Unit, or ERU, is defined for billing purposes as 1,000 square feet and is based on a median area of a single family residential property. The conversion will result in a change from the current flat fee (charged to single-family homes) or a volumetric fee (charged according to the amount of potable water consumed by multi-family homes, commercial or government buildings), to a fee based on the amount of impervious area on a given property. Customers (property owners) that use little potable water but have large impervious areas may see stormwater fees increase. Conversely, customers that use larger volumes of potable water but have small impervious areas may see stormwater fees decrease. This conversion will be done in coordination with the Water and Sewer Authority’s (WASA’s) proposed conversion to an impervious area charge (56 D.C. Reg. 001305, February 6, 2009), and will be effective May 1, 2009.

Stormwater fees are required for the District to implement the stormwater management measures required by the municipal separate storm sewer system permit (“MS4 Permit”) issued by the U.S. Environmental Protection Agency (“EPA”) to the District (such as enhanced street cleaning, installation of stormwater controls on roadways, and increased cleaning and maintenance of stormwater drains), and to avoid violations and potential fines. The required stormwater management measures and associated costs are best illustrated by the provisions of the August 2008 MS4 Permit Enhancement Agreement between the District and the U.S. EPA Region III (available on the DDOE website at http://ddoe.dc.gov/ddoe/frames.asp?doc=/ddoe/lib/ddoe/stormwaterdiv/epa_letter_agreement_august_2008.pdf) and the 2008 Storm Water Management Administration Study conducted for DDOE by RESOLVE, Inc. (available on the DDOE website at <http://ddoe.dc.gov/ddoe/cwp/view,a,1209,q,497549.asp>). Copies of both documents may also be obtained by calling DDOE at (202) 535-2600. Under the 2008 MS4 Permit Enhancement Agreement, there are measurable and quantifiable milestones with specific deadlines.

In December 2008, the Council approved the Comprehensive Stormwater Management Enhancement Amendment Act of 2008 (Bill 17-0980), which requires, *inter alia*, that the District convert to an impervious area-based stormwater fee, and that the implementation of the fee be coordinated with the implementation of the impervious area surface charge of WASA. A fee based on impervious area (that is, the amount of paved surfaces, roofs, or similarly hardened area on a property) correlates with the amount of stormwater runoff a property generates and the burden placed on stormwater infrastructure and the streams and rivers that receive stormwater. Accordingly, the conversion to an impervious fee will not result in an increase in the revenue raised by the District (approximately \$13 million each year). Rather, it will yield a more accurate and more equitable method of apportioning the city's stormwater management costs than the current fee structure. Additionally, the new fee structure will provide an incentive to property owners to reduce the amount of hardened areas on their properties. A reduction in stormwater runoff should in turn lead to a reduction in stormwater pollutants discharging into the Anacostia and Potomac Rivers via the MS4 stormsewer system.

All persons desiring to comment on the proposed rulemaking should file comments in writing not later than (30) days after the publication of this notice in the DC Register. In a separate notice being published today in the D.C. Register, the Director is providing notice that the public may also present its views and comments on the impervious area fee at a public hearing. Comments should be clearly marked "Stormwater Fees" and filed with DDOE, Watershed Protection Division, 51 N Street, N.E., 5th Floor, Washington, DC 20002, Attention Dr. Hamid Karimi, or e-mailed to hamid.karimi@dc.gov. The Director will consider all comments received before publishing a final rulemaking.

Title 21 of the District of Columbia Municipal Regulations, Chapter 5, Section 556.1 is amended to read as follows:

556 STORMWATER FEES

- 556.1 Effective May 1, 2009, the stormwater fee collected from each District of Columbia retail water and sewer customer shall be based upon the Equivalent Residential Unit (ERU). An ERU is defined as 1,000 square feet of impervious area of real property.
- 556.2 All residential customers shall be assessed one (1) ERU. Residential customers shall include a single-family dwelling used for domestic purposes; a condominium or apartment unit where each unit is served by a separate service line and is individually metered and the unit is used for domestic purposes; or a multifamily structure of less than four apartment units where all the units are served by a single service line that is master metered.
- 556.3 All non-residential customers shall be assessed ERU(s) based upon the total amount of impervious area on each lot. This total amount of impervious area shall be converted into ERU(s), reduced to the nearest 100 square feet. Non-residential customers shall include all customers not within the residential class.

- 556.4 Impervious-only properties are properties that have not, prior to May 1, 2009, had metered water/sewer service and require the creation of new customer accounts for billing of stormwater fees. The DC Water and Sewer Authority, pursuant to the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111, §§ 203(3), (11) and 216; D.C. Code §§ 34-2202.03(3), (11)), shall establish accounts for and bill these impervious-only properties for stormwater fees pursuant to its regulations in 21 DCMR Chapter 41.
- 556.5 The charge for one Equivalent Residential Unit (ERU) shall be \$2.57 per month. This charge shall become effective May 1, 2009.
- 556.6 A landlord shall not pass a stormwater charge to a tenant that is more than the stormwater charge prescribed by the Director.

**DISTRICT OF COLUMBIA
DEPARTMENT OF MOTOR VEHICLES**

NOTICE OF PROPOSED
RULEMAKING

The Director of the Department of Motor Vehicles, pursuant to the authority set forth in section 1825 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code § 50-904); section 6 of the District of Columbia Traffic Act of 1925, approved March 3, 1925 (43 Stat. 1121; DC Official Code § 50-2201.03) (“the Traffic Act”); and Mayor’s Order 07-168, effective July 10, 2007, hereby gives notice of the intent to adopt the following rulemaking that will amend Chapter 1 of Title 18 of the District of Columbia Municipal Regulations (DCMR) (Vehicles and Traffic).

The proposed rule would conform the regulation’s driver’s permit photograph requirement to a recent amendment made to section 7(a)(1) of the Traffic Act; D.C. Official Code § 50-1401.01(a)(1), which increased the maximum term of a driver’s license from five to eight years and to 18 DCMR § 110.9 which allows for the renewal of an individual’s driver’s license by mail or the internet once every other renewal period. The proposed rule would increase from six years to seventeen years the period in which an individual would be required to obtain a new photograph for their driver’s license.

In addition, the rule would eliminate the requirement that the photograph of a licensee under 21 years of age be in profile. Final rulemaking action shall not be taken in less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Title 18 DCMR is amended as follows:

Chapter 1, ISSUANCE OF DRIVER’S LICENSES, subsection 107.3, is amended as follows

- 107.3 Each license shall also include a full face imprinted photograph of the licensee that is not more than seventeen (17) years old from the date of issuance. However, the Director may waive the requirement for a photograph in cases where the Director finds the requirement impractical; Provided, that when the reason for the waiver ceases to exist, the licensee shall make application for a new license which shall bear a photograph.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, to David Glasser, General Counsel, D.C. Department of Motor Vehicles, 95 M Street, S.W., Suite 300, Washington, D.C. 20024. Comments must be received not later than thirty (30) days after the publication of this notice in the *D.C. Register*. Copies of this proposal may be obtained, at cost, by writing to the above address.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKINGET00-2, IN THE MATTER OF POTOMAC ELECTRIC POWER COMPANY'S
PUBLIC SPACE OCCUPANCY SURCHARGE ELECTRICITY TARIFF, P.S.C.-
D.C. No. 1

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 2-505 of the District of Columbia Official Code,¹ of its intent to act upon the Potomac Electric Power Company's ("Pepco" or "Company") Rider "PSOS" - Public Space Occupancy Surcharge ("Application")² in not less than 30 days from the date of publication of this Notice of Proposed Rulemaking ("NOPR") in the *D.C. Register*.

2. D.C. Official Code Section 10-1141.06 states that "[e]ach public utility company regulated by the Public Service Commission shall recover from its utility customers all lease payments which it pays to the District of Columbia pursuant to this title through a surcharge mechanism applied to each unit of sale and the surcharge amount shall be separately stated on each customer's monthly billing statement." On February 6, 2009, Pepco filed an updated Rider PSOS that proposes to amend the following tariff page:

ELECTRICITY TARIFF, P.S.C.-D.C. No. 1
10th Revised Page No. R-33

3. Specifically, Pepco states that its calculations reflect that the District Government increased the rights-of-way fee and that the Company proposes to recover that cost by adjusting the surcharge rate from .00161 per kilowatthour to .00226 per kilowatthour, an increase of 40.4 percent.³ In addition, Pepco states that its "updated Rights-of-Way surcharge is to become effective with meter readings on and after March 1, 2009."⁴ The Commission does not intend to prevent the Company from implementing its filed surcharges. However, if the Commission discovers any inaccuracies, Pepco could be subject to reconciliation of the surcharges.

¹ D.C. Official Code § 2-505 (2001 Ed.).

² *ET00-2, In The Matter Of Potomac Electric Power Company's Public Occupancy Surcharge Electricity Tariff, P.S.C.-D.C. No. 1*, Letter to Dorothy Wideman, Commission Secretary, from Deborah Royster, Deputy General Counsel, re: *ET00-2*, filed February 6, 2009 (hereinafter referred to as "Application").

³ *ET00-2*, Application at 1.

⁴ *Id at 1*.

4. This Application may be reviewed at the Office of the Commission Secretary, 1333 H Street, N.W., Second Floor, West Tower, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday as well as on the Commission's web site at www.dcpssc.org. Copies of the tariff are available upon request, at a per-page reproduction cost.

5. Comments on the Application must be made in writing to Dorothy Wideman, Commission Secretary, at the above address. All comments must be received within 30 days of the date of publication of this NOPR in the *D.C. Register*. Persons wishing to file reply comments may do so no later than 45 days of the date of publication of this NOPR in the *D.C. Register*. Once the comment period has expired, the Commission will take final rulemaking action on Pepco's Application.