

FACT SHEET

National Pollutant Discharge Elimination System (NPDES)
Municipal Separate Storm Sewer System (MS4)
Permit No. DC0000221 (Government of the District of Columbia)
Modification #1

NPDES PERMIT NUMBER: DC0000221, Modification #1

FACILITY NAME AND MAILING ADDRESS:

Government of the District of Columbia
The John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

MS4 ADMINISTRATOR NAME AND MAILING ADDRESS:

Director, District Department of the Environment
1200 First Street, N.E., 6th Floor
Washington, D.C. 20002

FACILITY LOCATION:

District of Columbia's Municipal Separate Storm Sewer System (MS4)

RECEIVING WATERS:

Potomac River, Anacostia River, Rock Creek, and Stream Segments Tributary
To Each Such Water Body

INTRODUCTION:

Today's action finalizes a limited modification of the District of Columbia Municipal Separate Storm Sewer System (MS4) Permit. On September 30, 2011, the U.S. Environmental Protection Agency (EPA) issued the Phase I National Pollutant Discharge Elimination System (NPDES) permit for the District of Columbia Municipal Separate Storm Sewer System, Permit No. DC0000221. The permit became effective October 7, 2011.

On November 4, 2011, the Friends of the Earth, Anacostia Riverkeeper, Inc., Potomac Riverkeeper Inc., and Natural Resources Defense Council, Inc. (collectively, the Environmental Petitioners) filed a petition requesting the Environmental Appeals Board (EAB) to review the permit (appeal 11-06). On the same day, the District of Columbia Water and Sewer Authority (DC Water) and the Wet Weather Partnership (WWP) also jointly filed a petition requesting the EAB to review the permit (appeal 11-05). As a result of the appeals, certain provisions of the permit were stayed, pursuant to 40 C.F.R. 124.16. See the document "DCMS4 Effective Dates

per Appeal signed 1.31.2012” at the following website:
<http://www.epa.gov/reg3wapd/npdes/dcpermits.htm>.

On May 18, 2012, the EPA and the Environmental Petitioners (appeal 11-06) signed a settlement agreement in which the EPA agreed to propose modifications to language in several sections of the permit and to provide certain clarifications in the draft fact sheet for those proposed modifications. The EPA provided public notice of the proposed limited modifications on July 12, 2012 and provided a comment period of forty-five days. The public notice period closed on August 27, 2012. EPA received comments from five commenters (see Responsiveness Summary).

ACTION TAKEN:

EPA is today finalizing the limited modifications to the District of Columbia NPDES MS4 Permit, issued on September 30, 2011. The modified permit:

- provides additional public notice and input on the permittee’s development of the Consolidated TMDL Implementation Plan;
- provides additional clarity and accountability for specific water quality-related outcomes, specifically on the content and timelines for the Consolidated TMDL Implementation Plan; and
- provides clarity that the Government of the District of Columbia is the sole permittee.

For all but one provision EPA is finalizing all modifications as proposed. EPA therefore directs readers to the July 12, 2012 Proposed Modification Fact Sheet for a discussion of those modifications.

Notifying the Public of SSO Discharges to the MS4

In response to comments EPA is modifying the public notification requirement for sanitary sewer overflows (SSOs) to the MS4 to allow the permittee to develop its own criteria and procedures for determining which overflows may pose public health threats and when and how public notification should be accomplished. EPA believes strongly that SSOs pose significant health threats and that public notification is an important tool in mitigating those threats^{1,2,3,4,5,6,7,8,9}.

¹ U.S. EPA, *Report to Congress: Impacts and Control of CSOs and SSOs*, August 2004, EPA 833-R-04-001.

² U.S. EPA, *Why Control Sanitary Sewer Overflows?*, fact sheet.

³ U.S. EPA, *National Pollutant Discharge Elimination System Permit Requirements for Peak Wet Weather Discharges from Publicly Owned Treatment Works Treatment Plants Serving Separate Sanitary Sewer Collection Systems*, December 2005.

⁴ U.S. EPA, *Guide for Evaluating Capacity, Management, Operation and Maintenance (CMOM) Programs at Sanitary Sewer Collection Systems*, January 2005.

⁵ U.S. EPA, *Sanitary Sewer Capacity, Management, Operation and Maintenance Self-Assessment Check-list*, (see Overflow Emergency Response Plan, page 22).

For the duration of this permit term, rather than provide public notification within 24 hours of all SSOs to the MS4, EPA believes it is appropriate to allow the District to develop and demonstrate a procedure that will adequately address public health concerns attributable to SSOs to the MS4.

The final permit language allows the permittee to:

- determine which District agencies and/or departments will collaborate on and fulfill the relevant tasks;
- develop criteria to determine which overflows pose public health threats that should be publicized; and
- develop and utilize the notification mechanisms that will target and reach potentially affected populations within the necessary time frames.

EPA expects the permittee to describe these efforts in annual reports. EPA intends to revisit this permit provision with the next permit reissuance to determine if the District's public notification program is adequate.

Government of the District of Columbia is the Sole Permittee

As noted above, the modification to the definition of "Permittee" in Part 9 of the permit clarifies that the District of the Government of Columbia is the sole permittee. As such, it is responsible for allocating permit-related tasks and obligations amongst its various departments, agencies and authorities, pursuant to District of Columbia law.

⁶ American Society of Civil Engineers, *Sanitary Sewer Overflow Solutions, Guidance Manual*, April 2004.

⁷ U.S. EPA, *Model NPDES Permit Language for Sanitary Sewer Overflows*, August 2007 Draft.

⁸ U.S. EPA, *NPDES Permit Requirements for Municipal Sanitary Sewer Collection Systems and SSOs*, August 2007 Draft.

⁹ American Rivers, *What's in Your Water? The State of Public Notification in 11 U.S. States*, 2007.