

## **EXHIBIT C**



NPDES Permit No. DC0000221

**DRAFT**  
Modification #1

**AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT**

In compliance with the provisions of the Clean Water Act, 33 U.S.C. §§ 1251 *et seq.*

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

is authorized to discharge from all portions of the municipal separate storm sewer system owned and operated by the District of Columbia to receiving waters named:

Potomac River, Anacostia River, Rock Creek and stream segments  
tributary to each such water body

in accordance with the Stormwater Management Program(s), subsequent updates, and related reports, strategies, plans, effluent limitations, monitoring requirements and other conditions set forth in this permit.

This modified permit and the authorization to discharge expires at midnight on October 7, 2016.

The effective date of this permit modification is: \_\_\_\_\_.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Jon M. Capacasa, Director  
Water Protection Division  
U.S. Environmental Protection Agency  
Region III

The following conventions are used to show changes to the existing permit language: deleted language is indicated in ~~strike through~~ font, added language is indicated in underline font, and existing language on which EPA is requesting public comment is indicated in double underline font. EPA is taking comment ONLY on proposed language changes. No other language or provisions of this permit are subject to comment or change. Other language is provided only for context.

**Simple Errata:**

1. On page 9, Table 1, the part number for the Retrofit Program will be corrected to 4.1.5.
2. On page 53, within the definition for “TMDL Implementation Plan, the reference to section 8.1.4 will be replaced with the correct reference to section 4.10.3.

**References to the Permittee:**

In all places in the document where the term ‘District’ has been used in the context of a mandate to the permittee to carry out a provision, that term has been replaced with the term ‘permittee’. The term ‘District’ or ‘District of Columbia’ continues to be used when the reference is to the specific geographical area.

**Part 1.4**

The permittee must manage, implement and enforce a stormwater management program (SWMP) in accordance with the Clean Water Act and corresponding stormwater NPDES regulations, 40 C.F.R. Part 122, to meet the following requirements:

1.4.1. Effectively prohibit pollutants in stormwater discharges or other unauthorized discharges into the MS4 as necessary to comply with existing District of Columbia Water Quality Standards (DCWQS);

1.4.2. Attain applicable wasteload allocations (WLAs) for each established or approved Total Maximum Daily Load (TMDL) for each receiving water body, consistent with 33 U.S.C. § 1342(p)(3)(B)(iii); 40 C.F.R. § 122.44(k)(2) and (3); and

1.4.3. Comply with all other provisions and requirements contained in this permit, and in plans and schedules developed in fulfillment of this permit.

Compliance with the ~~performance standards and~~ provisions contained in Parts 2 through 8 of this permit, including milestones and final dates for attainment of applicable WLAs, shall constitute adequate progress toward compliance with DCWQS and WLAs for this permit term.

**Part 4.3.1:**

4.3.1. Sanitary Sewage System Maintenance Overflow and Spill Prevention Response

The permittee shall ~~coordinate with DC Water to~~ implement an effective response protocol for overflows of the sanitary sewer system into the MS4. The response protocol shall clearly identify agencies responsible and telephone numbers and e-mail for any contact and shall contain at a minimum, procedures for:

1. Investigating any complaints received within 24 hours of the incident report.
2. Responding within two hours to overflows for containment.
3. Notifying appropriate sewer, public health agencies and the public within 24 hours when the sanitary sewer overflows to the MS4.

This provision in no way authorizes sanitary sewer overflow discharges either directly or via the MS4.

#### **Section 4.9.4.1:**

4.9.4.1 The permittee shall continue to create opportunities for the public to participate in the decision making processes involving the implementation and update of the permittee's SWMP. In particular, the permittee shall provide meaningful opportunity for the public to participate in the development of the permittee's Consolidated TMDL Implementation Plan. The permittee shall continue to implement its process for consideration of public comments on their SWMP.

#### **Section 4.10.3:**

##### 4.10.3 Consolidated TMDL Implementation Plan

For all TMDL wasteload allocations assigned to District MS4 discharges, the ~~District~~ permittee shall develop, public notice and submit to EPA for review and approval a consolidated TMDL Implementation Plan within ~~2 years~~ 30 months of the effective date of this permit provision. This Plan shall include, at a minimum, the following TMDLs and any subsequent updates:

1. TMDL for Biochemical Oxygen Demand (BOD) in the Upper and Lower Anacostia River (2001)
- ~~2. TMDL for Total Suspended Solids (TSS) in the Upper and Lower Anacostia River (2002)~~
- ~~3.~~ 2. TMDL for Fecal Coliform Bacteria in the Upper and Lower Anacostia River (2003)
- 4.3. TMDL for Organics and Metals in the Anacostia River and Tributaries (2003)
- ~~5.~~ 4. TMDL for Fecal Coliform Bacteria in Kingman Lake (2003)
- ~~6.~~ 5. TMDL for Total Suspended Solids, Oil and Grease and Biochemical Oxygen Demand in Kingman Lake (2003)
- 7.6. TMDL for Fecal Coliform Bacteria in Rock Creek (2004)
- 8.7. TMDL for Organics and Metals in the Tributaries to Rock Creek (2004)
- 9.8. TMDL for Fecal Coliform Bacteria in the Upper, Middle and Lower Potomac River and Tributaries (2004)
- ~~10.~~ 9. TMDL for Organics, Metals and Bacteria in Oxon Run (2004)

- 11.10. TMDL for Organics in the Tidal Basin and Washington Ship Channel (2004)
- 12.11. TMDL for Sediment/Total Suspended Solids for the Anacostia River Basin in Maryland and the District (2007) [pending resolution of court vacature, Anacostia Riverkeeper, Inc. v. Jackson, No. 09-cv-97 (RCL)]
- 13.12. TMDL for PCBs for Tidal Portions of the Potomac and Anacostia Rivers in the District of Columbia, Maryland and Virginia (2007)
- 14.13. TMDL for Nutrients/Biochemical Oxygen Demand for the Anacostia River Basin in Maryland and the District (2008)
- 15.14. TMDL for Trash for the Anacostia River Watershed, Montgomery and Prince George's Counties, Maryland and the District of Columbia (2010)
- 16.15. TMDL for Nitrogen, Phosphorus and Sediment for the Chesapeake Bay Watershed (2010)

This Plan shall place particular emphasis on the pollutants in Table 4, but shall also evaluate other pollutants of concern for which relevant WLAs exist. EPA will incorporate elements of the Consolidated TMDL Implementation Plan as enforceable permit provisions, including milestones and final dates for attainment of applicable WLAs. The ~~District permittee~~ shall fully implement the Plan upon EPA approval. This Plan shall preempt any existing TMDL implementation plans for the relevant WLAs. To account for any new or revised TMDL established or approved by EPA during the permit term with wasteload allocations assigned to District MS4 discharges, the ~~District permittee~~ shall submit an updated this Consolidated TMDL Implementation Plan annually, as necessary. Such updates will account for any actions taken in the 12-month period preceding the date 6 months before the revision is due. If necessary, the first such update will be due 18 months after submittal of the initial Plan, with subsequent updates due on the anniversary of the submittal date, within six months and include a description of revisions in the next regularly scheduled annual report.

The Plan shall include:

1. A specified schedule for ~~compliance with each TMDL~~ attainment of WLAs that includes final attainment dates and, where applicable, interim milestones and numeric benchmarks.
  - a. Numeric benchmarks will that specify annual pollutant load reductions and the extent of control actions to achieve these numeric benchmarks.
  - b. Interim ~~numeric~~ milestones for TMDLs will be included where final attainment of applicable ~~waste load allocations~~ WLAs requires more than ~~one permit cycle~~ five years. Milestone intervals will be as frequent as possible but will in no case be greater than five (5) years. These milestones shall originate with the third year of this permit term and every five years thereafter.
2. Demonstration using modeling of how each applicable WLA will be attained using the chosen controls, by the date for ultimate attainment.
- 2.3. An associated narrative providing an explanation for the schedules and controls included in the Plan.

3. ~~The Consolidated TMDL Implementation Plan elements required in this section will become enforceable permit terms upon approval of such Plans, including the interim and final dates in this section for attainment of applicable WLAs.~~
4. ~~Where data demonstrate that existing TMDLs are no longer appropriate or accurate, the Plan shall include recommended solutions, including, if appropriate, revising or withdrawing TMDLs. Unless and until an applicable TMDL is no longer in effect (e.g., withdrawn, reissued or the water delisted), the Plan must include the elements in 1-3 above for each TMDL as approved or established.~~
- 4.5. The current version of the Plan will be posted on the permittee's website.

#### **Section 4.10.4:**

##### 4.10.4 Adjustments to TMDL Implementation Strategies

If evaluation data, as outlined in the monitoring strategy being developed per Part 5.1, indicate insufficient progress towards attaining any WLA covered in 4.10.1, 4.10.2 or 4.10.3, the permittee shall make the appropriate adjustments within six (6) months to address the insufficient progress and document those adjustments adjust its management programs within 6 months to address the deficiencies, and document the modifications in the Consolidated TMDL Implementation Plan. The Plan modification shall include a reasonable assurance demonstration of the additional controls to achieve the incorporated milestones necessary reductions. Annual reports must include a description of progress as evaluated against all implementation objectives, milestones and benchmarks, as relevant, outlined in Part 4.10.

#### **Section 5.1.1:**

##### 5.1.1 Design of the Revised Monitoring Program

Within ~~two years~~30 months of the effective date of Part 4.10.3 of this permit the District shall develop, public notice and submit to EPA for review and approval a revised monitoring program. The District shall fully implement the program upon EPA approval.

#### **Definitions:**

“Benchmark” as used in this permit is a quantifiable goal or target to be used to assess progress toward “milestones” (see separate definition) and WLAs, such as a numeric goal for BMP implementation. If a benchmark is not met, the permittee should take appropriate corrective action to improve progress toward meeting milestones or other objectives. Benchmarks are intended as an adaptive management aid and generally are not considered to be enforceable.

“Milestone” as used in this permit is an interim step toward attainment of a WLA that upon incorporation into the permit will become an enforceable limit or requirement to be achieved by a stated date. A milestone should be expressed in numeric terms, i.e. as a volume reduction, pollutant load, specified implementation action or set of actions or other objective metric, when possible and appropriate.

~~“Permittee” refers to the Government of the District of Columbia and all subordinate District and independent agencies, such as the District of Columbia Water and Sewer Authority, directly accountable and responsible to the City Council and Mayor as authorized under the Stormwater Permit Compliance Amendment Act of 2000 and any subsequent amendments for administrating, coordinating, implementing, and managing stormwater for MS4 activities within the boundaries of the District of Columbia.~~