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**STATE OF MARYLAND**
**DEPARTMENT OF THE ENVIRONMENT**
**WATER MANAGEMENT ADMINISTRATION**

# NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT MONTGOMERY COUNTY, MARYLAND (009-DP-3320) (MD0068349)

## TENTATIVE DETERMINATION TO ISSUE PERMIT

## FACT SHEET

### Permit Authority

According to 40 Code of Federal Regulations (CFR) §122.26, owners of large and medium municipal separate storm sewer systems must obtain a National Pollutant Discharge Elimination System (NPDES) Permit. This permit is a joint federal and State permit and subject to federal and State regulations. The Clean Water Act (CWA), federal regulations, and numerous guidelines and policies of the United States Environmental Protection Agency (EPA) provide the federal permit requirements. The Annotated Code of Maryland, Environment Article, Code of Maryland Regulations (COMAR), and policies and guidelines of the Maryland Department of the Environment (MDE) provide the State permitting requirements.

### Permit History

Montgomery County is a large (population > 250,00) municipality and owns and operates a storm sewer system that serves the County and the Towns of Chevy Chase, Chevy Chase Village, Kensington, Somerset, and Poolesville; and the Village of Friendship Heights (co-permittees). The County's initial permit was issued on March 15, 1996 and reissued on July 5, 2001. This "second-generation" permit was subsequently modified on January 26, 2004 to include the co-permittees identified above. This permit action is in response to an application to renew submitted by Montgomery County on August 12, 2005. The proposed permit action is to issue a "third-generation" NPDES permit to Montgomery County to regulate the discharge of stormwater runoff from the storm drain system owned and operated by the County and its co-permittees.

A public informational meeting was held to discuss this permit on November 29, 2005. Based on comments received at this meeting, numerous discussions with the Maryland Stormwater Consortium and EPA, and building upon the framework established during the preceding permit terms, MDE has made a tentative determination to reissue Montgomery County's NPDES stormwater permit. This fact sheet

provides basic information about the requirements in Montgomery County's next permit and explains opportunities for public participation.

## Stormwater System in Montgomery County

Montgomery County, according to the United States Department of Commerce's 1990 Census, had a total population of 757,021. The total population increased to 801,515 according to the 2000 Census and is projected to increase to 1,024,000 by the end of this permit term (2013). This rapid pace of growth and ensuing development presents many challenges. Significant pollutant reductions will be needed to maintain water quality in many of the County's waterways.

Montgomery County covers an area of 499 square miles and has approximately 11,000 miles of storm sewer pipes and 900 "major" outfalls. Major outfalls are identified on Attachment A and defined by federal regulations as:

- An outfall pipe with an internal diameter of 36 inches or greater; or
- A discharge from other than a round pipe that drains fifty acres or more; or
- An outfall pipe with an internal diameter of 12 inches or greater that drains an area that includes land zoned for industrial use.

Stormwater from these outfalls is discharged into two of Maryland's ten major Chesapeake Bay tributary basins: the Middle Potomac and Patuxent River basins. A number of stream segments in these basins are impacted by sediments, nutrients, fecal bacteria, toxics, and trash. Total Maximum Daily Loads (TMDLs) have been approved and waste load allocations established for Cabin John Creek, Rock Creek, and the Anacostia River for fecal bacteria impairments. A waste load allocation is that part of an impairing pollutant's total allowable discharge that is attributed to regulated point sources. TMDLs and waste load allocations have also been established for sediments and nutrients in the Anacostia River and for phosphorous and sediments to Clopper Lake.

The following TMDLs are pending EPA's approval: Lower Monocacy River for fecal bacteria; Triadelphia Reservoir for phosphorus and sediments; and Rocky Gorge Dam for phosphorus. A TMDL for sediments in the Lower Monocacy River is expected to be submitted to EPA by September 2008.

Other impairments to water bodies in, or partially in, Montgomery County to be addressed by future TMDLs include:

| Basin Name | Basin Code | Impairment(s) |
|---|---|---|
| Rocky Gorge Dam | 02131107 | Biological |
| Potomac River Montgomery County | 02140202 | Nutrients, Sediments, PCBs, and Biological |
| Anacostia River (Nontidal) | 02140205 | Heptachlor Epoxide, PCBs, Biological, and Trash/Debris |
| Anacostia River (Tidal) | 02140205 | Trash/Debris |
| Rock Creek | 02140206 | Sediments, Nutrients, and Biological |
| Cabin John Creek | 02140207 | Sediments, Nutrients, and Biological |
| Seneca Creek | 02140208 | Sediments, Nutrients, and Biological |
| Lower Monocacy River | 02140302 | Nutrients and Biological |

## Maryland's NPDES Municipal Stormwater Permit Program (MS4)

The goals of Maryland's NPDES municipal stormwater permit program are to control stormwater pollutant discharges by implementing to the maximum extent practicable the best management practices (BMPs) and programs required by this permit, show a reduction of pollutants pursuant to EPA approved TMDLs, and improve water quality. Compliance with the conditions in this reissued permit will reduce pollutant discharges from Montgomery County's storm drain system. The proposed permit requires the County to develop and implement plans to reduce overall pollutant loadings and address approved waste load allocations.

## Tentative Permit Requirements

The County will be required to regularly review and refine its BMPs to reduce pollutants to the maximum extent practicable. Therefore, a net reduction in pollutant loadings over the five-year permit term is required. Although EPA has not provided a precise definition of "maximum extent practicable," this permit requires measurable and steady reductions in pollutants and implementation plans to meet waste load allocations through an adaptive management process.

Where EPA approved TMDLs have been established, an iterative approach is required to identify where additional or alternative stormwater controls are implemented in order to achieve waste load allocations. The permittee shall evaluate and document progress toward meeting waste load allocations within its jurisdiction on an annual basis. This assessment is to describe specific efforts undertaken pursuant to the permit and how these efforts will be modified to achieve compliance with EPA approved TMDLs.

Sources of pollutants in stormwater runoff are required to be identified and linked to specific water quality impacts on a watershed basis. The County is required to conduct a systematic assessment of water quality for each watershed. These watershed assessments include detailed water quality analyses, identification of water quality improvement opportunities, and development and implementation of plans to control stormwater discharges to the maximum extent practicable.

Assessment of controls is critical to determine the effectiveness of the NPDES stormwater management program and progress toward improving water quality. Therefore, the County will use chemical, biological, and physical monitoring to document progress toward meeting its watershed restoration goals and any applicable WLAs developed under EPA approved TMDLs. Similarly, program activity measures will be used to monitor program implementation and progress. Activity measures are directly related to the BMPs implemented and source reduction efforts (e.g., tons of material removed from storm drain inlets, number of illicit discharge sources found and eliminated, and changes in recycling rates).

Management programs, designed to control stormwater discharges to the maximum extent practicable are required to be implemented and maintained for the term of this permit. These include implementation of the stormwater management design policies, principles, methods, and practices in the *2000 Maryland Stormwater Design Manual* and the provisions of Maryland's *Stormwater Management Act of 2007*. The Act requires that environmental site design, through the use of nonstructural BMPs and other better site design techniques, be implemented to the maximum extent practicable. Similarly, an approved erosion and sediment control program is to be maintained in accordance with the Environment Article, Title 4, Subtitle 1, Annotated Code of Maryland. Additionally, the County is required to implement an inspection and enforcement program to ensure that all discharges to and from the municipal separate storm sewer system that are not composed entirely of stormwater are either permitted by MDE or eliminated. The

County is also required to continue to implement its program to reduce pollutants associated with road maintenance activities and implement a public education and outreach program to reduce stormwater pollutants.

A new permit condition requires Montgomery County to establish a program to support and implement regional strategies to reduce trash and increase recycling. In 2006, Montgomery County committed to the goal of a trash free Potomac River by 2013 and signed the *Potomac River Watershed Trash Treaty* with other Washington, D.C. metropolitan area jurisdictions. Activities to meet obligations under the Treaty are specified in the *Trash Free Potomac Watershed Initiative 2006 Action Agreement* and include establishing a trash pollution baseline within one year, trash abatement program implementation, education, and evaluation to improve the quality of the Potomac River and its tributaries.

Another new permit condition requires the County to cooperate with the Maryland National Capital Park and Planning Commission during the development and completion of the Water Resources Element (WRE) of the Commission's comprehensive land planning process as required by the Maryland Economic Growth, Resource Protection and Planning Act of 1992 (Article 66B, Annotated Code of Maryland). During the 2006 legislative session, the General Assembly enacted House Bill 1141 Land Use – Local Government Planning (HB 1141). This bill requires local jurisdictions to include their future plans for water supply, wastewater and stormwater in their comprehensive plans.

**Summary**

This permit represents another step forward for Montgomery County's NPDES municipal stormwater program. In 1996, the County's initial permit laid the foundation for a comprehensive approach to controlling runoff. This was done by inventorying and mapping storm drain system infrastructure; identifying sources of pollution; monitoring storm events to judge chemical, biological, and physical stream responses; and enhancing existing, and establishing new management programs. The second permit in 2001 used the previous five year term to build one of the most formidable municipal stormwater programs in the Mid-Atlantic Region. The County evaluated jurisdiction-wide water quality through a comprehensive biological stream assessment program, prioritized watersheds in order to perform more detailed analyses to guide management implementation, and began to restore ten percent of existing impervious area.

This proposed permit requires an additional twenty percent of the County's impervious area to be restored, a strategy for a trash free Potomac River by 2013 to be developed and implemented, and TMDL implementation plans to be developed and carried out according to the county's schedule in order to meet stormwater waste load allocations established for impaired waters. All of these requirements are in addition to existing countywide management programs and ongoing monitoring efforts and will go a long way toward making Montgomery County's NPDES municipal stormwater program arguably one of the best in the country.

## OPPORTUNITY FOR PUBLIC COMMENT

The Maryland Department of the Environment (MDE) has reached a tentative determination to issue a National Pollutant Discharge Elimination System permit to Montgomery County to control storm drain system pollutant discharges. MDE has drafted a permit designed to comply with the United States Environmental Protection Agency's regulations and to control stormwater pollutant discharges from the County's storm drain system.

Under the conditions of the permit, Montgomery County is required to possess the legal authority to control storm drain system pollutants, continue mapping its storm sewer system, monitor stormwater discharges, and develop and implement comprehensive management programs. The permit also increases impervious area treatment goals, requires the support and implementation of regional trash reduction strategies, and requires implementation of environmental site design technologies for new and redevelopment projects to the maximum extent practicable. The County is also required to develop and implement plans to address waste load allocations established under EPA approved total maximum daily load estimates. Penalties for failure to comply with the terms of the permit are provided. The permit is issued for five years.

For more information on stormwater management in Maryland or to view this permit go to: http://www.mde.state.md.us/Programs/WaterPrograms/SedimentandStormwater/index.asp or contact Mr. Brian Clevenger at 410-537-3543 or 1-800-633-6101. Copies of the document may be procured at a cost of $0.36 per page. MDE will hold a public hearing concerning this tentative determination if a written request is received by October 7, 2008. Written requests should be directed to Mr. Brian Clevenger, Maryland Department of the Environment, Water Management Administration, Sediment, Stormwater, and Dam Safety Program, 1800 Washington Blvd., STE. 440, Baltimore, Maryland 21230-1708. Written comments concerning this tentative determination will be accepted through October 17, 2008.