

**MARYLAND DEPARTMENT OF THE ENVIRONMENT**  
**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**  
**MUNICIPAL SEPARATE STORM SEWER SYSTEM DISCHARGE PERMIT**

**PART I. IDENTIFICATION**

A. **Permit Number:** 00-DP-3320 MD0068349

B. **Permit Area**

This permit covers stormwater discharges from the municipal separate storm sewer system in Montgomery County, Maryland. This applies to discharges to and from the storm drain systems owned and operated by Montgomery County; and the following localities: Towns of Chevy Chase, Chevy Chase Village, Kensington, Somerset, and Poolesville; and the Village of Friendship Heights, hereinafter referred to as “co-permittees.” Discharges to the storm drain systems controlled by Montgomery County that may be subject to future National Pollutant Discharge Elimination System (NPDES) stormwater program requirements may be added to this permit upon joint agreement with Montgomery County and at the discretion of the Maryland Department of the Environment (MDE).-

C. **Effective Date:** July 5, 2001                      **Modified:** January 26, 2004

D. **Expiration Date:** July 5, 2006

**PART II. DEFINITIONS**

Terms used in this permit are defined in relevant chapters of the Code of Federal Regulations (CFR) or the Code of Maryland Regulations (COMAR). Terms not defined in CFR or COMAR shall have the meanings attributed by common use unless the context in which they are used clearly requires a different meaning.

**PART III. STANDARD PERMIT CONDITIONS**

The standard permit conditions in this section reflect information submitted to MDE by Montgomery County during the initial NPDES Phase I municipal stormwater application process according to 40 CFR 122.26. Additionally, these conditions reflect the progress made toward stormwater management program implementation according to prior NPDES municipal stormwater permits issued to Montgomery County. Montgomery County’s prior NPDES municipal stormwater permit, including Appendices that describe the application information received by MDE is referenced to provide background information for this permit.

In 1999, the Environmental Protection Agency (EPA) promulgated the NPDES Phase II regulations. Many localities not permitted under Phase I were required to obtain NPDES permit coverage under these new regulations. Six of these localities, the Towns of Chevy Chase, Chevy Chase Village, Kensington, Somerset, and Poolesville and the Village of Friendship Heights, applied for co-permittee status with Montgomery County according to 122.33(b)(3) of the Phase II regulations. As a result, additional conditions have been included in this permit requiring actions specific to these localities and Phase II.

**A. Permit Administration**

1. Annually, Montgomery County shall provide MDE with the names, titles, addresses, phone numbers, and functions of all primary administrative and technical personnel responsible for compliance with this permit including those associated with the co-permittees. An organizational chart including the individuals identified above shall also be submitted and any changes immediately reported to MDE.
2. Montgomery County and the co-permittees are required to ensure compliance with the conditions established on PART III, PART IV, and PART V. of this permit for activities that are specific to their respective municipal boundaries.

**B. Legal Authority**

1. By 01/09/2002, Montgomery County shall provide MDE with recertification from the County Attorney that it possesses the authority to directly perform the activities described in 40 CFR 122.26(d)(2)(i) and this permit.
2. Montgomery County shall maintain adequate legal authority, in accordance with NPDES regulations 40 CFR 122.26(d)(2)(i), throughout the term of this permit. In the event that any provision of its legal authority is found to be invalid, the County shall make the necessary changes to maintain adequate legal authority.

**C. Source Identification**

Montgomery County shall continue to identify sources of pollutants in stormwater runoff and link these sources to specific water quality impacts on a watershed-by-watershed basis. The pollutant source identification specified in the following conditions shall be used to define control measures that effectively improve stormwater quality and develop methodologies for long-term decision-making.

1. By 01/09/2002, Montgomery County shall submit an example of its geographic information system (GIS) capabilities that includes the identification of all data layers available and the stage of development and a description of how data are stored, accessed, and used. The example shall be from a selected watershed and include the following information:

- a. Geologic features: topography, soils, steep slopes, etc.;
  - b. Land use: existing and planned based on present zoning or current master plans, public and private ownership, and population density;
  - c. Resources: streams, stream buffer areas, floodplains, wetlands, forests, forest conservation areas, areas of special concern (e.g., endangered species habitat), etc.;
  - d. Infrastructure: storm drain systems including major outfalls, inlets, appurtenant conveyances, and associated drainage areas; stormwater management facilities; sanitary sewer systems within the resource areas identified in PART III.C.1.c. above; and chemical, physical, and biological monitoring sites; and
  - e. Significant discharges: sewage treatment plants, industrial operations, hazardous waste sites, landfills, NPDES permitted sites (both point source and stormwater permittees), impervious areas (e.g., roads, parking lots, and rooftops), known problem areas (e.g., flood prone or water quality impaired areas), and estimated pollutant loads.
  - f. Schedule: timeframe for completing all required elements for GIS development Countywide.
2. By 1/03/2005, Montgomery County shall submit data identifying the extent of its storm drain system including that part of the system within the permit area identified in PART I. B. above. Data shall be submitted on CD-ROM and include all major outfalls, associated inlets, and all appurtenant conveyances. Additionally, the County shall delineate the drainage area for all major outfalls.
  3. Montgomery County shall compile any new source identification information on a continual basis and summarize the data collection process in its annual reports.
  4. Montgomery County shall submit stormwater management facility construction completion data for MDE's Urban Best Management Practice Database in its annual reports.

**D. Discharge Characterization**

Montgomery County shall contribute to Maryland's understanding of stormwater runoff and its effect on water resources by conducting a monitoring program. This program shall consist of three elements. The first element shall consist of characterizing stormwater discharges from both a storm sewer outfall draining a specific land use and an associated in-stream station using chemical, biological, and physical monitoring techniques. Data collected as a result of this effort will be compiled with data from other

NPDES jurisdictions for assessing statewide urban runoff. For the second element, Montgomery County shall use physical stream monitoring to assess the implementation of the *2000 Maryland Stormwater Design Manual*. The final element of Montgomery County’s monitoring program shall involve annual submissions that document the County’s monitoring activities. Specific monitoring requirements for these elements are described below.

1. Annually, Montgomery County shall perform long-term discharge characterization monitoring of an outfall and an associated in-stream monitoring station using the following minimum requirements for chemical, biological, and physical monitoring:

a. For Chemical Monitoring:

- i. Monitoring shall be performed at the Stewart-April Lane outfall and an associated downstream location in a tributary to Paint Branch for the characterization of runoff from high density residential land use;
- ii. Continuous flow measurements shall be recorded at the in-stream monitoring station. These data or a calibrated watershed model shall be used to facilitate annual and seasonal pollutant load estimates;
- iii. Twelve (12) storm events shall be monitored per year at the outfall and in-stream monitoring locations with at least three (3) occurring per quarter. Quarters shall be based on calendar year. If extended dry weather periods occur, baseflow samples shall be taken at least once per month at the in-stream monitoring station and, if flow is observed, at the outfall;
- iv. Discrete samples of stormwater flow shall be collected at the outfall and in-stream monitoring stations using automated or manual sampling methods. Measurements of pH and water temperature shall be taken; and
- v. At least three (3) samples determined to be representative of each storm event shall be submitted to a laboratory for analysis according to the methods listed under 40 CFR Part 136 and event mean concentrations (EMCs) shall be developed for the following parameters:

Biochemical Oxygen Demand (BOD <sub>5</sub> )	Total Cadmium
Total Kjeldahl Nitrogen (TKN)	Nitrate plus Nitrite
Total Petroleum Hydrocarbons (TPH)	Total Phosphorus
Total Copper	Total Phenols
Total Zinc	Fecal Coliform
Total Lead	Oil and Grease*
Total Suspended Solids (TSS)	(* Optional)

- b. For Biological Monitoring:
    - i. Monitoring shall commence with chemical monitoring; and
    - ii. The stream reach between the outfall and the in-stream station shall be monitored each Spring and Fall using the U.S. Environmental Protection Agency's (EPA) Rapid Bioassessment Protocols or other method approved by MDE.
  - c. For Physical Stream Assessment:
    - i. A geomorphologic stream assessment shall be conducted between the outfall and in-stream monitoring station. This assessment shall include, at a minimum, an annual comparison of permanently monumented stream channel cross-sections, an annual comparison of the stream profile, and a stream habitat assessment using techniques as defined by EPA's "Rapid Bioassessment Protocols for use in Wadeable Streams and Rivers," or other similar method approved by MDE; and
    - ii. Annually, a hydrologic and/or hydraulic model shall be used (e.g., TR-20, HEC-2, HEC-RAS, HSPF, SWMM, etc.) to analyze the effects of rainfall; discharge rates; stage; and, if necessary, continuous flow on channel geometry.
2. Montgomery County shall evaluate the effectiveness of a stormwater management system constructed in accordance with the *2000 Maryland Stormwater Design Manual* for stream channel protection effectiveness. At a minimum, the following shall be accomplished:
- a. By 01/09/2002, a small watershed shall be selected to adequately assess the best management practice (BMP) design criteria found in the *2000 Maryland Stormwater Design Manual*. The watershed selected shall be either an area where future development is to occur, where existing BMPs control a majority of the drainage area and can be retrofitted to reflect the design manual design criteria, or a combination of both. The selection of the small watershed to be monitored shall be made in consultation with MDE.
  - b. Within six months of MDE's approval of the selected watershed to be monitored, Montgomery County shall survey the stream for the purposes of evaluating channel stability in conjunction with ensuing development or significant retrofitting. Permanently monumented cross-sections shall be established at areas where stream geometry changes and at critical areas in the flow path (e.g., restrictions, etc.). A baseline stream profile shall also be established to assess aggradation and degradation.
  - c. In each annual report, Montgomery County shall provide MDE with a

comparison survey for each established cross-section and a comparison survey of the stream profile.

- d. A hydrologic and/or hydraulic model shall be used (e.g., TR-20, HEC-2, HEC-RAS, HSPF, SWMM, etc.) to analyze the effects of rainfall; discharge rates; stage; and, if necessary, continuous flow on channel geometry.
3. Annually, Montgomery County shall describe in detail its monitoring activities for the previous year and include the following:
- a. A detailed description of weather conditions and any equipment failures;
  - b. A detailed description of field data collection methods and documentation of any variations to the minimum requirements for chemical, biological, or physical monitoring;
  - c. Chemical, biological, and physical monitoring results recorded on MDE's long-term monitoring databases;
  - d. An analysis of monitoring data integrating the field results from the chemical, biological, and physical monitoring;
  - e. Annual and seasonal pollutant load estimates using the long-term monitoring data;
  - f. A comparison survey for each established cross-section and a comparison survey of the stream profile for the monitoring conducted to assess the stream channel protection effectiveness of a stormwater management system constructed in accordance with the *2000 Maryland Stormwater Design Manual*; and
  - g. Any requests and accompanying justifications for proposed modifications to the monitoring program.

**E. Management Programs**

The following management programs shall be implemented in all areas served by the Montgomery County municipal separate storm sewer system and within the localities identified in PART I.B. above. These programs are designed to control stormwater discharges to the maximum extent practicable and shall be maintained for the term of this permit such that they become part of the routine operation of Montgomery County and the co-permittees. Montgomery County and the co-permittees shall address any needed program improvements identified as a result of periodic evaluation by MDE and annual self-assessment.

1. Montgomery County shall maintain an acceptable stormwater management

program in accordance with the Environment Article, Title 4, Subtitle 2, Annotated Code of Maryland. At a minimum, Montgomery County shall:

- a. Conduct preventative maintenance inspections of all stormwater management facilities at least on a triennial basis. Documentation identifying the facilities inspected, the number of maintenance inspections, follow-up inspections, and enforcement action(s) used to facilitate inspection order compliance, maintenance inspection schedules, and any other relevant information shall be submitted in the County's annual reports;
  - b. Modify its existing ordinances, regulations, and administrative procedures to accommodate the implementation of the *2000 Maryland Stormwater Design Manual*;
  - c. Implement the stormwater management design policies, principles, methods, and practices found in the *2000 Maryland Stormwater Design Manual* immediately upon satisfying PART III.E.1.b. above;
  - d. Track the progress toward satisfying PART III.E.1.c. above; and
  - e. Report annually the modifications needed to address problems associated with implementing the *2000 Maryland Stormwater Design Manual* in Montgomery County.
2. Montgomery County shall implement and maintain a program to identify and eliminate illicit storm drain connections and non-stormwater discharges. At a minimum, Montgomery County shall:
- a. Ensure that all discharges to the municipal separate storm sewer, including that part of the system within the permit area identified in PART I. B. above, that are not composed entirely of stormwater are either permitted by MDE or eliminated;
  - b. Annually, field screen at least 100 outfalls. Each outfall having a discharge shall be sampled using a chemical test kit;
  - c. Report annually the results of field screening activities on MDE's illicit connection detection database. Information regarding field screening activities within and specific to the co-permittees shall be included on this database and significant finds summarized in each annual report. The following shall be included: the number of illegal storm drain connections, the results of investigations made, any enforcement used, the disposition of all illegal storm drain system connections found as a result of this portion of Montgomery County's stormwater management program, and an updated list of targeted outfalls and an inspection schedule; and

- d. Identify all County and co-permittee owned facilities requiring an NPDES discharge permit and submit documentation that a permit has been obtained for each facility. The implementation status of pollution prevention plans for these facilities shall also be submitted with the annual reports. The facility owners/operators are responsible for obtaining any required permits, developing pollution prevention plans, and implementing measures to assure compliance.
3. Montgomery County shall maintain the implementation of its existing program to respond to illegal dumping and spills including procedures for public reporting and citizen complaints.
4. Montgomery County shall maintain an acceptable erosion and sediment control program in accordance with the Environment Article, Title 4, Subtitle 1, Annotated Code of Maryland. At a minimum, Montgomery County shall:
  - a. Address needed program improvements identified during MDE's evaluation of Montgomery County's application for the delegation of erosion and sediment control enforcement authority;
  - b. At least three times per year, conduct responsible personnel certification classes to educate construction site operators regarding erosion and sediment control compliance. Program activity shall be recorded on MDE's green card database and submitted with the Montgomery County annual report; and
  - c. Beginning 01/09/2002, report quarterly, information regarding earth disturbances exceeding one acre or more. Data submitted as a result of this permit condition shall include site name, site owner and address, disturbed area, local grading permit number, site location, and the type of development (e.g., residential, commercial, etc.). The information shall be submitted on diskette to MDE's Compliance Program and be specific to the permitting activity for the three months preceding the submittal.
5. Montgomery County shall implement and maintain a public education and outreach program to reduce stormwater pollutants. Public outreach and education efforts are to be integrated with the discharge characterization monitoring, watershed restoration, illicit connection detection, and stormwater and sediment control program implementation requirements of this permit. These efforts are to be documented and summarized in the annual reports. At a minimum, Montgomery County shall:
  - a. Provide information regarding the following water quality issues to the general public:

- i. Water conservation;
    - ii. Stormwater management facility maintenance;
    - iii. Erosion and sediment control;
    - iv. Lawn care and landscape management (e.g., the proper use of herbicides, pesticides, and fertilizers, ice and snow control, cash for clippers, etc.);
    - v. Household hazardous waste;
    - vi. Litter control, recycling, and composting;
    - vii. Car care, mass transit, and alternative transportation;
    - viii. Private well and septic system management;
    - ix. Pet waste management; and
    - x. Procedures for public identification and reporting of illicit discharges.
  - b. Provide information when requested regarding the following water quality issues to the regulated community:
    - i. NPDES permitting requirements;
    - ii. Pollution prevention plan development;
    - iii. Proper housekeeping; and
    - iv. Spill prevention and response.
6. Montgomery County shall develop and implement a plan to reduce pollutants associated with road maintenance activities. At a minimum, an annual progress report shall be submitted that documents the following activities:
- a. Cleaning inlets;
  - b. Reducing the use of pesticides, herbicides, fertilizers, and other pollutants associated with roadside vegetative management practices through the use of integrated pest management; and
  - c. Controlling the overuse of winter weather deicing materials through continual testing and improvement of materials and effective decision-making.
7. As a component of the County's Pollution Prevention Program, the use, control, and reduction of herbicide, pesticide, and fertilizer shall be examined for all Montgomery County government departments. A report describing the present application activities and proposed reduction strategies shall be submitted to MDE as part of the County's second annual report. Each subsequent annual report shall include the status of implementing the reduction strategies.

**F. Watershed Restoration**

Montgomery County shall continue its systematic assessment of water quality within all of its watersheds. The overall goal of the activities listed below is to maximize water

quality benefits in priority subwatersheds using efforts that are definable and the effects of which are measurable. Watershed restoration shall be targeted in those areas of Montgomery County where opportunities to improve water quality are significant and where prior restoration efforts have been insufficient to meet goals established by the County. Montgomery County shall perform the following:

1. Biological and physical habitat monitoring shall continue to be conducted as a screening tool to identify and evaluate water quality problems by subwatershed. Montgomery County will use its Countywide Stream Protection Strategy and updated data from continued monitoring to prioritize subwatersheds for restoration. These data will be used to perform detailed water quality analyses, identify water quality improvement opportunities, and assist in determining the effectiveness of the restoration efforts implemented.
2. Within 12 months of the issuance of this permit, Montgomery County shall select a watershed, or a combination of watersheds, to be restored. The selection of the watershed to be restored shall be based upon Montgomery County's ability to monitor the progress of all those activities identified in PART III.F.3. below to improve water quality. At least one of the following options for watershed selection shall be used:
  - a. A combination of the drainage area above the in-stream monitoring station identified in PART III.D. above and additional contiguous areas equaling ten percent of Montgomery County's impervious area that has not been treated to the maximum extent practicable;
  - b. A watershed or combination of watersheds equaling ten percent of Montgomery County's impervious area that has not been treated to the maximum extent practicable where surrogate parameters can be used to determine progress toward watershed restoration; or
  - c. A combination of PART III.F.2.a. and PART III.F.2.b. above equaling ten percent of Montgomery County's impervious area that has not been treated to the maximum extent practicable.
3. Within 18 months of the issuance of this permit, Montgomery County shall complete and submit for MDE approval a detailed assessment of the watershed or combination of watersheds selected in PART III.F.2. above. At a minimum, the assessment shall:
  - a. Determine current water quality conditions;
  - b. Identify and rank water quality problems;
  - c. Identify all structural and nonstructural water quality improvement

opportunities;

- d. Include the results of a visual watershed inspection;
- e. Specify how the restoration efforts will be monitored; and
- f. Provide an estimated cost and a detailed implementation schedule for those improvement opportunities identified in PART III.F.3.c. above.

After completing the assessment of its selected watershed, Montgomery County shall submit a detailed watershed assessment for an additional watershed equaling ten percent impervious area to MDE by the end of this permit term.

- 4. Within 18 months of the issuance of this permit, Montgomery County shall begin to implement restoration efforts according to the schedule outlined in PART III.F.3.f. above. Annual reports shall document:
  - a. The progress toward meeting the schedule identified in PART III.F.3.f. above;
  - b. The estimated cost and the actual expenditures for program implementation; and
  - c. The monitoring data or surrogate parameter analyses used to determine water quality improvements.

**G. Program Funding**

- 1. With every annual report, Montgomery County shall submit a fiscal analysis of the capital, operation, and maintenance expenditures necessary to comply with all conditions of this permit.
- 2. Montgomery County and the co-permittees shall maintain adequate program funding to comply with all conditions of this permit.

**H. Assessment of Controls**

- 1. Annually, Montgomery County shall submit estimates of expected pollutant load reductions as a result of its proposed management programs.

**PART IV. SPECIAL PROGRAMMATIC CONDITIONS**

Since the signing of the Chesapeake Bay Agreement in 1983, Maryland has been working toward meeting the goal of reducing by 40% the discharge of nutrients to the Chesapeake Bay. To achieve this nutrient goal, strategies to improve the water quality in the tributaries that drain to the Bay have been developed. The Bay watershed has been

divided into ten major tributaries that have each been assigned a 40% nutrient reduction goal. Characterizations of specific tributaries have been made in terms of land use, nutrient loads, and water quality. Additionally, strategy options have been developed based on identified problems in order to guide the restoration effort in each individual tributary.

Montgomery County lies predominantly within two of the Chesapeake Bay's ten major tributaries. These include the Middle Potomac and Patuxent River tributaries. While new goals may be established by future amendments to the original Chesapeake Bay Agreement, this NPDES permit requires Montgomery County and the co-permittees, as applicable with regard to geographic location, to assist with the implementation of the strategy designed to meet the nutrient reduction goals of these two tributaries. Coordination between and among other jurisdictions is a major requirement and the identification of those appropriate jurisdictions will occur jointly with MDE. Additionally, deadlines, priorities, and scheduling to satisfy specific conditions will be determined in conjunction with MDE. In any case, progress toward meeting these conditions will be reported to MDE.

## **PART V. ANNUAL PROGRESS REPORTS**

Annual progress reports required under 40 CFR 122.42(c) will facilitate the long-term assessment of Montgomery County's NPDES stormwater program. These reports shall include:

*§122.42(c) "(1) The status of implementing the components of the storm water management program that are established as permit conditions;"*

*§122.42(c) "(2) Proposed changes to the storm water management programs that are established as permit conditions...;"*

*§122.42(c) "(3) Revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application...;"*

*§122.42(c) "(4) A summary of data, including monitoring data, that is accumulated throughout the reporting year;"*

*§122.42(c) "(5) Annual expenditures and budget for year following each annual report;"*

*§122.42(c) "(6) A summary describing the number and nature of enforcement actions, inspections, and public education programs;"*

*§122.42(c) "(7) Identification of water quality improvements or degradation;"*

MDE has developed a spreadsheet (Appendix 1) for the reporting and tracking of NPDES information. This spreadsheet lists components of Montgomery County's NPDES stormwater program along with appropriate reporting parameters. Annual progress

reports, including MDE's spreadsheet, shall be submitted to MDE by the anniversary date of permit issuance for each year of the permit term.

Additionally, information regarding implementation activities, specific to the co-permittees, shall be submitted in each annual report. At a minimum, co-permittee specific information shall be submitted for the following activities:

1. Illicit discharge and elimination, and
2. Pollution prevention and good housekeeping.

## **PART VI. ENFORCEMENT AND PENALTIES**

### **A. Program Review**

In order to assess the effectiveness of the permittees' NPDES program for eliminating non-stormwater discharges and reducing the discharge of pollutants to the maximum extent possible, MDE will review program implementation, annual reports, and periodic data submittal on an annual basis. Procedures for the review of local erosion and sediment control and stormwater management programs exist in Maryland's Sediment Control and Stormwater Management Laws. Additional periodic evaluations will be conducted to determine compliance with permit conditions. Continuation or reissuance of this permit beyond July 5, 2006 will be subject to MDE's review of Montgomery County's and the co-permittees' compliance and implementation of the conditions of this permit.

### **B. Discharge Prohibitions and Receiving Water Limitations**

Montgomery County and the co-permittees shall effectively prohibit non-stormwater discharges through its municipal separate storm sewer system. NPDES permitted non-stormwater discharges are exempt from this prohibition. Discharges from the following will not be considered a source of pollutants when properly managed: water line flushing; landscape irrigation; diverted stream flows; rising ground waters; uncontaminated ground water infiltration to separate storm sewers; uncontaminated pumped ground water; discharges from potable water sources; foundation drains; air conditioning condensation;

irrigation waters; springs; footing drains; lawn watering; individual residential car washing; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; street wash water; and fire fighting activities.

Montgomery County and the co-permittees shall not cause the contamination or other alteration of the physical, chemical, or biological properties of any waters of the State, including a change in temperature, taste, color, turbidity, or odor of the waters or the discharge or deposit of any organic matter, harmful organism, or liquid, gaseous, solid, radioactive, or other substance into any waters of the State, that will render the waters

harmful to:

1. Public health, safety, or welfare;
2. Domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial use;
3. Livestock, wild animals, or birds; or
4. Fish or other aquatic life.

**C. Duty to Mitigate**

Montgomery County and the co-permittees shall take all reasonable steps to minimize or prevent any discharge in violation of this permit, which has a reasonable likelihood of adversely affecting human health or the environment.

**D. Duty to Comply**

Montgomery County and the co-permittees must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act (CWA) and is grounds for enforcement action; permit termination, revocation, or modification; or denial of a permit renewal application. Montgomery County and the co-permittees shall comply at all times with the provisions of the Environment Article, Title 4, Subtitles 1, 2, and 4; Title 7, Subtitle 2; and Title 9, Subtitle 3 of the Annotated Code of Maryland.

Montgomery County and the co-permittees shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by Montgomery County and the co-permittees to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems, which are installed by Montgomery County and the co-permittees only when the operation is necessary to achieve compliance with the conditions of the permit.

**E. Sanctions**

**1. Penalties Under the CWA - Civil and Criminal**

The CWA provides that any person who violates any permit condition is subject to a civil penalty not to exceed \$27,500 per day for each violation. Any person who negligently violates any permit condition is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than 1 year, or both. Any person who knowingly violates any permit condition is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both.

## **2. Penalties Under the State's Environment Article - Civil and Criminal**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve Montgomery County and the co-permittees from civil or criminal responsibilities and/or penalties for noncompliance with Title 4, Title 7, and Title 9 of the Environment Article, Annotated Code of Maryland, or any federal, local, or other State law or regulation.

The Environment Article, §9-342, Annotated Code of Maryland, provides that any person who violates a permit condition is subject to a civil penalty up to \$1,000 for each violation, but not exceeding \$50,000 total. The Environment Article, §9-343, Annotated Code of Maryland, provides that any person who willfully or negligently violates a permit condition is subject to a criminal penalty not exceeding \$25,000 or imprisonment not exceeding 1 year, or both.

The Environment Article, §9-343, Annotated Code of Maryland, provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six months per violation, or both.

The Environment Article, §9-343, Annotated Code of Maryland, provides that any person who knowingly makes any false statement, representation, or certification in any records or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six months per violation, or both.

## **F. Permit Revocation and Modification**

### **1. Permit Actions**

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by Montgomery County or the co-permittees for a permit modification or a notification of planned changes or anticipated noncompliance does not stay any permit condition. A permit may be modified by the Department upon written request by Montgomery County or the co-permittees and after notice and opportunity for a public hearing in accordance with and for the reasons set forth in COMAR 26.08.04.10.

After notice and opportunity for a hearing and in accordance with COMAR 26.08.04.10., the Department may modify, suspend, or revoke and reissue this permit in whole or in part during its term for causes including, but not limited to, the following:

- a. Violation of any terms or conditions of this permit;
- b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant

facts;

- c. A change in any condition that requires either a temporary reduction or elimination of the authorized discharge; or
- d. A determination that the permitted discharge poses a threat to human health or welfare or to the environment and can only be regulated to acceptable levels by permit modification or termination.

**2. Duty to Provide Information**

Montgomery County and the co-permittees shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit; or to determine compliance with this permit. Montgomery County and the co-permittees shall also furnish to the Department, upon request, copies of records required to be kept by this permit.

**G. Property Rights**

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, State, or local law or regulations.

**H. Severability**

The provisions of this permit are severable. If any provision of this permit shall be held invalid for any reason, the remaining provisions shall remain in full force and effect. If the application of any provision of this permit to any circumstance is held invalid, its application to other circumstances shall not be affected.

**I. Signature of Authorized Administrator and Jurisdiction**

All applications, reports, or information submitted to the Department shall be signed as required by COMAR 26.08.04.01-1. As in the case of municipal or other public facilities, signatories shall be a principal executive officer, ranking elected official, or other duly authorized employee.

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Robert M. Summers, Director

Water Management Administration

Date