

DRAFT
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
GENERAL PERMIT FOR DISCHARGES FROM
SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS

GENERAL DISCHARGE PERMIT NO. 03-IM-5500

GENERAL NPDES PERMIT NO. MDR055500

Effective Date: March 10, 2003

Expiration Date: March 10, 2008

PART I. COVERAGE UNDER THIS GENERAL PERMIT

A. Permit Area. This National Pollutant Discharge Elimination System (NPDES) permit covers municipal storm sewer systems located in designated municipalities in the State of Maryland.

B. Eligibility. The following municipalities listed below are eligible to be covered by this general permit:

1. Municipalities with populations greater than or equal to 1,000 that have been designated by the Environmental Protection Agency (EPA) under 40 Code of Federal Regulations (CFR) 122.32(a)(1); or
2. Municipalities that are designated by the Maryland Department of the Environment (MDE) under 40 CFR 122.32(a)(2). Designation criteria are included in Appendix A of this general permit.

C. Obtaining Coverage. Municipalities (those identified in PART I.B.1 and B.2 above) with stormwater discharges authorized under this general permit shall submit a Notice of Intent (NOI) to comply with the requirements of PART II. of this general permit using a form provided by MDE.

PART II. NOTICE OF INTENT REQUIREMENTS

A. Deadlines for Notification. Municipalities designated under PART I.B. of this general permit shall apply for coverage under this general permit, an individual permit, or a modified existing NPDES permit by:

1. March 10, 2003 for municipalities designated under PART I.B.1. of this general permit; or
2. Within 180 days of designation for municipalities designated under PART I.B.2. of this general permit.

B. Contents. The NOI submitted to MDE for applying for coverage under this general permit shall include the following information:

1. The name(s), address(es), telephone and fax number(s), and e-mail address(es) of

- appropriate contacts responsible for stormwater management programs;
2. The best management practices (BMP) to be implemented and the measurable goals to be used for each of the minimum control measures under PART III. of this general permit. Guidance for appropriate BMPs and measurable goals is included in Appendix B and C, respectively;
 3. A schedule for BMP implementation;
 4. A description of the entities that will be responsible for implementing the BMPs to satisfy each of the minimum control measures as specified in PART III. of this general permit and a schedule for any memorandums of understanding (MOU) or similar agreements that will be required;
 5. A fiscal analysis of capital and operating expenditures, including any matching funds, to implement the minimum control measures. The fiscal analysis shall include only those expenditures by the locality seeking coverage under this general permit. The fiscal analysis should not include those minimum control measures implemented by other entities; and
 6. An authorized signature according to PART VI.N. of this general permit.

C. Where to Submit. Municipalities shall submit a signed copy of the NOI to the following address:

Maryland Department of the Environment
Water Management Administration
Nonpoint Source Program, FL 4, STE 440
1800 Washington Boulevard
Baltimore, MD 21230-1708

D. Permit Renewal. Upon reissuance of this general permit with new effective and expiration dates, the permittee is required to submit to MDE a new NOI in order to be covered.

PART III. MINIMUM CONTROL MEASURES

Permittees shall ensure that the following minimum control measures are implemented in the area served by their small municipal separate storm sewer system. Each municipality covered by this general permit shall determine how each minimum control measure will be implemented. Permittees must define appropriate BMPs and develop measurable goals for each measure. Additionally, a list of entities responsible for BMP implementation and a schedule for each control measure shall be provided to MDE according to PART II.B. prior to coverage under this general permit. A list of suggested BMPs and measurable goals is provided in Appendix B and C of this general permit, respectively.

Any of these measures may be implemented by the permittee or another government entity as specified in PART IV.B. and PART IV.C. of this general permit. If the permittee will rely on another government entity to satisfy one or more of the following minimum control measures, the permittee remains responsible for compliance with all conditions of this general permit. For this reason, a legally binding contract, MOU, or other similar means should be executed between the permittee and the other

entity to avoid conflicts resulting from noncompliance with this general permit.

A. Public Education and Outreach. Permittees shall implement and maintain a public education and outreach program to help reduce the discharge of pollutants caused by stormwater. Public education and outreach can be coordinated with other portions of the permittee’s stormwater management program, developed independent of other pollution control efforts, or implemented by an entity other than the permittee. At a minimum, the public education program shall contain information about the impacts of stormwater discharges on receiving waters, why controlling these discharges is important, and what the public can do to reduce pollutants in stormwater runoff.

Examples of the information that should be considered by the permittee when developing a public education and outreach program include:

1. The types and causes of pollutants found in urban runoff;
2. The consequences of stormwater pollutants;
3. The typical methods of controlling stormwater (e.g., BMPs, ponds, bioretention, etc.);
4. Stormwater BMP maintenance needs; and
5. How citizens can contribute to the permittee’s stormwater management program through the following:
 - a.) Water conservation;
 - b.) Lawn care and landscaping;
 - c.) Hazardous material storage, use, and disposal (e.g., herbicides, pesticides, and fertilizers);
 - d.) Private well and septic system maintenance;
 - e.) Spill and illegal dumping hotline; and
 - f.) Any other components deemed necessary to ensure adequate public outreach and education.

B. Public Involvement and Participation. Permittees shall implement and maintain a public involvement and participation program. The permittee or another entity shall, at a minimum, comply with all State and local public notice requirements in actions or decisions made having to do with stormwater management. Additionally, each permittee shall sponsor, promote, or participate in an annual public “stream clean-up” or similar volunteer restoration day to help promote the public’s involvement in the permittee’s stormwater program. These public involvement and participation activities can be developed and implemented by the permittee, a separate responsible entity, or the specific County in which the permittee is geographically located.

C. Illicit Discharge Detection and Elimination. Permittees shall develop, implement, and maintain a program to identify and eliminate illicit storm drain system connections and non-stormwater discharges to the maximum extent practicable. The program developed to satisfy this minimum control measure shall contain elements to field screen storm drain system outfalls, inspect the storm drain system for the purpose of identifying the source of any illicit discharges, eliminate any illegal

connection or illicit discharge to the storm drain system, and enforce penalties where appropriate. The illicit discharge program shall also contain components to address illegal dumping and spills.

This minimum control measure may be implemented and maintained by the permittee or by another responsible entity. Additionally, a permittee may coordinate its efforts to identify and eliminate non-stormwater discharges with those of the surrounding County performing similar activities under an individual NPDES municipal separate storm sewer system permit. If the responsibilities for complying with this minimum control measure are to be shared between the permittee and another responsible entity, the relationship and specific duties of all participating entities shall be outlined in the NOI submitted to MDE according to PART II. of this general permit.

At a minimum, a program developed to implement illicit discharge detection and elimination to satisfy this control measure shall contain the following:

1. A map showing the extent of the storm drain system;
2. The legal means to provide for entering onto private property to investigate and eliminate illicit storm drain system discharges;
3. Procedures to field screen storm drain outfalls on a consistent basis;
4. Inspection procedures for identifying the source of any suspected illicit discharges to the storm drain system;
5. Enforcement and penalty procedures;
6. Procedures to address spills and illegal dumping;
7. Means to inform public employees, businesses, and the general public of illegal discharges and improper waste disposal; and
8. Any other components deemed necessary to ensure that non-stormwater discharges to the municipal separate storm sewer system are either permitted by MDE under NPDES or eliminated.

Regardless of whether a permittee develops its own program or relies on another responsible entity to satisfy this minimum control measure, the permittee shall cooperate regarding discharges entering or leaving its jurisdictional boundaries or waters of the State. The intent of this program is to control non-stormwater discharges to and from municipal separate storm sewer systems. Therefore, it is essential that a permittee covered by this general permit cooperate actively in instances where storm drain systems are interconnected with entities covered under this or any other NPDES stormwater permit.

D. Construction Site Stormwater Runoff Control. The Maryland Environment Article, Title 4, Subtitle 1, Annotated Code of Maryland establishes a statewide erosion and sediment control program to control construction site stormwater runoff. This statute, coupled with the Code of Maryland Regulations (COMAR), specifies the requirements for any construction activity that disturbs five thousand (5,000) square feet or more of earth. Because Maryland has an erosion and sediment control program in place that regulates more earth disturbing activities than by the NPDES stormwater program, MDE considers compliance with the State statute to be compliance with this minimum

control measure, this general permit, and CFR.

COMAR contains procedures for approving proposed construction drawings and erosion and sediment control plans prior to the start of any development or local permit issuance. State regulations also define erosion and sediment control plan review and enforcement responsibilities. Typically, erosion and sediment control plans are reviewed and approved by local Soil Conservation Districts (SCD) for private projects and by MDE for State and federal construction projects. Enforcement of approved erosion and sediment control plans statewide is MDE's responsibility unless MDE has delegated its enforcement authority to a County or municipality.

According to COMAR, to be delegated erosion and sediment control enforcement authority, a locality must have an ordinance or set of regulations in place approved by MDE, inspection and enforcement procedures to ensure proper erosion and sediment control implementation and maintenance, and sufficient field staff to inspect active construction projects. MDE reviews the field performance of erosion and sediment control field staff to help judge whether enforcement authority should be delegated. This erosion and sediment control program review occurs when a County or municipality applies for delegation of enforcement authority. Additionally, the maximum length of delegation is two years.

Permittees shall comply with all State and local laws, regulations, ordinances, and procedures relating to erosion and sediment control. Additionally, permittees may seek delegation of enforcement authority from MDE, rely on another delegated authority provided that entity accepts responsibility, or have MDE enforce erosion and sediment control requirements within their jurisdictional boundaries. Permittees shall clearly state how this minimum control measure will be implemented in the NOI submitted to MDE according to PART II. of this general permit.

E. Post Construction Stormwater Management. The Maryland Environment Article, Title 4, Subtitle 2, Annotated Code of Maryland establishes a statewide stormwater management program. This statute, coupled with COMAR, requires that stormwater management for new development and redevelopment be addressed for any proposed project that disturbs five thousand (5,000) square feet or more of earth. Because Maryland has a stormwater management program in place that regulates new and redevelopment projects, MDE considers compliance with the State statute to be compliance with this minimum control measure, this general permit, and CFR.

COMAR contains provisions requiring all local governments in Maryland to administer and maintain an effective stormwater management program. MDE evaluates the acceptability of local stormwater management programs to ensure that new development and redevelopment runoff are properly managed. To be found acceptable, a local stormwater management program must have an MDE approved ordinance in place, planning and approval processes that address stormwater management for all appropriate land development projects, inspection and enforcement procedures that ensure proper construction and maintenance, and competent and adequately trained staff to perform all stormwater management functions.

Permittees shall comply with all State and local laws, regulations, ordinances, and procedures relating to stormwater management. Additionally, permittees must implement and comply with the principles, methods, and practices found in the “2000 Maryland Stormwater Design Manual, Volumes I & II.” Permittees must either administer an effective stormwater management program according to COMAR or accept the program that is being implemented by its respective County. COMAR allows for such administration of local stormwater management programs. It is a requirement of this general permit that each permittee relying on its respective County to implement a stormwater management program within its jurisdictional boundary execute a binding agreement or resolution with its respective County. This will clearly define responsible parties should noncompliance become an issue.

F. Pollution Prevention and Good Housekeeping. Permittees shall implement and maintain pollution prevention and good housekeeping techniques and procedures to reduce pollutants from all municipal operations. Components of this minimum control measure shall include municipal employee training materials to prevent and reduce pollutant discharges to the storm drain system, runoff controls geared toward fleet yard and building maintenance activities, and ensuring all municipally owned activities are properly permitted under NPDES or any other State or federal water pollution control program. Permittees shall develop pollution prevention or good housekeeping procedures themselves or rely on another responsible entity to comply with this minimum control measure. If an entity other than the permittee is to be responsible for this component of the stormwater management program, MDE recommends that an MOU or other binding contract be executed between the two parties. This will clearly define responsible parties should noncompliance become an issue.

PART IV. SPECIAL CONDITIONS

A. Discharge Compliance with Water Quality Standards. This general permit requires, at a minimum, that municipalities develop, implement, and enforce a stormwater management program designed to reduce the discharge of pollutants to the maximum extent practicable. Implementing BMPs as required under the six minimum control measures in PART III. above is considered an acceptable effort to reduce pollutants from the municipal storm drain system to the maximum extent practicable.

B. Qualifying Local Programs (State or local). As specified throughout PART III. of this general permit, permittees may develop programs to comply with all minimum control measures independently or rely on another responsible entity. The separate entity may be responsible for compliance with those minimum control measures specified in the NOI submitted to MDE according to PART II. of this general permit. In some cases (e.g., Maryland’s statewide erosion and sediment control program), existing State statutes or local ordinances require the implementation of a program component that satisfies conditions in this general permit independent of the NPDES program. MDE considers a stormwater program component such as this to be a “qualifying local program” for the purposes of complying with this general permit. Therefore, permittees may take advantage of these “qualifying local programs” to help comply with the NPDES municipal stormwater requirements.

C. Sharing Responsibility. If the permittee is relying on another entity to satisfy one or more of the permit obligations, all municipal stormwater permit obligations by all entities shall be noted in the NOI submitted to MDE according to PART II. of this general permit. This other entity shall implement a control measure that is at least as stringent as the corresponding NPDES permit requirement found in NPDES regulations and this general permit. Additionally, the other entity shall agree to implement the minimum control measure on the permittee's behalf.

PART V. MONITORING, RECORDKEEPING, REPORTING, AND PROGRAM REVIEW

A. Monitoring. A permittee covered by this general permit or another responsible entity shall use any means thought to be necessary to evaluate the effectiveness of the programs and BMPs implemented to comply with this general permit. Careful consideration must be given to the information, BMPs, and measurable goals specified in NOIs submitted to MDE according to PART II. of this general permit. This information shall be submitted in annual reports.

B. Recordkeeping. The permittee shall keep records under this general permit for at least three (3) years after termination of this general permit. Records shall be submitted to MDE only when permittees are specifically asked to do so. The permittee shall make its records and its stormwater management program information available to the public at reasonable times during regular business hours.

C. Reporting. Annually, the permittee shall submit a report to MDE. The report shall include:

1. The status of compliance with permit conditions, an assessment of the appropriateness of the identified BMPs, and the progress toward achieving the identified measurable goals for each of the minimum control measures;
2. Results of information collected and analyzed, including monitoring data, if any, during the annual reporting period;
3. A summary of the stormwater activities the permittee plans to undertake during the next annual reporting period;
4. A change in any identified measurable goals that apply to the minimum control measures;
5. A description of the coordination efforts with its respective County(ies) regarding the implementation of the minimum control measures including the status of any MOU or other agreement executed between the permittee and another entity; and
6. A fiscal analysis of capital and operating expenditures to implement the minimum control measures. The fiscal analysis shall include only those expenditures by the locality seeking coverage under this general permit and not those for minimum control measures implemented by other entities.

D. Program Review – In order to assess the effectiveness of the permittee's NPDES program for eliminating non-stormwater discharges and reducing the discharge of pollutants to the maximum extent

possible, MDE will review program implementation and annual reports. 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 may be conducted to determine compliance with permit conditions.

PART VI. STANDARD PERMIT CONDITIONS

A. Duty to Comply. The permittee must comply with all conditions of this general permit. Any permit noncompliance constitutes a violation of the CWA and is grounds for enforcement action, permit coverage termination, revocation, or modification. The permittee 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, Annotated Code of Maryland.

B. Failure to Notify. Municipalities engaging in an activity covered under this general permit that fail to notify MDE of their intent to be covered under this general permit as described in PART II. and who discharge to waters of the State without coverage are in violation of the Environment Article, Annotated Code of Maryland and may be subject to penalties.

C. Limitations on Coverage.

1. This general permit authorizes the following non-stormwater discharges when properly managed: landscape irrigation, diverted stream flows, rising groundwater, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, foundation drains, air conditioning condensate, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering runoff, flows from riparian habitats and wetlands, residual street wash water, and discharges or flows from fire fighting activities.
2. Stormwater discharges that are mixed with non-stormwater or stormwater associated with industrial activity are not authorized to discharge under this general permit unless such discharges are:
3. In compliance with a separate NPDES permit; or
4. Identified by and in compliance with this general permit.
5. Stormwater discharges from municipal separate storm sewer systems located on State or federal property are not authorized to discharge under this general permit.

D. 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.

E. Penalties Under the State's Environment Article - Civil and Criminal. Nothing in this general

permit shall be construed to preclude the institution of any legal action nor relieve the permittee 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(a), Annotated Code of Maryland, provides that any person who violates a permit condition is subject to a civil penalty not to exceed \$10,000 per day.

The Environment Article, § 9-342(b), Annotated Code of Maryland, provides that any person who violates a permit condition is subject to a civil administrative penalty up to \$1,000 for each violation, but not exceeding \$50,000 total.

The Environment Article, § 9-343(a), 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, for a first offense. Later offenses are subject to a criminal penalty of \$50,000 or imprisonment not exceeding 2 years, or both.

The Environment Article, § 9-343(b), 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 general 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(b), 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 general 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. Continuation of an Expired General Permit. An expired general permit continues in force and effect until a new general permit is issued or the general permit is revoked or withdrawn. Only those permittees authorized to discharge prior to the expiration of the general permit are covered by the continued permit.

G. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment and is in violation of this general permit

H. Duty to Provide Information. The permittee shall furnish to MDE any information which may be requested to determine compliance with this general permit. The permittee shall also furnish to MDE, upon request, copies of records required to be kept by this general permit.

I. Other Information. When the permittee becomes aware that it failed to submit any relevant facts

or submitted incorrect information in the NOI or in any other report to MDE, it shall promptly notify MDE of the facts or information.

J. Requiring an Individual Permit.

1. MDE may require any municipality to apply for and/or obtain an individual NPDES permit. When MDE requires the permittee to apply for an individual NPDES permit, MDE will provide notification in writing that an application is required. This notification shall include a brief statement of the reasons for the decision, an application form, and a deadline for filing the application. Additionally, MDE shall inform the permittee that on the effective date of the individual NPDES permit, coverage under this general permit shall automatically terminate. Applications must be submitted to MDE. MDE may grant additional time to submit an application upon request of the applicant. If an individual permit application required by MDE under this paragraph is not submitted in a timely manner, then coverage under this general permit to the municipality may be terminated.
2. Any municipality eligible for coverage under this general permit may request to be excluded from the coverage of this general permit by applying for an individual permit. In such cases, the municipality must submit an individual application in accordance with the requirements of 40 CFR 122.26(c)(1)(ii), with reasons supporting the request, to MDE.
3. When an individual NPDES permit is issued to a municipality eligible for coverage under this general permit, the applicability of this general permit to the individual NPDES permittee is automatically terminated on the effective date of the individual permit. When an individual NPDES permit is denied to a municipality otherwise subject to this general permit, then coverage under this general permit may be terminated by MDE.

K. Property Rights. The issuance of this general permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of federal, State, or local laws or regulations.

L. Severability. The provisions of this general permit are severable. If any provision of this general 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 general permit to any circumstances is held invalid, its application to other circumstances shall not be affected.

M. Permit Actions. This general permit may be modified, revoked and reissued, or terminated for cause. The permittee's filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

N. Signature of Authorized Administrator and Jurisdiction. All NOIs, annual reports, and information submitted to MDE shall be signed as required by COMAR 26.08.04.01-1 and 40 CFR 122.22. 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.

PART VII. REOPENER CLAUSE

If there is evidence indicating that the stormwater discharges authorized by this general permit cause, have the reasonable potential to cause or contribute to, a violation of a water quality standard, the permittee may be required to obtain an individual permit or the general permit may be modified to include specific limitations and/or requirements. Permit modification or revocation will be conducted according to 40 CFR 122.62, 122.63, 122.64, and 124.5.

PART VIII. AUTHORITY TO ISSUE GENERAL NPDES PERMITS.

In compliance with the provisions of the CWA, as amended (33 U.S.C. 1251 et. Seq. the Act), municipalities that are defined in PART I.B.1. and 2. of this general permit and that submit an NOI in accordance with Part III. of this general permit are authorized to discharge in accordance with the conditions and requirements set forth herein.

Director
Water Management Administration

PART IX. DEFINITIONS

A. "Best management practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other structural or nonstructural management techniques to prevent or reduce the pollution to waters of the State.

B. "CFR" means the Code of Federal Regulations.

C. "COMAR" means the Code of Maryland Regulations.

D. "Department" means the Maryland Department of the Environment.

E. "General Permit" means either a State discharge permit or an NPDES permit issued to a class of dischargers.

F. "Municipal Separate Storm Sewer System" means a conveyance or system of conveyances owned and operated by a State, city, town, or other public body having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes. These systems are used for collecting or conveying stormwater, are not combined sewers, and are not part of a Publicly Owned Treatment Works (POTW) as defined in 40 CFR 122.2.

G. "NPDES" means the National Pollutant Discharge Elimination System.

H. "NPDES permit" means a discharge permit issued under the Clean Water Act.

I. "NOI" means Notice of Intent to be covered by this general permit (see Part III. of this general permit).

J. "Permittee" means a municipality covered under this NPDES general permit.

K. "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind, and any partnership, firm, association, corporation, or other entity. Person includes the federal government, this State, any county, municipal corporation or other political subdivision of this State or any of their units.

L. "State discharge permit" means the discharge permit issued under the Environment Article, Subtitle 3, Annotated Code of Maryland.