



Maryland

Department of
the Environment

Larry Hogan
Governor

Boyd Rutherford
Lieutenant Governor

Ben Grumbles
Secretary

OCT 17 2016

Mr. Steven Ball, Planning Director
Charles County Department of Planning & Growth Management
P.O. Box 2150
200 Baltimore Street
La Plata, MD 20646

Dear Mr. Ball:

This letter acknowledges the Maryland Department of the Environment's (MDE) receipt of Charles County's 2016 Financial Assurance Plan (FAP) and 2016 Watershed Protection and Restoration Program (WPRP) Annual Report as required by the Annotated Code of Maryland. MDE received an e-mail from the County on June 29, 2016, that included both reports as well as additional information.

Chapter 124 of the Acts of the General Assembly of 2015 requires MDE to make a determination regarding the sufficiency of funding in each FAP filed with the Department. For any FAP filed on or before July 1, 2016, funding in the FAP is sufficient if the FAP demonstrates that the County or municipality has dedicated revenues, funds, or sources of funds to meet, for the 2-year period immediately following the filing date of the FAP, 75% of the projected costs of compliance with the impervious surface restoration plan (ISRP) requirements of the County or municipality under its National Pollutant Discharge Elimination System (NPDES) Phase I Municipal Separate Storm Sewer System (MS4) permit over that 2-year period. After reviewing Charles County's 2016 FAP, MDE has determined that the County has demonstrated that it has sufficient funding in its FAP.

Below are more details regarding MDE's findings:

- In order to meet ISRP requirements, the County proposed to implement a diverse mix of stormwater management projects ranging from traditional structural practices to newer environmental site design (ESD) techniques.
- Because stream restoration projects can take several years to complete, the County may need to install back-up best management practices (BMPs) to ensure that restoration targets can be met should there be any delays in the projects currently under design and projected to be completed during this permit term.
- The County proposed 705 acres of treatment, or 47% of the total impervious acres restored, by improving the performance of its publicly owned treatment works (POTWs) in an amount equivalent to the impervious area pollutant reductions. As a matter of policy, MDE supports this option as a cost-effective means for achieving pollutant reductions and is committed to addressing how regulatory process requirements, including permit language and public

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participation, can be satisfied under this scenario. Until formal processes are in place, the County should continue to explore all currently approved BMPs for meeting the ISRP requirements.

MDE has provided additional comments in an attachment for the County's information and use. Please provide a response to MDE's comments in subsequent FAPs and WPRP Annual Reports. MDE requests that WPRP Annual Reports be submitted in coordination with the NPDES MS4 Annual Reports, beginning on December 26, 2017. The County's next FAP will be due in coordination with its December 26, 2018 Annual Report.

MDE recognizes the substantial effort required to create the FAP and WPRP Annual Report. Charles County is commended for its effort in developing and implementing this very important environmental program for improving local water resources and restoring the Chesapeake Bay. If you have any questions regarding this review, please contact me at 410-537-3543 or Brian Clevenger at 410-537-3554, or brian.clevenger@maryland.gov.

Sincerely,



Lynn Buhl, Director
Water Management Administration

cc: Brian Clevenger, Program Manager, Sediment, Stormwater, and Dam Safety Program

Attachment

**Maryland Department of the Environment
Charles County's 2016 Financial Assurance Plan
September 2016**

FAP Condition	MDE Assessment and Recommendations
<p>Demonstration of Public Participation and Sufficient Funding</p>	<ul style="list-style-type: none"> • Annotated Code of Maryland ENV § 4-202.1(j) requires Phase I Municipal Separate Storm Sewer System (MS4) jurisdictions to submit the Financial Assurance Plan (FAP) by July 1, 2016. Charles County submitted the FAP electronically to the Maryland Department of the Environment (MDE) on June 29, 2016. • The County reported that a public hearing was held on June 7, 2016, and documentation was submitted with the FAP to show that County Commissioners voted on June 28, 2016, to approve the FAP in Resolution No. 2016-18. • The FAP demonstrated sufficient funding for 105% of the projected Impervious Surface Restoration Plan (ISRP) costs for the two-year period immediately following the filing of the FAP (\$28.7 million in revenue versus \$27.3 million in cost), greater than the minimum 75% required by the law.
<p>ISRP Baseline</p>	<ul style="list-style-type: none"> • Charles County's impervious area analysis indicated that there are 7,048 impervious acres in the County with little or no stormwater management. The County's current permit requires that 20% of that area, or 1,410 impervious acres, be restored during the course of its permit term (i.e., 7,048 untreated acres * 20% treatment requirement = 1,410 acres). The 1,410 impervious acre requirement is also known as the ISRP baseline. MDE's review of the County's impervious area analysis is pending at this time.
<p>Actions to Meet Permit Requirements ("All Actions" worksheet)</p>	<ul style="list-style-type: none"> • The FAP described Charles County's strategy to meet the requirements of its MS4 permit and ISRP within the required timeframe. • The jurisdiction documented several specific categories of BMPs and met the ISRP baseline. • Total restored impervious acres were correctly transferred from the "Spec Actions" worksheet to the "All Actions" worksheet. • All formulas, including two-year, five-year, and all-year sum totals, were used correctly within the worksheet. • All required fields were populated.
<p>Annual and Projected Costs ("All Actions" and "ISRP Costs" worksheet)</p>	<ul style="list-style-type: none"> • The County did not report costs from previous years and stated that this information "is beyond the requirements of the statute." The County should track this information to ensure that the cost spent per acre on restoration activities is minimized and that adequate funding is available each year. • All other costs were reported and all formulas were used correctly. • By the end of the current permit term, the County plans to accomplish 56% of its ISRP requirement through capital projects, operational best management practices (BMPs), and septic connections to wastewater treatment plants. Another 50% will be achieved by improving the performance of publicly owned treatment works (POTWs) to meet

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<p>Annual and Projected Costs</p> <p>("All Actions" and "ISRP Costs" worksheet)</p>	<p>impervious area restoration requirements. This will allow the County to achieve 106% of the ISRP requirement by the deadline.</p> <ul style="list-style-type: none"> • In fiscal year FY2015, 119 acres were restored through operational BMPs (e.g., street sweeping, inlet cleaning, and septic pumping). For the permit term, the County plans to achieve 119 acres of restoration annually through operational BMPs. This rate and the respective BMP cost per acre estimates are consistent with those reported in past MS4 annual reports. • Excluding annual operational BMPs, the County plans to complete in FY2017 and FY2018 an additional 414 acres in capital projects, of which 306 acres will be completed in FY2018 alone. Although this is a significant increase, MDE understands that the County is ramping up its restoration program from historic rates. • The total cost per acre for completed restoration efforts is approximately \$30,000. The cost per acre in FY2017 and FY2018, including the use of POTW credits, is approximately \$20,937 and over the current permit term approximately \$23,261. • In FY2020, the County plans to solely install wet ponds that will treat a total of 93 impervious acres. This is a shift from the diverse mixture of projects planned to be installed in earlier years, including several environmental site design (ESD) projects. The County should clarify whether it has identified specific projects or if multiple retrofit opportunities are identified for each pond BMP that has been listed. • The County's average cost per acre for wet ponds in later fiscal years is significantly less than the average cost per acre in previous fiscal years. For example, in FY2020 wet ponds cost an average of \$3,339 per acre while wet ponds installed in FY2018 were expected to cost an average of \$195,000 per acre. In the next FAP submittal, more clarification is needed on how these estimates were calculated. • When planning for the stream restoration project to be completed in FY2018 and listed as currently under design, the County should consider that the construction process may be delayed by issues such as monitoring requirements, inclement weather, or mandatory stream closure periods for fish spawning and migration. The County may need to install backup BMPs to ensure that restoration targets can be met if any delays occur. • The County should clarify two possible typos within this table: In cells A48 and A51, MDE assumed that the County meant to type "MSGW" where "MSHW" was inserted. All other reported BMPs are approved practices in MDE's MS4 geodatabase • The County should also provide clarification for the storm drain vacuuming BMP listed in cell A54. It initially appeared that this BMP should be filed under the Operational Programs. However, this BMP's cost was estimated as \$14,000 per acre, whereas the storm drain vacuuming already listed under Operational Programs was estimated to

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<p>Annual and Projected Costs</p> <p>("All Actions" and "ISRP Costs" worksheet)</p>	<p>cost \$5,000 per acre. The County should ensure that the correct BMP type is used and, if necessary, list it in the appropriate location.</p> <ul style="list-style-type: none"> • All other annual BMPs were properly accounted for under Operational Programs, and all other BMPs, both completed and projected, were reported in the appropriate worksheets. • The County proposed 705 acres of treatment, or 50% of the impervious acre restoration goal, by improving the performance of locally-owned POTWs to achieve equivalent pollutant reductions. In order to make a determination on the acceptability of this strategy, the County shall provide more detailed information, including name(s) of all POTWs involved and a calculation of the pollutant load available for reallocation from each facility. • MDE is considering how the overachievement in nutrient reduction in the wastewater sector can be utilized by MS4 permittees in characterizing progress toward meeting total maximum daily load (TMDL) goals. As a matter of policy, MDE supports this option as a cost-effective means for achieving pollutant reductions and is committed to addressing how regulatory process requirements, including permit language and public participation, can be satisfied under this scenario. Until formal processes are in place, MS4s should explore all currently approved BMP options for meeting the ISRP requirements. • The County should encourage more low-cost homeowner BMPs including rain barrels, rain gardens, and tree planting. These affordable BMP options provide great opportunities for citizen outreach and ISRP implementation. • All data discrepancies shall be clarified or corrected in future FAP submittals.
<p>Annual and Projected Revenues</p> <p>("ISRP Revenue" worksheet)</p>	<ul style="list-style-type: none"> • Charles County did not report revenues from previous years and stated that this information "is beyond the requirements of the statute." • All formulas were used correctly within the worksheet. • The reported ISRP revenue was 105% of the estimated required revenue for the next two years (\$28.7 million in revenue versus \$27.3 million in cost). • The County added \$100,000 of revenue to each year without explanation of how this funding is sourced. The County should provide clarification of where this additional revenue will come from. • Projected annual revenue exceeded annual cost in all years except FY2020, in which there was a projected deficit of \$788,000. Because legislation requires that the County demonstrate sufficient funding to meet its estimated cost for the two-year period immediately following the filing date of the FAP, there is time for the County make up this funding shortfall.

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FAP Condition	MDE Assessment and Recommendations
<p>Funding Sources</p> <p>("Fund Sources" worksheet)</p>	<ul style="list-style-type: none"> • The County did not report the portion of funds directed toward the ISRP, and should indicate this percentage amount in future FAPs. • All other sources of funds were reported and all formulas were used correctly within the worksheet. • Charles County's sources of funds for the next two years include: <ul style="list-style-type: none"> ○ General Obligation Bonds = \$23M ○ Stormwater Remediation Fees = \$4M ○ General Fund/other = \$3.5M ○ Total Funding Sources = \$30.5M
<p>Specific Actions and Expenditures from Previous Fiscal Years</p> <p>("Spec Actions" worksheet)</p>	<ul style="list-style-type: none"> • The completed actions reported in the FAP reflected the restoration activities and estimated restored acres reported in previous annual reports. • Completed site specific projects and BMPs were reported in the worksheet per MDE's template and instructions, and all formulas were used correctly within the worksheet. • Total restored impervious acres were transferred correctly from the "Spec Actions" worksheet to the "All Actions" worksheet. • All BMPs listed in the worksheet are MDE approved BMPs.
<p>Future WPRP and FAP Reporting</p>	<ul style="list-style-type: none"> • Charles County's next Watershed Protection and Restoration Program (WPRP) Annual Report will be due in coordination with the County's December 26, 2017 MS4 Annual Report. • The County's next FAP will be due in coordination with its December 26, 2018 Annual Report.