



Maryland

Department of
the Environment

Larry Hogan
Governor

Boyd Rutherford
Lieutenant Governor

Ben Grumbles
Secretary

OCT 17 2016

Ms. Shannon Moore, Manager
Sustainability & Environmental Resources
Community Development Division
30 North Market Street
Frederick, Maryland 21701

Dear Ms. Moore:

This letter acknowledges the Maryland Department of the Environment's (MDE) receipt of Frederick 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 that included both reports as well as additional information on June 28, 2016.

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 Frederick 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:

- A public hearing was held on August 15, 2016 and the County's FAP has been approved by the local governing body.
- The County's FAP included multiple approved restoration practices that are not being claimed for impervious area credit (i.e., street sweeping, storm drain vacuuming, and catch basin cleaning). These practices can help the County meet its restoration goals, reduce program cost, and should be proposed for credit.
- The County proposed 256 acres of treatment, or 25% 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 participation, can be satisfied under this scenario. Until formal processes are in place, the

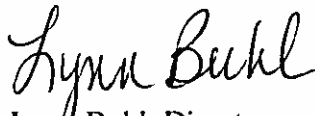
County should continue to explore all currently approved best management practices (BMPs) for meeting the ISRP requirements.

- 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.

MDE has provided additional review 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 30, 2017. The County's next FAP will be due in coordination with its December 30, 2018 Annual Report.

MDE recognizes the substantial effort required to create the FAP and WPRP Annual Report. Frederick 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
Frederick 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"> • Frederick County's Financial Assurance Plan (FAP) was received by the Maryland Department of the Environment (MDE) on June 28, 2016, prior to the July 1, 2016 due date. • A public hearing and approval from the County Council occurred on August 15, 2016, which is after the July 1, 2016 requirement. In the future, the County will need to complete the public hearing and approval process by the submission deadline. • The FAP demonstrates that 100% of the projected Impervious Surface Restoration Plan (ISRP) costs will be funded for the two-year period (i.e., \$11.4 million in revenue versus \$11.4 million in cost), meeting the requirement for funding of 75% of the ISRP.
<p>ISRP Baseline</p>	<ul style="list-style-type: none"> • Frederick County's impervious area analysis indicated that there are 5,063 impervious acres in the County with little or no stormwater management. The County's current permit requires that 20% of that area, or 1,013 impervious acres, be restored during the course of its five-year permit term (i.e., 5,063 * 20% treatment requirement = 1,013 acres). The 1,013 impervious acre treatment 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 includes an executive summary and outlines the necessary actions and costs required to meet the County's current Municipal Separate Storm Sewer System (MS4) permit and ISRP. • The County has documented sufficient BMPs to meet the ISRP requirement during the current permit term. • The County has listed multiple practices that are not approved BMPs for restoring impervious acres. The County should only utilize those practices recognized in MDE's MS4 geodatabase. For example, BMP codes such as EDSW, WP, and PP do not correspond to approved practices. • The County proposed 256 acres of treatment, or 25% of its ISRP requirement, to be completed by improving the performance of publicly owned treatment works (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 the POTWs involved and a calculation of the pollutant load available for reallocation. • 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

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FAP Condition	MDE Assessment and Recommendations
<p>Actions to Meet Permit Requirements</p> <p>("All Actions" worksheet)</p>	<p>are in place, MS4s should explore all currently approved BMP options for meeting the ISRP requirements.</p> <ul style="list-style-type: none"> • The total restored impervious acres identified in the "Spec Actions" worksheet were transferred to the "All Actions" worksheet but included the previously mentioned practices that do not claim impervious credit. • Some of the formulas use incorrect years, resulting in misleading conclusions. Moving forward, the County should use the actual years of the permit term. The County projects that it will complete 100% of the ISRP requirement by fiscal year (FY)2020. Because the permit term includes a portion of FY2020, the County should clarify in the next FAP submittal if the ISRP requirement will be achieved by the end of the permit term, December 29, 2019. • MDE requests that the County review the data discrepancies described above and provide clarifications in its next FAP submittal.
<p>Annual and Projected Costs</p> <p>("All Actions" and "ISRP Costs" worksheet)</p>	<ul style="list-style-type: none"> • Annual costs have been reported for previous years up to FY2015. Projected costs have been reported in the document for FY2016 through FY2020. • The restoration cost per acre for completed projects is \$63,491. The restoration cost per acre for completed and projected projects for the permit term, including POTW crediting, is \$38,680. • The data presented by the County indicate that restoration costs will decrease by 39%. • The "All Actions" worksheet contains projects that are either in the planning stages, under construction, or complete. • In future reports, completed projects must be reported in the "Spec Actions" worksheet. For example, the 2015 street sweeping should be reported under "Spec Actions", not "All Actions". • Septic denitrification (SEPD) as a BMP is appropriate; however, the County should consider identifying backup BMPs in the event that implementation does not meet annual targets. In future reports, the County should provide location data for SEPD credits taken per MS4 reporting requirements. • On the "ISRP Cost" worksheet, an unapproved BMP (i.e., bridge deck cleaning) has been included with no explanation of what the BMP entails. Bridge deck cleaning is neither an approved restoration practice, nor should the costs be included as part of the restoration analysis. These projects should be removed from the "ISRP Cost" worksheet in the County's next FAP submittal. • On the "All Actions" worksheet, street sweeping and storm drain vacuuming have been included but no impervious area credits were provided for these specific BMPs in the worksheet. These practices can help the County meet its restoration goals, reduce program cost, and should be proposed for credit. • 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.

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FAP Condition	MDE Assessment and Recommendations
	<ul style="list-style-type: none"> • All discrepancies noted above shall be more fully explained or corrected in future FAP submittals.
Annual and Projected Revenues ("ISRP Revenue" worksheet)	<ul style="list-style-type: none"> • Based on the data supplied in the "ISRP Revenue" worksheet, the revenues meet 100% of the reported cost (i.e., \$11.4 million in revenue versus \$11.4 million in cost). • Reported ISRP revenue for FY2016 is shown on the "ISRP Revenue" worksheet as \$5,713,941. This amount conflicts with the FY2016 "Total Annual Sources of Funds" (\$7,173, 563) reported in the "Fund Sources" worksheet. • The values for revenue were obtained by using a formula that links directly to the costs field. The County should re-examine how revenues were calculated and provide clarification in its next FAP submittal.
Funding Sources ("Fund Sources" worksheet)	<ul style="list-style-type: none"> • The required fields for funding sources are complete and the formulas appear to be correct. • Sources of funds for the next two years include: <ul style="list-style-type: none"> ○ General Fund = \$9.6M ○ General Obligation Bonds = \$2M ○ Grants = \$0.26M ○ Total Funding Sources = \$12M
Specific Actions and Expenditures from Previous Fiscal Years ("Spec Actions" worksheet)	<ul style="list-style-type: none"> • As required, completed BMPs for specific projects were included in the "Spec Actions" worksheet. • The only annual BMPs accounted for on the "Spec Actions" worksheet under Operational Programs are street sweeping and inlet cleaning. • Of the activities listed, numerous examples do not provide any quantities of restored acreage and/or cost (i.e., street sweeping, inlet cleaning, and tree planting). As previously mentioned, these practices can help the County meet its restoration goals, reduce program cost, and should be proposed for credit. • The formulas used appear to be correct.
Future WPRP and FAP Reporting	<ul style="list-style-type: none"> • Frederick County's next Watershed Protection and Restoration Program (WPRP) Annual Report will be due in coordination with the County's December 30, 2017 MS4 Annual Report. • The County's next FAP will be due in coordination with its December 30, 2018 Annual Report.

