



Maryland

Department of the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor

Ben Grumbles, Secretary
Horacio Tablada, Deputy Secretary

JUN -6 2019

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

Dear Mr. Groth:

This letter acknowledges the Maryland Department of the Environment's (Department) receipt, on December 20, 2018, of Charles County's 2018 Financial Assurance Plan (FAP) and 2018 Watershed Protection and Restoration Program (WPRP) Annual Report as required by the Annotated Code of Maryland.

Chapter 124 of the Acts of the General Assembly of 2015 requires the Department to make a determination regarding the sufficiency of funding in each FAP filed with the Department. The first FAP, filed in 2016 by the County, was found to demonstrate sufficient funding for the 2-year period immediately following the filing date of the FAP. The second and subsequent FAP is sufficient if it demonstrates that the County has dedicated revenues, funds, or sources of funds to meet, for the 2-year period immediately following the filing date of the FAP, 100% of the projected costs of compliance with the impervious surface restoration plan (ISRP) requirements of the County's National Pollutant Discharge Elimination System (NPDES) Phase I Municipal Separate Storm Sewer System (MS4) permit.

After reviewing the County's 2018 FAP, the Department has determined that there is insufficient data to complete its review. Specifically, the County's ISRP rate of implementation does not meet its MS4 permit's 20% restoration requirement. Meeting the 20% restoration requirement in the five-year permit term is crucial in the analysis of the County's FAP. Because restoration implementation data are missing, the Department requests that the County submit an updated FAP by June 30, 2019 that demonstrates sufficient ISRP implementation and funding. More detailed comments on the County's FAP are provided in an attachment for your information and use.

The Department recognizes the substantial effort required in developing these FAPs and WPRP Annual Reports, and looks forward to working with Charles County on this very important environmental program for improving local water resources and Chesapeake Bay. If you have any questions regarding this review, please contact me at 410-537-3567 or Jennifer M. Smith at 410-537-3561, or jenniferm.smith@maryland.gov.

Sincerely,

D. Lee Currey
Director, Water and Science Administration

cc: Jennifer M. Smith, P.E., Program Manager, Sediment, Stormwater and Dam Safety Program
Charles Rice, Charles County
Karen Wiggen, Charles County

Attachment

**Maryland Department of the Environment’s (MDE) Review of
Charles County’s 2018 Financial Assurance Plan (FAP)**

Plan Condition	MDE Assessment and Recommendations
<p>Demonstration of 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) permitted jurisdictions to submit the Financial Assurance Plan (FAP) every 2 years on the anniversary of the date of issuance of its permit. Charles County submitted the FAP to the Maryland Department of the Environment (MDE) on December 20, 2018. • A public hearing was held on June 7, 2016. County Commissioners voted to approve the FAP in Resolution No. 2016-18 on June 28, 2016. A copy of the resolution was submitted with the FAP. • The “ISRP Revenue” table showed that in FY 2019 and FY 2020, annual revenue appropriated for restoration efforts would cover the annual cost for the remainder of the permit term (which ends on December 25, 2019, or halfway through FY 2020). However, the County’s impervious surface restoration plan (ISRP) rate of implementation does not meet its MS4 permit’s 20% restoration requirement. Meeting the 20% restoration requirement in the five-year permit term is crucial in the analysis of the County’s FAP. Because restoration implementation data are missing, the Department requests that the County submit an updated FAP by June 30, 2019 that demonstrates sufficient ISRP implementation and funding.
<p>Actions to Meet Permit Requirements (“All Actions” worksheet)</p>	<ul style="list-style-type: none"> • The County projected to complete a total 892 acres (12.1%) of restoration by the end of the permit term, short of the 1,577 acres required (20%). The County noted in the Executive Summary that while the first FAP proposed a temporary nutrient trade with the Mattawoman Waste Water Treatment Plant, that option is no longer being considered as part of the restoration plan because the plant is unable to generate credits, and that “other trading options may be explored”. Nutrient credit trading was not specifically included in the FY 2018 FAP tables as a planned activity to meet the restoration requirement. • In the MS4 Information table, the Baseline Treatment Requirement (Acres) was listed as 7,402 acres. It has since been updated to 7,887 acres. This slightly reduces the acres restored to date and the acres expected to be restored using the information submitted in the FAP. As noted in the “Spec Actions” table, the County has completed 9.1% of the restoration requirement (673 acres); using the updated baseline, the portion is 8.6%. The County’s expected 892 acres of restoration is listed as 12.1% of the requirement; using the updated baseline, the portion is approximately 11.3%. • All best management practices (BMPs) listed are approved in MDE’s Guidance or by the Chesapeake Bay Program (CBP) and were realistic to perform in the time allotted. • In the “All Actions” and “Spec Actions” tables, the implementation cost was indicated as \$0 for septic denitrification, septic connections, rain barrel

MDE’s Review of Charles County’s 2018 FAP

Plan Condition	MDE Assessment and Recommendations
<p>Actions to Meet Permit Requirements (Cont.)</p>	<p>installation, and private shoreline stabilization. The Watershed Protection and Restoration Program tables submitted with the County’s 2018 stormwater program annual report indicated that septic denitrification activity in FY 2018 was funded through a grant provided by the Maryland Department of Health (MDH). Future FAPs should indicate in the “All Actions” and “Fund Sources” tables if funding for this activity will come from the grant provided by MDH. Additionally, the County should indicate the source of funding for any other activity or specify that the activity has no cost, e.g., volunteer activity.</p> <ul style="list-style-type: none"> • Within the table, all formulas and subtotals were used correctly and all required fields were populated. All BMP types were correctly entered, including annual operational BMPs. • The plan included an Executive Summary and all required information in the MDE suggested table format. • The County documented both planned BMPs and BMPs under construction for the projected FYs 2021-2023, beyond the permit term.
<p>Annual and Projected Costs (“All Actions” and “ISRP Cost” worksheet)</p>	<ul style="list-style-type: none"> • The “ISRP Cost” table indicated that the budget for street sweeping is approximately \$110,000 annually, but the “All Actions” table estimated the cost at \$50,000 annually. In the next FAP, the County should correct these numbers or provide an explanation. • The average cost per acre for completed restoration efforts was approximately \$30,750. • The County planned to install a diverse mixture of BMP types through the end of the permit term. • In the “ISRP Cost” table, costs were reported for all required fiscal years and all formulas were used correctly.
<p>Annual and Projected Revenues (“ISRP Revenue” worksheet)</p>	<ul style="list-style-type: none"> • Revenues were reported for all required fiscal years and all formulas were used correctly. • For the next two fiscal years, the projected annual revenue exceeds the cost (109%) and exceeds the percent of funds directed toward annual restoration activities.
<p>Funding Sources (“Fund Sources” worksheet)</p>	<ul style="list-style-type: none"> • Funds were reported for all required fiscal years and all formulas were used correctly. • Sources of funds for the next two years include: <ul style="list-style-type: none"> ○ Bonds = \$22.96M ○ Stormwater Fees, Miscellaneous Fees, and Watershed Protection and Restoration Fund Balance = \$6.55M ○ General Fund = \$1.10M ○ Erosion and Sediment Control Fees = \$0.76M ○ Stormwater Maintenance Fees = \$0.70M

MDE’s Review of Charles County’s 2018 FAP

Plan Condition	MDE Assessment and Recommendations
<p>Funding Sources (Cont.)</p>	<ul style="list-style-type: none"> ○ Total Funding Sources = \$32.1M ● On average for the next two fiscal years, the County projected that the majority of the annual funds for meeting permit requirements would be from general obligation bonds (72%) but a significant portion would be funded by the stormwater utility fee (19%). ● No grant or loan sources were reported.
<p>Specific Actions and Expenditures from Previous Fiscal Years (“Spec Actions” worksheet)</p>	<ul style="list-style-type: none"> ● The baseline was listed in the table as 7,402 acres. As noted regarding the “MS4 Information table”, it has since been updated to 7,887 acres. Therefore, the actual completed restoration is 8.6% (listed as 9.1% in the table). ● The County reported BMPs completed since the expiration of its previous permit term. ● Actions and expenditures were reported for all required fiscal years and all formulas were used correctly.