



# Maryland

Department of  
the Environment

Larry Hogan  
Governor

Boyd Rutherford  
Lieutenant Governor

Ben Crumbles  
Secretary

OCT 17 2016

Mr. Steven Shofar, Chief  
Watershed Management Division  
Montgomery County Department of Environmental Protection  
255 Rockville Pike, Suite 120  
Rockville, MD 20850

Dear Mr. Shofar:

This letter acknowledges the Maryland Department of the Environment's (MDE) receipt of Montgomery 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 July 1, 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 Montgomery 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:

- The County's FAP included several approved restoration practices that are not being claimed for impervious area credit (i.e., street sweeping, catch basin cleaning, and RainScapes). These practices can help the County meet its restoration goals, reduce program cost, and should be proposed for credit.
- The County has proposed dry ponds for 216 impervious acres of credit, or 6% of its ISRP requirement, yet this practice is not an approved water quality best management practice (BMP) by MDE or the Bay Program. Unless additional water quality design features can be provided for these BMPs, the County should continue to explore all currently approved stormwater BMP options for meeting the ISRP requirement.
- There are a number of completed projects that the County reported as "other", which treat a total of approximately 128 impervious acres, or 3% of its ISRP requirement. The County needs to provide greater specificity regarding these completed projects so that they can be validated.



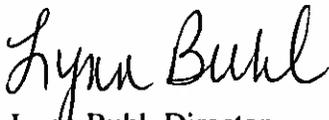
Mr. Steven Shofar, Chief

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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 February 16, 2018. The County's next FAP will be due in coordination with its February 16, 2019 Annual Report.

MDE recognizes the substantial effort required to create the FAP and WPRP Annual Report. Montgomery 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](mailto: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  
Montgomery 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"> <li>• Montgomery County held a public hearing on its Financial Assurance Plan (FAP) as required on June 14, 2016 and was approved by the County Council on June 28, 2016. A signed certification by the County Executive was provided with the FAP package.</li> <li>• The County submitted its FAP to Maryland Department of the Environment (MDE) on July 1, 2016 satisfying State reporting requirements.</li> <li>• The County's FAP demonstrates sufficient funding for 100% of the projected Impervious Surface Restoration Plan (ISRP) costs for the fiscal year (FY)2017-FY2018 period (\$116,102,260 in revenue versus \$116,102,260 in cost), meeting the requirement for funding of 75% of the ISRP. The County's next FAP submittal must show 100% funding of the ISRP.</li> </ul>
<p>ISRP Baseline</p>	<ul style="list-style-type: none"> <li>• Montgomery County's impervious area analysis indicated that there are 18,884 impervious acres in the County with little or no stormwater management. The County's current permit requires that 20% of that area, or 3,777 impervious acres, be restored during the course of its permit term (i.e., 18,885 untreated acres * 20% treatment requirement = 3,777 acres). The 3,777 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.</li> </ul>
<p>Actions to Meet Permit Requirements ("All Actions" worksheet)</p>	<ul style="list-style-type: none"> <li>• Montgomery County included with its FAP an executive summary of its FY2015 Annual Report that indicated the actions required to meet permit conditions and the ISRP.</li> <li>• The total restored impervious acres from the "Spec Actions" worksheet correspond correctly with the restored impervious acres indicated on the "All Actions" worksheet. The two-year and five-year sum totals have also been calculated correctly. The County has documented general categories of best management practices (BMPs) to meet the 20% ISRP requirement.</li> <li>• The County incorrectly added a column to the "All Actions" worksheet and entered undefined categories (e.g., miscellaneous stream valley improvement, SM Retrofit: Countywide). The County should remove this column.</li> <li>• While the County did provide information on "BMP Class" in the "All Actions" worksheet (i.e., alternative, environmental site design, and structural), more specific "BMP Type" information was missing (i.e., stream restoration, stormwater wetland, septic pumping). These additional data are necessary for MDE's review of the County's projected implementation rates.</li> <li>• In future FAP submittals, the County shall provide more specificity on particular BMPs under construction and projected for future years. Specifically, missing "BMP Type" data in the County's FAP shall be updated with the BMPs listed in MDE's Municipal Separate Storm Sewer System (MS4) geodatabase.</li> </ul>

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Montgomery County's 2016 Financial Assurance Plan  
September 2016**

FAP Condition	MDE Assessment and Recommendations
Annual and Projected Costs ("All Actions" and "ISRP Costs" worksheet)	<ul style="list-style-type: none"> <li>• Montgomery County reported capital and operating costs for the current and projected fiscal years as required.</li> <li>• Worksheet entries and formulas have been entered correctly.</li> <li>• The County's rate of BMP implementation toward the ISRP is increasing significantly. The County completed 1,780 acres of restoration between FY2010 and FY2015, an average restoration of 356 acres per year. The County is projecting that 1,571 acres will be restored from FY2017-FY2018, or 786 acres per year.</li> <li>• Under the "Spec Actions" worksheet, the County reported its total expenditures for FY2010-FY2015 to be \$75,031,122, and the total impervious acres restored to be 1,780 acres (a per-acre cost of \$42,152). This is consistent with what is reported in the "All Actions" worksheet.</li> <li>• In the "All Actions" worksheet, the County is projecting costs for FY2017-FY2018 to be \$116,102,260 and the amount of impervious acres restored to be 1,571 acres (a per-acre cost of \$73,894). This analysis shows a net increase of \$31,751 per acre of restoration.</li> <li>• The County's FAP shows a projected reduction in the amount of impervious acres claimed through partnership projects, redevelopment, Rainscapes Rewards, and other low-cost restoration alternatives.</li> <li>• The County reported costs of mechanical street sweeping (MSS) and catch basin cleaning (CBC) under "Operational Programs" for current and future fiscal years, but did not include any projected impervious acre coverage or credit.</li> <li>• Partnership projects, redevelopment, and operational programs should be expanded in future ISRP and FAP projections to help engage the County's citizens and reduce MS4 program costs.</li> </ul>
Annual and Projected Revenues ("ISRP Revenue" worksheet)	<ul style="list-style-type: none"> <li>• Revenues for the ISRP have been reported for FY2015-FY2020 as required.</li> <li>• Entries and formulas have been entered correctly.</li> <li>• Montgomery County's FAP shows revenues increasing every year from a low of \$21,355,432 in FY2015 to a high of \$75,644,955 in FY2020.</li> <li>• The County projects revenues for the next two fiscal years to be \$116,102,260 and the total for the permit term and five-year projections to be \$381,605,657.</li> <li>• The amounts in the "ISRP Revenue" worksheet correspond directly with the projected costs in the "All Actions" worksheet.</li> <li>• The reported ISRP revenue equals 100% of the funds needed toward the ISRP permit requirement.</li> </ul>
Funding Sources ("Fund Sources" worksheet)	<ul style="list-style-type: none"> <li>• Montgomery County's sources of funds for the next two years includes: <ul style="list-style-type: none"> <li>○ Bonds = \$84M</li> <li>○ Stormwater Remediation Fee = \$72M</li> <li>○ Other Paygo = \$27M</li> <li>○ Grants = \$10M</li> <li>○ Total Funding Sources = \$193</li> </ul> </li> </ul>

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FAP Condition	MDE Assessment and Recommendations
	<ul style="list-style-type: none"> <li>• The County did not indicate the percentage of funds directed toward the ISRP requirement. These data are important for assessing the County's ability to pay for its ISRP and shall be reported in the County's next FAP submittal. All other formulas in this worksheet appear to be correct.</li> </ul>
<p style="text-align: center;">Specific Actions and Expenditures from Previous Fiscal Years ("Spec Actions" worksheet)</p>	<ul style="list-style-type: none"> <li>• The reported actions and expenditures by Montgomery County correctly reflect the completed restoration activities.</li> <li>• The formulas calculating the total costs have been entered correctly.</li> <li>• The total restored impervious acres from the "Spec Actions" worksheet correspond with the total amount indicated in the "All Actions" worksheet. However, in the "All Actions" worksheet, the County's RainScapes Rewards are reported under "Operational Costs" while in the "Spec Actions" worksheet, these programs are reported under "Other" as volunteer projects. The County needs to report similar BMPs consistently in both worksheets in future FAP submittals.</li> <li>• There are a number of completed projects that the County reported as a BMP type of "OTH" (other), which treat a total of approximately 128 acres. There was also a BMP reported as "OTH" that has no impervious area information reported. The County needs to provide more specificity on these BMPs in future FAP submittals.</li> <li>• The County reported a handful of dry ponds (BMP code "XDPD") with a total of 244 impervious acres, which it counted toward its total impervious surface restoration requirement. MDE does not accept impervious acres treated by dry ponds because they provide little if any water quality treatment; these BMPs need to be removed from the County's ISRP.</li> <li>• The County identifies "Water Quality Protection Charge Credits" as a category, with identifying code "ESD" for 23 impervious acres of restoration. The County needs to provide greater specificity on this category of BMPs in its next FAP report.</li> <li>• The County needs to re-evaluate the spectrum of BMP implementation and credits in its current FAP, reconcile the amount of acres actually treated, and provide greater specificity in future FAP submittals.</li> </ul>
<p style="text-align: center;">Future WPRP and FAP Reporting</p>	<ul style="list-style-type: none"> <li>• Montgomery County's next Watershed Protection and Restoration Program (WPRP) Annual Report will be due in coordination with the County's February 16, 2018 MS4 Annual Report.</li> <li>• The County's next FAP will be due in coordination with its February 16, 2019 Annual Report.</li> </ul>

