



Maryland

Department of the Environment

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

Ben Grumbles, Secretary
Horacio Tablada, Deputy Secretary

June 14, 2021
Shannon Moore, Manager
Sustainability & Environmental Resources
Community Development Division
Frederick County
30 North Market Street
Frederick, Maryland 21701

Dear Ms. Moore:

This letter acknowledges the Maryland Department of the Environment's (Department) receipt of Frederick County's 2020 Financial Assurance Plan (FAP), and 2020 Watershed Protection and Restoration Program (WPRP) Annual Report as required by the Annotated Code of Maryland. This FAP submission includes information on the cost of compliance with the impervious surface restoration plan (ISRP) requirements outlined in the County's National Pollutant Discharge Elimination System (NPDES) Phase I Municipal Separate Storm Sewer System (MS4) permit.

The ISRP, when sufficiently funded, is essential for restoring local water quality and the Chesapeake Bay, and providing climate resiliency in the County's watersheds. The FAPs are sufficient if they demonstrate that the County has the 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 ISRP requirements of the County's MS4 permit.

After reviewing Frederick County's 2020 FAP, the Department has determined that the County has demonstrated that it has sufficient funding in its FAP. This determination is contingent upon a public hearing and official approval by the local governing body. The Department has provided more detailed comments in an attachment for the County's information and use. The County's next WPRP Annual Report will be due in coordination with its next MS4 Annual Report, and its FAP will be due in coordination with the 2022 MS4 Annual Report.

The Department recognizes the substantial effort required in developing these FAPs and WPRP Annual Reports, and looks forward to working with Frederick County on this very important environmental program for improving water quality, stormwater management, and climate resiliency. 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

Attachment

**Maryland Department of the Environment’s (MDE) Review of
Frederick County’s 2020 Financial Assurance Plan (FAP)**

FAP Condition	MDE Assessment and Recommendations
<p>Demonstration of Public Participation and Sufficient Funding</p>	<ul style="list-style-type: none"> Frederick County’s FAP was received by the MDE on December 28, 2020, prior to the December 31, 2020 due date. A public hearing has not been held, and documentation showing formal approval from the County Council was not submitted with this FAP. The FAP demonstrates that at least 100% of the projected Impervious Surface Restoration Plan (ISRP) costs will be funded for fiscal years (FY) 2021-2022. This determination is contingent upon a public hearing and official approval of the FAP by the local governing body.
<p>Actions to Meet Permit Requirements (“All Actions” worksheet)</p>	<ul style="list-style-type: none"> The FAP did not include an Executive Summary that outlined the necessary actions and costs required to meet the County’s current Municipal Separate Storm Sewer System (MS4) permit and ISRP. MDE requests that future FAP’s include an Executive Summary. In the MS4 Information table, the County reported that the “Impervious acre Baseline Treatment Requirement (Acres)” was not applicable because the current permit is administratively continued. The “All Actions” worksheet contains projects that are either in the planning stages or under construction. All formulas and best management practice (BMP) codes were used correctly. The total restored impervious acres identified in the Specific Actions worksheet were transferred to the “All Actions” worksheet. For FY2021-FY2022, the County proposes to complete 368 acres of restoration for a total cost of \$21.8 million. For FY2021-FY2025, the County proposes to complete 854 acres of restoration for a total cost of \$45.2 million
<p>Annual and Projected Costs (“All Actions” and “ISRP Costs”)</p>	<ul style="list-style-type: none"> The reported “All Actions” cost per acre for the next two fiscal years is \$59,280. The cost per acre for the next five fiscal years is \$52,907. In the ISRP Costs worksheet, annual costs have been reported for FY2020, and projected costs have been reported for FY2021 through FY2025. The total ISRP cost for the next two years is \$16.3 million, while the total cost for the next five years is \$42.6 million.
<p>Annual and Projected Revenues (“ISRP Revenue” worksheet)</p>	<ul style="list-style-type: none"> The values for revenue were obtained by using a formula that makes the reported ISRP revenue equal the reported costs. The County should re-examine how revenues were calculated and provide clarification in its next FAP submittal. The County’s reported annual sources of funds exceed the reported ISRP revenue, demonstrating that the County has sufficient funding to meet the reported cost for its ISRP requirement. For the next two fiscal years (FY2021-FY2022), the total projected fund

MDE’s Review of Frederick County’s 2020 FAP

FAP Condition	MDE Assessment and Recommendations
	<p>sources (\$18.9 million) exceeds the projected costs (\$16.3 million). This is equivalent to 116%, exceeding the 100% requirement.</p>
<p>Funding Sources (“Fund Sources” worksheet)</p>	<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 Obligation Bonds = \$11.0M ○ General Fund, Capital Improvement Project Funds, and Operating Funds = \$6.6M ○ State Grants = \$1.3M ○ Stormwater Remediation Fee = \$1,072 ○ Total Funding Sources = \$18.9M • The majority of funding sources to meet permit requirements for the next two fiscal years are general obligation bonds (58.3%). Another significant portion will come from the general fund (6.1%), capital improvement project fund (8.4%), and operating fund (20.2%).
<p>Specific Actions and Expenditures from Previous Fiscal Years (“Spec Actions” worksheet)</p>	<ul style="list-style-type: none"> • As required, completed BMPs for specific projects were included in the Specific Actions worksheet. • The formulas and BMP codes were used correctly. • The Specific Actions worksheet includes a total of 761 acres of restoration that was implemented from the expiration date of the administratively continued permit (December 31, 2019) to the to the end of FY2020. These BMPs were implemented for a total cost of \$636,350. • The only annual BMP accounted for on the Specific Actions worksheet under “Operational Programs” is street sweeping for a total of 29 acres. • The reported Specific Actions cost per acre is \$836. The cost per acre is low because it includes 596 acres of trading for a cost of \$18,000.
<p>Future WPRP and FAP Reporting</p>	<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 next MS4 Annual Report. • The County’s next FAP will be due in coordination with its 2022 Annual Report.