



DEPARTMENT OF
**ENVIRONMENTAL
PROTECTION**
MONTGOMERY COUNTY • MARYLAND

Montgomery County MS4 Permit Update

MACo Summer Conference: Surviving the Stormwater Surge

August 17, 2018

Permit Pioneer

- ▶ Montgomery County's February 2010 MS4 Permit First in Maryland to Include Ambitious 20% Impervious Surface Restoration (ISR) Requirement
 - ▶ Remaining Phase I MS4 individual permits issued December 2013 to October 2015
 - ▶ Phase II MS4 general permit re-issued April 2018
- ▶ Permit Litigated Before Being Issued, Remanded to MDE In 2013, Upheld in 2016
 - ▶ County continued to implement requirements of permit despite ongoing litigation
 - ▶ Water Quality Protection Charge (WQPC) revenue more than tripled from \$12M/Yr in FY11 to \$37M/Yr in FY17
 - ▶ Bonds totaling \$84M issued in 2012 and 2016 to fund capital projects
- ▶ MDE Guidance on Accounting for Impervious Acres Treated Issued August 2014
 - ▶ Extensive coordination with MDE was necessary to determine treated and untreated acres, practices that qualify as treatment

Permit Accomplishments as of FY17

- ▶ 2,927 Impervious Acres Restored, 851 remaining to meet 20% ISR requirement
- ▶ County-Implemented Capital Projects Include:
 - ▶ 365 Environmental Site Design/Low Impact Development BMPs
 - ▶ 26 outfall stabilization projects
 - ▶ 24 stormwater pond retrofits
 - ▶ 16 stream restoration projects (30 miles of stream restored)
- ▶ Urban BMP Inventory Includes Almost 12,000 Facilities (more than 5,000 are ESD)
- ▶ Over 8,600 Trees Planted
- ▶ 1,340 RainScapes Projects Implemented on Private Property
 - ▶ Over \$1M in Rebates issued to property owners

Consent Decree

- ▶ Signed by MDE and Montgomery County April 13, 2018
- ▶ Alleged Violations:
 - ▶ Failed to complete 20% ISR by February 15, 2015
 - ▶ Some BMPs missing data
- ▶ Judgment of \$300,000 due on December 31, 2020
 - ▶ Can be satisfied by completing MDE-approved Supplemental Environmental Projects (SEPs)
- ▶ Corrective Actions:
 - ▶ Detailed annual milestone schedule for completion of 20% ISR by December 31, 2020
 - ▶ Detailed description and annual milestone schedule for completion of SEPs by December 31, 2020
 - ▶ Proposal and schedule for submission of missing BMP inspection data

Improvements to ISR Accounting

- ▶ When permit first issued, focus was on building CIP capacity needed to achieve 20% ISR
- ▶ In December 2016, initiated comprehensive effort to evaluate urban BMP database and review impervious surface and BMP drainage area data
 - ▶ Identified significant backlog of BMPs installed through private development and missing drainage and impervious area data
 - ▶ Evaluated alternative BMP options outlined in MDE's 2014 Accounting Guidance and Chesapeake Bay Program expert panel reports
- ▶ Significant increase in impervious acres restored in FY17
 - ▶ Credit for new BMPs treating existing impervious areas (567.6 acres)
 - ▶ Impervious surface credit for connection of septic systems to WWTP (153.7 acres)
 - ▶ CIP Projects including ESD, pond retrofits and stream restoration (158.7 acres)

Moving Forward

- ▶ County Remains Committed to Completing 20% ISR Required by 2010 Permit
- ▶ Anticipate New Permit in 2019 to Include:
 - ▶ Additional ISR Requirement
 - ▶ Continued progress toward Total Maximum Daily Load (TMDL) implementation
 - ▶ Increased good housekeeping requirements for County properties
 - ▶ Includes development of a salt management plan
 - ▶ New water quality monitoring requirements
- ▶ FY19 Budget Holds WQPC Steady (no increase)
- ▶ Main financing mechanism for CIP program will be MDE Water Quality Revolving Fund loans (lower interest rate than bonds)
- ▶ Contracting strategy to move from separate design and construction contracts to a single contract for delivery of design, construction, and maintenance

Outstanding Questions

- ▶ What metrics can help determine if necessary environmental improvements are happening?
- ▶ How do local jurisdictions balance meeting the requirements of MS4 permits, which are focused on water quality, with the potential for continued increases in flooding and extreme weather events?
- ▶ Are there opportunities for partnerships to be formed between the local, state and federal governments, industry and academia to achieve improvements more efficiently?
- ▶ Are there ways to communicate the efforts of MS4 jurisdictions more effectively?