



# PFAS

**Priority Funding Area Exception  
and Extraordinary Circumstances  
Process**



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Process**

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## State of Maryland

Martin O'Malley  
Governor

Anthony G. Brown  
Lt. Governor

## Maryland Department of Planning

Richard Eberhart Hall, AICP  
Secretary

Matthew J. Power  
Deputy Secretary

Maryland Department of Planning  
301 West Preston Street, Suite 1101  
Baltimore, Maryland 21201  
Tel: 410.767.4500 Toll Free: 1.877.767.6272  
TTY users: Maryland Relay  
[Planning.Maryland.gov](http://Planning.Maryland.gov)

Priority Funding Area Exception and Extraordinary Circumstances Process  
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Outside Libertytown, Frederick County

## Priority Funding Area Exception and Extraordinary Circumstances Process

The Smart Growth and Neighborhood Conservation - Smart Growth Areas Law and the Governor's Executive Order on Smart Growth require interagency coordination to implement the Smart Growth initiative and to measure and track how it is being implemented. The Smart Growth Subcabinet (SGSC, or the Subcabinet) and the Smart Growth Coordinating Committee (SGCC, or the Coordinating Committee), established in the Governor's Executive Order, are the mechanisms for this coordination. All agencies need to establish an in-house review procedure to identify projects that are ineligible for funding under the Priority Funding Area (PFA) law, and refrain from funding such projects unless and until the Board of Public Works (BPW) determines eligibility as an Extraordinary Circumstance, or the Coordinating Committee or Subcabinet grant an Exception.

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Historic Ellicott City

## Smart Growth Subcabinet

The SGSC meets quarterly to oversee the implementation of the Smart Growth and Neighborhood Conservation Law and Policy and is chaired by the Secretary of the Department of Planning (MDP). The Subcabinet reviews projects of Extraordinary Circumstances prior to consideration by the BPW. It has the power to authorize state funding of certain projects without the approval of the BPW, and has established procedures and delegated this authority to the Coordinating Committee.

Members of the Subcabinet are:

- the Secretary of Agriculture,
- the Secretary of Budget and Management,
- the Secretary of Business and Economic Development,
- the Secretary of Environment,
- the Secretary of General Services,
- the Secretary of Health and Mental Hygiene,
- the Secretary of Higher Education,
- the Secretary of Housing and Community Development,
- the Assistant Secretary of the Office of Neighborhood Revitalization,
- the Secretary of Labor, Licensing, and Regulation,
- the Director of the Maryland Energy Administration,
- the Secretary of Natural Resources,
- the Secretary of the Maryland Department of Planning,
- the Secretary of Transportation,
- the Special Assistant to the Governor for Smart Growth, and
- a representative of the Governor's Office.

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Cambridge wastewater treatment plant.

## The Smart Growth Coordinating Committee

The SGCC is composed of one staff member designated by each Maryland State agency to be responsible for coordinating with other agencies on Smart Growth issues. In addition, the Coordinating Committee is responsible for reviewing and commenting on projects to be funded under Extraordinary Circumstances; approving funding for certain growth related projects for which BPW approval is not required; discussing interdepartmental issues relating to Smart Growth; and making recommendations to change state law to support the Smart Growth policy. The Coordinating Committee meets monthly and is required to report to the Subcabinet.



# Priority Funding Areas – Procedures for Exceptions and Extraordinary Circumstances

The Smart Growth and Neighborhood Conservation - Smart Growth Areas Law requires each State agency to develop a procedure for notification, review and comment on projects that are not within PFAs. In addition, the Governor's Executive Order on Smart Growth directs the Subcabinet to develop procedures to review projects of Extraordinary Circumstances prior to consideration by the BPW. The Subcabinet has approved the following procedures by which the Coordinating Committee reviews requests. Coordinating committee members have the responsibility for relaying all information regarding Smart Growth implementation procedures to the appropriate people in their agencies.

## Submission of Request to the Smart Growth Coordinating Committee

Agencies wishing to either fund a project as an Exception or requesting a determination of Extraordinary Circumstance from BPW must first submit the information described below to the Coordinating Committee for review. The Coordinating Committee meets regularly on the second Wednesday of each month. Submissions must be received by MDP least 30 calendar days before the next scheduled Coordinating Committee meeting. MDP shall determine if a submittal for a PFA Exception is complete and, if so, shall transmit all materials related to the request to the members of the Coordinating Committee no less than 21 days in advance of the next meeting. MDP may shorten these times for good cause on the request of the funding agency.

# Materials to be Submitted with Request

At a minimum, the funding agency requesting a PFA Exception or consideration as an Extraordinary Circumstance shall:

1. Provide a complete description of the project, including why the project requires State funding, how no feasible alternatives exist, and any additional infrastructure expected for the project in the future.
2. If an Exception is requested, demonstrate how the project is eligible for an Exception that meets at least one of the following criteria:
  - the project is necessary to protect public health or safety;
  - the project involves federal funds, to the extent that compliance with the PFA law would conflict or be inconsistent with federal law; or
  - the growth-related project is a commercial or industrial activity which, due to its operational or physical characteristics, must be located away from other development.
3. If the project is submitted for review and a recommendation concerning an Extraordinary Circumstance, (final determination of an Extraordinary Circumstance may only be granted by the BPW), demonstrate how the project is eligible for an Extraordinary Circumstance decision that meets at least one of the following criteria:

Extraordinary Circumstances exist such that

- failure to fund the project in question creates an extreme inequity, hardship or disadvantage that clearly outweigh the benefits from locating a project in a priority funding area; and
- there is no reasonable alternative for the project in a priority funding area in another location within the county or an adjacent county; or the project is a transportation project that:
  - maintains the existing system, if project does not increase capacity;
  - serves to connect two PFAs, if certain conditions are met;
  - has the sole purpose of providing control of access along an existing highway corridor; or
  - must be located away from other development due to its operational or physical characteristics.



One of the Chesapeake Bay's many tributary creeks.

4. Identify remedial actions that may be taken to mitigate potential negative impacts or any conditions that may be placed on the funding or the project.

5. Provide the following additional information:

funding source and amounts;

map(s) showing: project location, proximity to nearest PFA, surrounding land use and road network;

if applicable, areas to be served – improved/unimproved lots; and

other information that the funding agency has available that may be relevant to the proposed project, e.g. potential environmental or other impacts, consistency with local plans.

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# Action by Smart Growth Coordinating Committee

Committee members may request additional information at or in advance of the meeting. When the project is presented to the Coordinating Committee for an Exception, the SGCC may

- grant the Exception;
- grant the Exception with conditions;
- table the request pending receipt of more information; or
- deny the Exception.

MDP shall transmit in writing to the requesting agency a letter indicating the action by the Coordinating Committee and the reasons for taking such action.

If a PFA request is elevated to the Subcabinet for consideration, MDP shall present the reasons for the request and the action by the Coordinating Committee. The requesting agency shall present its position as to why the request should be accepted.

When the project is presented to the Coordinating Committee for consideration as an Extraordinary Circumstance, the Coordinating Committee shall make provide its comments and, if the Coordinating Committee is able to make one, its recommendation, to the Subcabinet.

## Smart Growth Subcabinet

The Coordinating Committee shall transmit to the Subcabinet its comments on any project being reviewed before submittal to the BPW for a determination as an Extraordinary Circumstance. The Subcabinet shall consider the comments and submit the project to the BPW with a recommendation. The Coordinating Committee shall refer to the Subcabinet for final decision any project being reviewed for an Exception on which the Coordinating Committee cannot reach a consensus.



Maryland's scenic rural roads connect communities.

## Maryland Department of Transportation

To the extent possible, the Maryland Department of Transportation (MDOT) will consolidate, into a single annual request to the BPW, Exceptions for (1) maintenance projects; (2) access control projects; and (3) projects which must be located in accordance with their operational characteristics.

## Special Procedures for Categorical Exceptions

The Coordinating Committee may establish, in writing, an agency-specific procedure by which certain routine projects may be handled in an expedited way without individual approval of the Exception by the Coordinating Committee. The agency funding these projects shall supply information concerning them to MDP for inclusion in MDP's annual report.

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[Green.Maryland.gov](http://Green.Maryland.gov)

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Assist the State Growth Plan  
process at:

[Plan.Maryland.gov](http://Plan.Maryland.gov)



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