



Maryland Register

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Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before August 23, 2010, 5 p.m.

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, I hereby certify that this issue contains all documents required to be codified as of August 23, 2010.

Gail S. Klakring
Acting Administrator, Division of State Documents
Office of the Secretary of State



Information About the Maryland Register and COMAR

MARYLAND REGISTER

The Maryland Register is an official State publication published every other week throughout the year. A cumulative index is published quarterly.

The Maryland Register is the temporary supplement to the Code of Maryland Regulations. Any change to the text of regulations published in COMAR, whether by adoption, amendment, repeal, or emergency action, must first be published in the Register.

The following information is also published regularly in the Register:

- Governor's Executive Orders
- Governor's Appointments to State Offices
- Attorney General's Opinions in full text
- Open Meetings Compliance Board Opinions in full text
- State Ethics Commission Opinions in full text
- Court Rules
- District Court Administrative Memoranda
- Courts of Appeal Hearing Calendars
- Agency Hearing and Meeting Notices
- Synopses of Bills Introduced and Enacted by the General Assembly
- Other documents considered to be in the public interest

CITATION TO THE MARYLAND REGISTER

The Maryland Register is cited by volume, issue, page number, and date. Example:

- 19:8 Md. R. 815—817 (April 17, 1992) refers to Volume 19, Issue 8, pages 815—817 of the Maryland Register issued on April 17, 1992.

CODE OF MARYLAND REGULATIONS (COMAR)

COMAR is the official compilation of all regulations issued by agencies of the State of Maryland. The Maryland Register is COMAR's temporary supplement, printing all changes to regulations as soon as they occur. At least once annually, the changes to regulations printed in the Maryland Register are incorporated into COMAR by means of permanent supplements.

CITATION TO COMAR REGULATIONS

COMAR regulations are cited by title number, subtitle number, chapter number, and regulation number. Example: COMAR 10.08.01.03 refers to Title 10, Subtitle 08, Chapter 01, Regulation 03.

DOCUMENTS INCORPORATED BY REFERENCE

Incorporation by reference is a legal device by which a document is made part of COMAR simply by referring to it. While the text of an incorporated document does not appear in COMAR, the provisions of the incorporated document are as fully enforceable as any other COMAR regulation. Each regulation that proposes to incorporate a document is identified in the Maryland Register by an Editor's Note. The Cumulative Table of COMAR Regulations Adopted, Amended or Repealed, found online, also identifies each regulation incorporating a document. Documents incorporated by reference are available for inspection in various depository libraries located throughout the State and at the Division of State Documents. These depositories are listed in the first issue of the Maryland Register published each year. For further information, call 410-974-2486.

HOW TO RESEARCH REGULATIONS

Each COMAR title has a Table of Contents and Index. An Administrative History at the end of every COMAR chapter gives information about past changes to regulations. To determine if there have been any subsequent changes, check the "Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed" which is found online at www.dsd.state.md.us/CumulativeIndex.pdf. This table lists the regulations in numerical order, by their COMAR number, followed by the citation to the Maryland Register in which the change occurred. The Maryland Register serves as a temporary supplement to COMAR, and the two publications must always be used together. A Research Guide for Maryland Regulations is available. For further information, call 410-974-2486.

SUBSCRIPTION INFORMATION

For subscription forms for the Maryland Register and COMAR, see the back pages of the Maryland Register. Single issues of the Maryland Register are \$5.00 per issue, plus \$2.00 for postage and handling.

CITIZEN PARTICIPATION IN THE REGULATION-MAKING PROCESS

Maryland citizens and other interested persons may participate in the process by which administrative regulations are adopted, amended, or repealed, and may also initiate the process by which the validity and applicability of regulations is determined. Listed below are some of the ways in which citizens may participate (references are to State Government Article (SG), Annotated Code of Maryland):

- By submitting data or views on proposed regulations either orally or in writing, to the proposing agency (see "Opportunity for Public Comment" at the beginning of all regulations appearing in the Proposed Action on Regulations section of the Maryland Register). (See SG, §10-112)
- By petitioning an agency to adopt, amend, or repeal regulations. The agency must respond to the petition. (See SG §10-123)
- By petitioning an agency to issue a declaratory ruling with respect to how any regulation, order, or statute enforced by the agency applies. (SG, Title 10, Subtitle 3)
- By petitioning the circuit court for a declaratory judgment on the validity of a regulation when it appears that the regulation interferes with or impairs the legal rights or privileges of the petitioner. (SG, §10-125)
- By inspecting a certified copy of any document filed with the Division of State Documents for publication in the Maryland Register. (See SG, §7-213)

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Martin O'Malley, Governor; **John P. McDonough**, Secretary of State; **Gail S. Klakring**, Acting Administrator; **Mary D. MacDonald**, Editor, Maryland Register and COMAR; **Elizabeth Ramsey**, Editor, COMAR Online; **Marcia M. Diamond**, Subscription Manager, COMAR; **Tami Cathell**, Help Desk, COMAR and Maryland Register Online.

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Illustrations by Carolyn Anderson, Dept. of General Services

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COMAR Online

The Code of Maryland Regulations is available at www.dsd.state.md.us as a free service of the Office of the Secretary of State, Division of State Documents. The full text of regulations is available and searchable. Note, however, that the printed COMAR continues to be the only official and enforceable version of COMAR.

The Maryland Register is also available at www.dsd.state.md.us.

For additional information, visit www.sos.state.md.us, Division of State Documents, or call us at (410) 974-2486 or 1 (800) 633-9657.

Availability of Monthly List of Maryland Documents

The Maryland Department of Legislative Services receives copies of all publications issued by State officers and agencies. The Department prepares and distributes, for a fee, a list of these publications under the title “Maryland Documents”. This list is published monthly, and contains bibliographic information concerning regular and special reports, bulletins, serials, periodicals, catalogues, and a variety of other State publications. “Maryland Documents” also includes local publications.

Anyone wishing to receive “Maryland Documents” should write to: Legislative Sales, Maryland Department of Legislative Services, 90 State Circle, Annapolis, MD 21401.

CLOSING DATES and ISSUE DATES through January 28, 2011

ISSUE DATE	Emergency and Proposed Regulations* 5 p.m.	Final Regulations 10:30 a.m.	Notices, etc. 10:30 a.m.
September 24**	September 3	September 15	September 13
October 8	September 20	September 29	September 27
October 22**	October 4	October 13	October 8
November 5**	October 18	October 26	October 25
November 19**	November 1	November 9	November 8
December 3**	November 15	November 19	November 18
December 17	November 29	December 8	December 6
January 3***	December 13	December 20	December 17
January 14	December 27	January 5	January 3
January 28**	January 10	January 19	January 14

* Due date for documents containing 25 to 60 pages—48 hours before date shown

Due date for documents exceeding 60 pages—1 week before date shown

** Note closing date changes

*** Note issue date change

The regular closing date for Proposals and Emergencies is Monday.

REGULATIONS CODIFICATION SYSTEM

Under the COMAR codification system, every regulation is assigned a unique four-part codification number by which it may be identified. All regulations found in COMAR are arranged by title. Each title is divided into numbered subtitles, each subtitle is divided into numbered chapters, and each chapter into numbered regulations.

09.12.01.01D(2)(c)(iii)
 Title Subtitle Chapter Regulation Subsection Paragraph Subparagraph

A regulation may be divided into lettered sections, a section divided into numbered subsections, a subsection divided into lettered paragraphs, and a paragraph divided into numbered subparagraphs.

Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed

This table, previously printed in the Maryland Register lists the regulations, by COMAR title, that have been adopted, amended, or repealed in the Maryland Register since the regulations were originally published or last supplemented in the Code of Maryland Regulations (COMAR). The table is no longer printed here but may be found on the Division of State Documents website at www.dsd.state.md.us.

Table of Pending Proposals

The table below lists proposed changes to COMAR regulations. The proposed changes are listed by their COMAR number, followed by a citation to that issue of the Maryland Register in which the proposal appeared. Errata pertaining to proposed regulations are listed, followed by “(err)”. Regulations referencing a document incorporated by reference are followed by “(ibr)”. None of the proposals listed in this table have been adopted. A list of adopted proposals appears in the Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed.

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30.08.12.01—.15 • 37:18 Md. R. 1251 (8-27-10)
30.09.01.02 • 37:8 Md. R. 650 (4-9-10)
30.09.08.06 • 37:8 Md. R. 650 (4-9-10)
30.09.11.02,.04 • 37:8 Md. R. 650 (4-9-10)

31 MARYLAND INSURANCE ADMINISTRATION

31.04.14.03 •37:16 Md. R.1089 (7-30-10)
31.10.06.13,,28,,30 • 37:19 Md. R. 1324 (9-10-10)
31.10.25.02,,04 • 37:4 Md. R. 376 (2-12-10)
37:16 Md. R. 1090 (7-30-10)
31.10.28.02,,05 • 37:4 Md. R. 377 (2-12-10)
37:16 Md. R. 1091 (7-30-10)
31.11.10.02,,04 • 37:4 Md. R. 377 (2-12-10)
37:16 Md. R. 1091 (7-30-10)
31.12.07.02,,04,,05 • 37:4 Md. R. 379 (2-12-10)
37:16 Md. R. 1092 (7-30-10)

33 STATE BOARD OF ELECTIONS

33.01.06.01—.05 •37:15 Md. R.1023 (7-16-10)
33.13.06.01—.05 •37:15 Md. R.1024 (7-16-10)
33.13.07.01—.05 •37:15 Md. R.1025 (7-16-10)
33.17.04.01,,03 • 37:14 Md. R. 968 (7-2-10)
33.17.05.02 • 37:14 Md. R. 968 (7-2-10)

34 DEPARTMENT OF PLANNING

34.04.01.08 •37:16 Md. R.1093 (7-30-10)
34.04.02.05,,07 •37:17 Md. R. 1196 (8-13-10)
34.04.09.01—.11 •37:16 Md. R. 1093 (7-30-10)
34.04.07.01—.07 •37:15 Md. R.1026 (7-16-10)

The Judiciary

COURT OF APPEALS OF MARYLAND

SCHEDULE

Thursday, October 7, 2010
Bar Admissions

- AG 33 Attorney Grievance Commission of Maryland v.
(2009 T.) Julia Colton-Bell
No. 14 Juanita Robinson v. State of Maryland
No. 36 In Re: Adoption/Guardianship of Tatianna B.
No. 16 Charles Francis Williams, Jr. v. State of Maryland
No. 19 In Re: Layla A. Mohammad A.

Friday, October 8, 2010

- No. 24 Winston Elliott v. State of Maryland
No. 23 Wilkens Square, LLLP and Stone and Associates, Inc. v.
W.C. Pinkard & Co., Inc. t/a Colliers Pinkard
No. 17 Elliott McClain v. State of Maryland
No. 25 J. Michael Stouffer, Commissioner of Correction, et al. v.
Eric Holbrook

Tuesday, October 12, 2010

- No. 13 Johns Hopkins Bayview Medical Center v. Thomas Carr
AG 49 Attorney Grievance Commission of Maryland v.
(2009 T.) Christopher Allen Palmer
No. 18 State of Maryland v. Fabian Andre Shim
No. 26 Robert Lamont Ireland v. Bobby Shearin

Wednesday, October 13, 2010

- No. 22 State of Maryland v. Thomas B. Harris
Misc. 2 AGV Sports Group, Inc., et al. v. Protus IP
Solutions, Inc., et al.
No. 20 Rodney Taureen Moore v. State of Maryland
No. 27 Montgomery County, Maryland, et al. v. Melody Butler
d/b/a Butler Landscape Design

On the day of argument, counsel are instructed to register in the Clerk's Office no later than 9:30 a.m. unless otherwise notified. After October 13, 2010, the Court will recess until November 4, 2010.

BESSIE M. DECKER
Clerk

[10-19-28]

STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

NOTICE OF PROPOSED RULES CHANGES

The Rules Committee has submitted its One Hundred Sixty-Fifth Report to the Court of Appeals, transmitting thereby proposed new Rule 16-110 and proposed amendments to Rules 1-322, 4-216, 4-242, 5-404, 5-804, 16-109, and 16-901 and Rule 13 of the Rules Governing Admission to the Bar of Maryland.

The Committee's One Hundred Sixty-Fifth Report and the proposed new rules and amendments are set forth below.

Interested persons are asked to consider the Committee's Report and proposed rules changes and forward on or before October 12, 2010 any written comments they may wish to make to:

Sandra F. Haines, Esq.
Reporter, Rules Committee
2011-D Commerce Park Drive
Annapolis, Maryland 21401

BESSIE M. DECKER
Clerk
Court of Appeals of Maryland

August 24, 2010

The Honorable Robert M. Bell,
Chief Judge
The Honorable Glenn T. Harrell, Jr.
The Honorable Lynne A. Battaglia
The Honorable Clayton Greene, Jr.
The Honorable Joseph F. Murphy, Jr.
The Honorable Sally D. Adkins
The Honorable Mary Ellen Barbera,
Judges
The Court of Appeals of Maryland
Robert C. Murphy Courts of Appeal Building
Annapolis, Maryland 21401

Your Honors:

The Rules Committee submits this, its One Hundred Sixty-Fifth Report and recommends that the Court adopt the new Rule and amendments to existing Rules transmitted with this Report. The Report consists of five categories.

Category One contains a proposed new Rule 16-110 dealing with the bringing of cell phones, other electronic devices, and cameras into Circuit Court and District Court facilities. Also in this category is a related amendment to Rule 16-109.

Presently, there is no uniform policy among those courts regarding the matter. The determination of who can bring such devices into the courthouses is left to the discretion of the various Circuit Court and District Court administrative judges. The Circuit Courts in Baltimore City and in Anne Arundel, Baltimore, Howard, Montgomery, and Prince George's Counties generally allow the public to bring such devices into the court facility but control the use of them, particularly in courtrooms. Except in Baltimore County, the District Court in those jurisdictions follows the same practice. The United States District Court for the District of Maryland has a similar policy.

Throughout the rest of the State, the policies in both the Circuit and District Courts vary in their details but generally preclude members of the public from possessing those devices in court facilities. Most seem to allow employees to have the devices. Some permit lawyers and uniformed law enforcement personnel to have them. Some draw distinctions between cell phones and lap top computers or between cell phones with cameras and those without cameras. Some allow anyone not required to pass through the metal detector to have the devices but not anyone who must go through such a detector. In some courts that do not permit electronic devices, the security personnel will take and hold the device until the person leaves. In others, that service is not available, and the person must find some place outside the court facility for the device.

Initially, after several hearings at both the subcommittee and full Committee level, the Committee voted to leave the matter in the hands of the various Circuit and District administrative judges. Shortly thereafter, however, the Maryland State Bar Association formally recommended a uniform policy permitting members of the Association to bring such devices into the courthouses, which was followed by similar recommendations by the Maryland-Delaware-

D.C. Press Association, the Washington Post, the Baltimore Sun, and the Maryland-D.C.-Delaware Broadcasters Association. In light of those recommendations, the Chair of the Committee inquired whether the Court desired the Committee to attempt to develop a proposal for a uniform policy and was advised that the Court did desire such a policy, the substance of which, of course, was for the Court to determine.

Proposed Rule 16-110 was then developed. It follows the basic practice in Baltimore City and Anne Arundel, Baltimore, Howard, Montgomery, and Prince George's Counties (except for the District Court in Baltimore County) and in the U.S. District Court, of generally allowing such devices to be brought into the courthouses but controlling their use in courtrooms and other designated areas. A majority of the Committee was persuaded that:

(1) these devices, particularly cell phones and their progeny, have become so commonplace and are so routinely carried and relied upon that it would be a huge inconvenience to prohibit the public from bringing them into court facilities;

(2) drawing distinctions between those who may bring such devices into the courthouse – court officials and employees, officials and employees of other agencies occupying the courthouse, attorneys, jurors, law enforcement personnel – and everyone else is not advisable;

(3) to the extent these devices present a security issue, which they may, the courts in which that issue is likely the most serious have concluded that it may be dealt with by regulating the use of the devices rather than prohibiting them altogether; and

(4) there is no substantial justification for having different policies from county to county or between the Circuit Court and the District Court in the same county.

The proposed Rule recognizes the legitimate security concerns and attempts to strike a balance by (i) carefully regulating the use of these devices in courtrooms, (ii) allowing the local administrative judge to prohibit their possession in jury deliberation rooms and in certain other designated areas when special circumstances justify such a prohibition, and (iii) providing sanctions for the violation of restrictions.

Category Two consists of amendments to Rule 1-322 that would require a Maryland court to accept a mandate from the United States Supreme Court transmitted by electronic means. The Committee was asked by the Court, through its Clerk, to develop such a Rule.

Category Three consists of amendments to two rules of evidence, Rules 5-404 and 5-804. The proposed amendment to Rule 5-404 would conform to a change in the comparable Federal Rule 404 (a)(1), to provide that if a defendant in a criminal case or a respondent in a juvenile delinquency case offers evidence attacking a victim's character trait, the prosecutor may offer evidence of the same trait in the defendant. The change arose from the practice in certain gang-related cases of a defendant gang member accusing the victim of being a violent person and the prosecutor being unable to bring out a similar trait in the accused. Some style changes are also recommended.

The proposed amendment to Rule 5-804 was recommended by the Office of the Public Defender and would conform to a change in the comparable Federal Rule 804 (b)(3) that will take effect in December 2010. The present Rule provides that a hearsay statement tending to expose the declarant to criminal liability, when offered for the purpose of exculpating the accused, is inadmissible unless corroborating circumstances clearly indicate the trustworthiness of the statement. The proposed amendment would provide the same condition on the admissibility of such a statement when offered by the prosecution in a criminal case.

Category Four consists of proposed amendments to Rule 16-901 that were recommended by the Standing Committee on Pro Bono Legal Services. They would (i) permit the addition to the Standing

Committee of two Circuit Court judges, two District Court judges, and a representative from the Legal Aid Bureau, the Maryland Volunteer Lawyers Service, the Pro Bono Resources Center, and one other pro bono referral organization, (ii) provide a three-year term for the members, subject to reappointment for additional terms, and (iii) permit the Standing Committee to make recommendations to the Court concerning the appointment and reappointment of members.

Category Five consists of "housekeeping" amendments to Rules 4-216 and 4-242 and Bar Admission Rule 13.

For the further guidance of the Court and the public, following each proposed rules change is a Reporter's Note describing in some further detail the reasons for the proposal and any changes that would be effected in current law or practice. *We caution that the Reporter's Notes are not part of the Rules, have not been debated or approved by the Committee, and are not to be regarded as any kind of official comment or interpretation.* They are included solely to assist the Court in understanding some of the reasons for the proposed changes.

Respectfully submitted,
Alan M. Wilner
Chair

Linda M. Schuett
Vice Chair

AMW/LMS:cdc

MARYLAND RULES OF PROCEDURE
TITLE 16 — COURTS, JUDGES, AND ATTORNEYS
CHAPTER 100 — COURT ADMINISTRATIVE STRUCTURE,
JUDICIAL
DUTIES, ETC.

ADD new Rule 16-110, as follows:

Rule 16-110. CELL PHONES; OTHER ELECTRONIC DEVICES; CAMERAS

(a) Definitions

In this Rule the following definitions apply:

(1) Court Facility

"Court facility" means the building in which a circuit court or the District Court is located, but if the court is in a building that is also occupied by county or State executive agencies having no substantial connection with the court, then only that part of the building occupied by the court.

(2) Electronic Device

"Electronic device" means (A) a cell phone, a computer, and any other device that is capable of transmitting, receiving, or recording messages, images, sounds, data, or other information by electronic means or that, in appearance, purports to be a cell phone, computer, or such other device; and (B) a camera, regardless of whether it operates electronically, mechanically, or otherwise and regardless of whether images are recorded by using digital technology, film, light-sensitive plates, or other means.

(3) Local Administrative Judge

"Local administrative judge" means the county administrative judge in a circuit court and the district administrative judge in the District Court.

(b) Possession and Use of Electronic Devices

(1) Generally

Subject to inspection by court security personnel and the restrictions and prohibitions set forth in this section, a person may (A) bring an electronic device into a court facility and (B) use the electronic device for the purpose of sending and receiving phone calls

and electronic messages and for any other lawful purpose not otherwise prohibited.

(2) Restrictions and Prohibitions

(A) Rule 5-615 Order

An electronic device may not be used to facilitate or achieve a violation of an order entered pursuant to Rule 5-615 (d).

(B) Photographs and Video

Except as permitted in accordance with this Rule, Rule 16-109, Rule 16-405, or Rule 16-504 or as expressly permitted by the local administrative judge, a person may not (i) take or record a photograph, video, or other visual image in a court facility, or (ii) transmit a photograph, video, or other visual image from or within a court facility.

Committee note: The prohibition set forth in subsection (b)(2)(B) of this Rule includes still photography and moving visual images. It is anticipated that permission will be granted for the taking of photographs at ceremonial functions.

(C) Interference with Court Proceedings or Work

An electronic device shall not be used in a manner that interferes with court proceedings or the work of court personnel.

Committee note: An example of a use prohibited by subsection (b)(2)(C) is a loud conversation on a cell phone near a court employee's work station or in a hallway near the door to a courtroom.

(D) Jury Deliberation Room

Except with permission from a judge of the court, an electronic device may not be brought into a jury deliberation room while the jury is deliberating.

(E) Courtroom

(i) Except with the express permission of the presiding judge or as otherwise permitted by this Rule, Rule 16-109, Rule 16-405, or Rule 16-504, all electronic devices inside a courtroom shall remain off and no electronic device may be used to receive, transmit, or record sound, visual images, data, or other information.

(ii) Subject to subsection (b)(2)(F), the court shall liberally allow the attorneys in a proceeding currently being heard and persons associated with the attorney to make reasonable and lawful use of an electronic device in connection with the proceeding.

(F) Security or Privacy Issues in a Particular Case

Upon a finding that the circumstances of a particular case raise special security or privacy issues that justify a restriction on the possession of electronic devices, the local administrative judge or the presiding judge may enter an order limiting or prohibiting the possession of electronic devices in a courtroom or other designated areas of the court facility. The order shall provide for notice of the designated areas and for the collection of the devices and their return when the individual who possessed the device leaves the courtroom or other area. No liability shall accrue to the security personnel or any other court official or employee for any loss or misplacement of or damage to the device.

(c) Violation of Rule

(1) Security personnel or other court personnel may confiscate and retain an electronic device that is used in violation of this Rule, subject to further order of the court or until the owner leaves the building. No liability shall accrue to the security personnel or any other court official or employee for any loss or misplacement of or damage to the device.

(2) An individual who willfully violates this Rule or any reasonable limitation imposed by the local administrative judge or the presiding judge may be found in contempt of court and sanctioned in accordance with the Rules in Title 15, Chapter 200.

(d) Notice

(1) Notice of the provisions of sections (b) and (c) of this Rule shall be:

(A) posted prominently at the court facility;

(B) included on the main judiciary website and the website of each court; and

(C) disseminated to the public by any other means approved in an administrative order of the Chief Judge of the Court of Appeals.

(2) Notice that the possession and use of cell phones and other electronic devices may be limited or prohibited in designated areas of the court facility shall be included prominently on all summonses and notices of court proceedings.

Source: This Rule is new.

REPORTER'S NOTE

The Chief Judge of the Court of Appeals has requested that the Rules Committee transmit to the Court for its consideration a State-wide Rule on cell phones. The Committee considered draft proposals at its March 2010 and April 2010 meetings. Those proposals generally prohibited cell phones and other electronic devices from being brought into a court facility, with certain exceptions.

At the April meeting, the Committee voted to recommend a proposal that generally allows cell phones and other electronic devices to be brought into a court facility, with certain restrictions on the use of the devices once they are inside the facility. Proposed new Rule 16-110, drafted in accordance with the directive, was approved by the Committee at its June 2010 meeting.

Because (1) cell phones, computers, and other similar electronic devices usually are capable of taking photographs, and (2) digital cameras and mechanical (film) cameras have the same primary purpose (taking photographs) and have similar external appearances, provisions concerning the possession of *all* cameras and the general prohibition against photography in a court facility are contained in Rule 16-110. The exceptions to that prohibition are contained in Rule 16-109, Rule 16-405, and Rule 16-504.

MARYLAND RULES OF PROCEDURE TITLE 16 — COURTS, JUDGES, AND ATTORNEYS CHAPTER 100 — COURT ADMINISTRATIVE STRUCTURE, JUDICIAL DUTIES, ETC.

AMEND Rule 16-109 to provide that possession of an electronic device in a court facility is governed by Rule 16-110, as follows:

Rule 16-109. PHOTOGRAPHING, RECORDING, BROADCASTING OR TELEVISIONING IN COURTHOUSES

...

b. General Provisions.

1. Unless prohibited by law or this Rule, extended coverage of proceedings in the trial and appellate courts of this State is permitted in accordance with this Rule.

Committee note: Code, Criminal Procedure Article, §1-201 prohibits extended coverage of criminal proceedings in a trial court or before a grand jury.

2. Outside a courtroom but within a courthouse or other facility extended coverage is prohibited of persons present for a judicial or grand jury proceeding, or where extended coverage is so close to a judicial or grand jury proceeding that it is likely to interfere with the proceeding or its dignity and decorum.

3. Possession of [cameras and recording[s] or transmitting equipment, including camera-equipped cellular phones or similar handheld devices capable of capturing images, is prohibited in all courtrooms, jury rooms, and adjacent hallways except when required for extended coverage permitted by this rule or for media coverage not prohibited by this rule] *an "electronic device" in a "court facility" as those terms are defined in Rule 16-110 is governed by that Rule.*

4. Nothing in this Rule is intended to restrict in any way the present rights of the media to report proceedings.

5. Extended coverage shall be conducted so as not to interfere with the right of any person to a fair and impartial trial, and so as not to interfere with the dignity and decorum which must attend the proceedings.

6. No proceeding shall be delayed or continued to allow for extended coverage, nor shall the requirements of extended coverage in any way affect legitimate motions for continuance or challenges to the judge.

7. This Rule does not apply to:

(i) The use of electronic or photographic equipment approved by the court for the perpetuation of a court record;

(ii) Investiture or ceremonial proceedings, provided, however, that the local administrative judge of a trial court and the Chief Judge of an appellate court shall have complete discretion to regulate the presence and use of cameras, recorders, and broadcasting equipment at the proceedings.

(iii) The use of electronic or photographic equipment approved by the court to take the testimony of a child victim under Code, Criminal Procedure Article, §11-303.

...

REPORTER'S NOTE

The proposed amendment to Rule 16-109 coordinates the Rule with proposed new Rule 16-110, so that Rule 16-109 does not appear to prohibit a possession that Rule 16-110 otherwise permits.

MARYLAND RULES OF PROCEDURE

TITLE 1 — GENERAL PROVISIONS

CHAPTER 300 — GENERAL PROVISIONS

AMEND Rule 1-322 to change the title of the Rule, to clarify section (a), to add a reference to Rule 14-209.1, to add a new section (b) addressing electronic transmission of U.S. Supreme Court mandates, and to make stylistic changes, as follows:

Rule 1-322. FILING OF PLEADINGS AND OTHER [PAPERS] ITEMS

(a) Generally

The filing of pleadings and other [papers] *items* with the court [as required by these rules] shall be made by filing them with the clerk of the court, except that a judge of that court may accept the filing, in which event the judge shall note on the [papers] *item* the filing date and *then* forthwith transmit [them] *the item* to the office of the clerk. No [filing of a pleading or paper] *item* may be [made by transmitting it] *filed* directly [to the court] by electronic transmission, except (1) pursuant to an electronic filing system approved under Rule 16-307 or 16-506, (2) *as permitted by Rule 14-209.1*, or (3) *as provided in section (b) of this Rule*.

(b) *Electronic Transmission of Mandates of the U.S. Supreme Court*

A Maryland court shall accept a mandate of the Supreme Court of the United States transmitted by electronic means unless the court does not have the technology to receive it in the form transmitted, in which event the clerk shall promptly so inform the Clerk of the Supreme Court and request an alternative method of transmission. The clerk of the Maryland court may request reasonable verification of the authenticity of a mandate transmitted by electronic means.

[(b)] (c) Photocopies; Facsimile Copies

A photocopy or facsimile copy of a pleading or paper, once filed with the court, shall be treated as an original for all court purposes. The attorney or party filing the copy shall retain the original from which the filed copy was made for production to the court upon the request of the court or any party.

Cross reference: See Rule 1-301 (d), requiring that court papers be legible and of permanent quality.

Source: This Rule is derived in part from the 1980 version of Fed. R. Civ. P. 5 (e) and Rule 102 1 d of the Rules of the United States District Court for the District of Maryland and is in part new.

REPORTER'S NOTE

The Chief Deputy Clerk of the Supreme Court of the United States asked the Clerk of the Court of Appeals whether the Court of Appeals of Maryland will accept electronically transmitted mandates of the U.S. Supreme Court. The Executive Director of Legal Affairs of the Administrative Office of the Courts and his assistant researched this issue and concluded that the Court of Appeals may accept the U.S. Supreme Court mandates transmitted electronically by construing Rule 1-322 as not applying to those mandates. To clarify that Maryland courts can accept the mandates transmitted electronically and to address the issues of verification of the authenticity of the e-mail as well as the technological ability of a court to receive it, changes to section (a) and the addition of a new section (b) are proposed for Rule 1-322.

The amendments to section (a) make clear that the Rule applies to all items filed with the court, regardless of whether the item is a "pleading," a "paper," or something else. The Rule also applies regardless of whether the filing of the item is "required by these rules." The title of the Rule is changed to conform to this change in terminology.

Additionally, because new Rule 14-209.1 permits certain information concerning foreclosure mediations to be transmitted by electronic means between the Office of Administrative Hearings and the Judiciary, a reference to Rule 14-209.1 is added to section (a).

MARYLAND RULES OF PROCEDURE

TITLE 5 — EVIDENCE

CHAPTER 400 — RELEVANCY AND ITS LIMITS

AMEND Rule 5-404 to reorganize the format of section (a), to add language to new subsection (a)(2)(B) allowing the prosecution to offer certain evidence under certain circumstances, and to make stylistic changes, as follows:

Rule 5-404. CHARACTER EVIDENCE NOT ADMISSIBLE TO PROVE CONDUCT; EXCEPTIONS; OTHER CRIMES

(a) Character Evidence [Generally]

(1) [In General] *Prohibited Uses*

Subject to subsections (a)(2) and (3) of this Rule, [Evidence] evidence of a person's character or [a] character trait [of character] is not admissible [for the purpose of proving action in conformity therewith] to prove that the person acted in accordance with the character or trait on a particular occasion[, except:].

[(A) Character of Accused

Evidence of a pertinent trait of character of an accused offered by the accused, or by the prosecution to rebut the same;

(B) Character of Victim

Evidence of a pertinent trait of character of the victim of the crime offered by an accused or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the first aggressor;]

(2) *Criminal and Delinquency Cases*

Subsection (a)(2) of this Rule applies in a criminal case and in a delinquency case. For purposes of subsection (a)(2), "accused" means a defendant in a criminal case and an individual alleged to be delinquent in an action in juvenile court, and "crime" includes a delinquent act as defined by Code, Courts Article, §3-8A-01.

(A) *Character of Accused*

An accused may offer evidence of the accused's pertinent trait of character. If the evidence is admitted, the prosecution may offer evidence to rebut it.

(B) *Character of Victim*

Subject to the limitations in Rule 5-412, an accused may offer evidence of an alleged crime victim's pertinent trait of character. If the evidence is admitted, the prosecutor may:

- (i) offer evidence to rebut it; and*
- (ii) offer evidence of the accused's same trait.*

(C) Homicide Case

In a homicide case, the prosecutor may offer evidence of the alleged victim's trait of peacefulness to rebut evidence that the victim was the first aggressor.

[(C)] (3) Character of Witness

Evidence of the character of a witness with regard to credibility[, as provided in] *may be admitted under Rules 5-607, 5-608, and 5-609.*

[(2)] Definitions

For purposes of subsections (a)(1)(A) and (B) of this Rule, "accused" means a defendant in a criminal case and a child alleged to be delinquent in an action in juvenile court, and for purposes of subsection (a)(1)(B), "crime" includes a delinquent act as defined by Code, Courts Article, §3-801.]

(b) Other Crimes, Wrongs, or Acts

Evidence of other crimes, wrongs, or acts *including delinquent acts as defined by Code, Courts Article, §3-801* is not admissible to prove the character of a person in order to show action in conformity therewith. [It may] *Such evidence*, however, *may be* admissible for other purposes, such as proof of motive, opportunity, intent, preparation, common scheme or plan, knowledge, identity, or absence of mistake or accident.

Source: This Rule is derived from F.R.Ev. 404.

REPORTER'S NOTE

Rule 5-404 (a) is proposed to be amended to conform to Fed.R.Ev. 404 (a)(1) which was amended in 2000 so that if a defendant offers evidence attacking a victim's character trait, the prosecutor may offer evidence of the defendant's same trait. The reason for the change was due to the abundance of gang cases in which a defendant gang member could accuse the victim of being violent, but the prosecution could not bring out similar evidence about the accused. The Rules Committee recommends a corresponding change to the Maryland Rule for similar reasons. Some stylistic changes are derived from pending amendments to Fed.R.Ev. 404 (a). Unlike the pending federal rule, the Maryland proposal retains the subheadings "Character of Accused" and "Character of Victim." The forms of admissible character evidence remain governed by Rule 5-405.

MARYLAND RULES OF PROCEDURE

TITLE 5 — EVIDENCE

CHAPTER 800 — HEARSAY

AMEND Rule 5-804 (b)(3) by deleting the language "to exculpate the accused" and adding the language "in a criminal case," as follows:

Rule 5-804. HEARSAY EXCEPTIONS; DECLARANT UNAVAILABLE

(a) Definition of Unavailability

"Unavailability as a witness" includes situations in which the declarant:

- (1) is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of the declarant's statement;
- (2) refuses to testify concerning the subject matter of the declarant's statement despite an order of the court to do so;
- (3) testifies to a lack of memory of the subject matter of the declarant's statement;
- (4) is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or

(5) is absent from the hearing and the proponent of the statement has been unable to procure the declarant's attendance (or in the case of a hearsay exception under subsection (b)(2), (3), or (4) of this Rule, the declarant's attendance or testimony) by process or other reasonable means.

A statement will not qualify under section (b) of this Rule if the unavailability is due to the procurement or wrongdoing of the proponent of the statement for the purpose of preventing the witness from attending or testifying.

(b) Hearsay Exceptions

The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

(1) Former Testimony

Testimony given as a witness in any action or proceeding or in a deposition taken in compliance with law in the course of any action or proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.

(2) Statement Under Belief of Impending Death

In a prosecution for an offense based upon an unlawful homicide, attempted homicide, or assault with intent to commit a homicide or in any civil action, a statement made by a declarant, while believing that the declarant's death was imminent, concerning the cause or circumstances of what the declarant believed to be his or her impending death.

(3) Statement Against Interest

A statement which was at the time of its making so contrary to the declarant's pecuniary or proprietary interest, so tended to subject the declarant to civil or criminal liability, or so tended to render invalid a claim by the declarant against another, that a reasonable person in the declarant's position would not have made the statement unless the person believed it to be true. A statement tending to expose the declarant to criminal liability and offered [to exculpate the accused] *in a criminal case* is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

Cross reference: See Code, Courts Article, §10-920, distinguishing expressions of regret or apology by health care providers from admissions of liability or fault.

(4) Statement of Personal or Family History

(A) A statement concerning the declarant's own birth; adoption; marriage; divorce; legitimacy; ancestry; relationship by blood, adoption, or marriage; or other similar fact of personal or family history, even though the declarant had no means of acquiring personal knowledge of the matter stated.

(B) A statement concerning the death of, or any of the facts listed in subsection (4)(A) about another person, if the declarant was related to the other person by blood, adoption, or marriage or was so intimately associated with the other person's family as to be likely to have accurate information concerning the matter declared.

(5) Witness Unavailable Because of Party's Wrongdoing

(A) Civil Actions

In civil actions in which a witness is unavailable because of a party's wrongdoing, a statement that (i) was (a) given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding or in a deposition; (b) reduced to writing and was signed by the declarant; or (c) recorded in substantially verbatim fashion by stenographic or electronic means contemporaneously with the making of the statement, and (ii) is offered against a party who has engaged in, directed, or conspired to commit wrongdoing that was intended to, and did, procure the unavailability of the declarant as a witness, provided however the statement may not be admitted unless, as soon as practicable after the proponent of the statement learns that

the declarant will be unavailable, the proponent makes known to the adverse party the intention to offer the statement and the particulars of it.

Committee note: A “party” referred to in subsection (b)(5)(A) also includes an agent of the government.

(B) Criminal Causes

In criminal causes in which a witness is unavailable because of a party’s wrongdoing, admission of the witness’s statement under this exception is governed by Code, Courts Article, §10-901.

Committee note: Subsection (b)(5) of this Rule does not affect the law of spoliation, “guilty knowledge,” or unexplained failure to produce a witness to whom one has superior access. See *Washington v. State*, 293 Md. 465, 468 n. 1 (1982); *Breeding v. State*, 220 Md. 193, 197 (1959); *Shpak v. Schertle*, 97 Md. App. 207, 222-27 (1993); *Meyer v. McDonnell*, 40 Md. App. 524, 533, (1978), rev’d on other grounds, 301 Md. 426 (1984); *Larsen v. Romeo*, 254 Md. 220, 228 (1969); *Hoverter v. Director of Patuxent Inst.*, 231 Md. 608, 609 (1963); and *DiLeo v. Nugent*, 88 Md. App. 59, 69-72 (1991). The hearsay exception set forth in subsection (b)(5)(B) is not available in criminal causes other than those listed in Code, Courts Article, §10-901 (a).

Cross reference: For the residual hearsay exception applicable regardless of the availability of the declarant, see Rule 5-803 (b)(24).

Source: This Rule is derived from F.R.Ev. 804.

REPORTER’S NOTE

The Rules Committee recommends a change to Rule 5-804 (b)(3). This was requested by the Office of the Public Defender, and it is based on an amendment to Fed.R.Ev. 804 (b)(3) that will go into effect December 2010. The proposed amendment would require both sides in a criminal case to show corroborating circumstances as a condition for admission of an unavailable declarant’s statement against pecuniary or proprietary interest. Currently, the Rule requires only the defendant to make this showing. The Office of the Public Defender points out that under the current Rule, there is a risk of wrongful convictions based on unreliable statements against interest by unavailable witnesses who cannot be cross-examined. Unavailable State’s witnesses’ testimony should be subject to the same requirement of corroboration as that of defense witnesses.

MARYLAND RULES OF PROCEDURE

TITLE 16 — COURTS, JUDGES, AND ATTORNEYS

CHAPTER 900 — PRO BONO LEGAL SERVICE

AMEND Rule 16-901 to delete the limitation on the number of members who may serve on Standing Committee on Pro Bono Legal Service; to provide that a maximum of three Circuit Court judges may serve on the Standing Committee; to delete the requirement that there be three nominees for each Circuit Court position; to provide that a maximum of three District Court judges may serve on the Standing Committee; to delete the requirement that there be three nominees for each District Court position; to specify that the Legal Aid Bureau, Maryland Volunteer Lawyers Service; Pro Bono Resource Center, and one other pro bono referral organization have representatives on the Standing Committee; to delete the requirement that the representative from a legal services provider organization not serve on a Local Pro Bono Committee; to permit the Standing Committee to recommend appointments to the Court of Appeals; and to provide that the terms of Standing Committee members shall be three years and may be renewed; as follows:

Rule 16-901. STATE PRO BONO COMMITTEE AND PLAN

(a) Standing Committee on Pro Bono Legal Service

(1) Creation

There is a Standing Committee of the Court of Appeals on Pro Bono Legal Service.

(2) Members

The Standing Committee consists of [13] *the following* members appointed by the Court of Appeals[, as follows]:

(A) eight members of the Maryland Bar, including one from each appellate judicial circuit and one selected from the State at large;

(B) [a circuit court judge] *a maximum of three Circuit Court judges* selected from [among at least three] nominees submitted by the Conference of Circuit Judges;

(C) [a District Court judge] *a maximum of three District Court judges* selected from [at least three] nominees submitted by the Chief Judge of the District Court;

(D) the Public Defender or a designee of the Public Defender;

(E) a representative [from a legal services provider organization who does not serve on a Local Pro Bono Committee] *from the Legal Aid Bureau, Maryland Volunteer Lawyers Service, Pro Bono Resource Center, and one other pro bono referral organization;* and

(F) a member of the general public.

(3) Terms; Chair

The [Court of Appeals shall fix the] term[s] of [the] *each* member[s] *is three years. A member may be reappointed to serve one or more additional terms. [and] The Court of Appeals shall designate one of the members as [the] chair.*

(4) Consultants

The Standing Committee may designate a reasonable number of consultants from among court personnel or representatives of other organizations or agencies concerned with the provision of legal services to persons of limited means.

(b) [Duties]*Functions* of the Standing Committee

(1) *Required*

The Standing Committee shall:

[(1)] (A) develop standard forms for use by the Local Pro Bono Committees in developing and articulating the Local Pro Bono Action Plans and making their annual reports;

[(2)] (B) recommend uniform standards for use by the Local Pro Bono Committees to assess the need for pro bono legal services in their communities;

[(3)] (C) review and evaluate the Local Pro Bono Action Plans and the annual reports of the Local Pro Bono Committees;

[(4)] (D) collect and make available to Local Pro Bono Committees information about pro bono projects;

[(5)] (E) at the request of a Local Pro Bono Committee, provide guidance about the Rules in this Chapter and Rule 6.1 of the Maryland Lawyers’ Rules of Professional Conduct;

[(6)] (F) file with the Court of Appeals an annual report and recommendations about the implementation and effectiveness of the Local Pro Bono Action Plans, the Rules in this Chapter, and Rule 6.1 of the Maryland Lawyers’ Rules of Professional Conduct; and

[(7)] (G) prepare a State Pro Bono Action Plan as provided in section (c) of this Rule.

(2) *Permitted*

The Standing Committee may make recommendations to the Court of Appeals concerning the appointment and reappointment of its members.

(c) State Pro Bono Action Plan

(1) Generally

Within three years after the effective date of this Rule, the Standing Committee shall submit to the Court of Appeals a State Pro Bono Action Plan to promote increased efforts on the part of lawyers to provide legal assistance to persons of limited means. In developing the Plan, the Standing Committee shall:

(A) review and assess the results of the Local Pro Bono Action Plans;

(B) assess the data generated by the reports required by Rule 16-903;

(C) gather and consider information pertinent to the existence, nature, and extent of the need for pro bono legal services in Maryland; and

(D) provide the opportunity for one or more public hearings.

(2) Contents

The State Pro Bono Action Plan may include a recommendation for increasing or decreasing the aspirational goals for pro bono publico legal service set forth in Rule 6.1 of the Maryland Lawyers' Rules of Professional Conduct. The Plan should include suggestions for the kinds of pro bono activities that will be most helpful in meeting the need for pro bono legal service throughout the State and should address long-range pro bono service issues.

Committee note: Examples of long-range issues that may be addressed include opportunities for transactional lawyers, government lawyers, business lawyers, and in-house counsel to render pro bono legal service; opportunities for pro bono legal service by lawyers who are unable to provide direct client representation; "collective responsibility" for pro bono legal service when a law firm designates certain lawyers to handle only pro bono matters; and encouraging pro bono legal service among law students and in the legal academic setting.

(d) Publication

The Clerk of the Court of Appeals shall cause the State Action Plan submitted by the Standing Committee to be published in the Maryland Register and such other publications as the Court directs and shall establish a reasonable period for public comment.

(e) Consideration by the Court of Appeals

After the comment period, the Court of Appeals shall hold a public hearing and take appropriate action on the Plan.

Source: This Rule is new.

REPORTER'S NOTE

The proposed amendments to Rule 16-901 are based on the recommendations of the Standing Committee on Pro Bono Legal Services.

MARYLAND RULES OF PROCEDURE

TITLE 4 — CRIMINAL CAUSES

CHAPTER 200 — PRETRIAL PROCEDURES

AMEND Rule 4-216 by adding Code references to section (c), as follows:

Rule 4-216. PRETRIAL RELEASE

...

(c) Defendants Eligible for Release Only by a Judge

A defendant charged with an offense for which the maximum penalty is death or life imprisonment or with an offense listed under Code, Criminal Procedure Article, §5-202 (a), (b), (c), (d), [or] (e), (f) or (g) may not be released by a District Court Commissioner, but may be released before verdict or pending a new trial, if a new trial has been ordered, if a judge determines that all requirements imposed by law have been satisfied and that one or more conditions of release will reasonably ensure (1) the appearance of the defendant as required and (2) the safety of the alleged victim, another person, and the community.

...

REPORTER'S NOTE

Chapter 184, Laws of 2010 (HB 1046) prohibits a District Court commissioner from authorizing the pretrial release of a defendant who is a registered sex offender. The Rules Committee recommends adding to section (c) a reference to this new provision, Code, Criminal Procedure Article, §5-202 (g), and also a reference to §5-202 (f) that lists other crimes with which a

defendant has been charged and for which a District Court commissioner cannot authorize pretrial release.

MARYLAND RULES OF PROCEDURE

TITLE 4 — CRIMINAL CAUSES

CHAPTER 200 — PRETRIAL PROCEDURES

AMEND Rule 4-242 to change a Code reference in section (e), as follows:

Rule 4-242. PLEAS

...

(e) Collateral Consequences of a Plea of Guilty or Nolo Contendere

Before the court accepts a plea of guilty or nolo contendere, the court, the State's Attorney, the attorney for the defendant, or any combination thereof shall advise the defendant (1) that by entering the plea, if the defendant is not a United States citizen, the defendant may face additional consequences of deportation, detention, or ineligibility for citizenship, (2) that by entering a plea to the offenses set out in Code, Criminal Procedure Article, §11-701, the defendant shall have to register with the defendant's supervising authority as defined in Code, Criminal Procedure Article, §11-701 [(i)] (p), and (3) that the defendant should consult with defense counsel if the defendant is represented and needs additional information concerning the potential consequences of the plea. The omission of advice concerning the collateral consequences of a plea does not itself mandate that the plea be declared invalid.

...

REPORTER'S NOTE

Chapter 175, Laws of 2010 (HB 936) amended Code, Criminal Procedure Article, §11-701 pertaining to registration of sex offenders. The Code reference in section (e) is proposed to be amended to conform to the new statute.

MARYLAND RULES OF PROCEDURE

RULES GOVERNING ADMISSION TO THE BAR OF MARYLAND

AMEND Bar Admission Rule 13 to correct an internal reference, as follows:

Rule 13. OUT-OF-STATE ATTORNEYS

...

(c) Practitioner of Law

(1) Subject to paragraphs (2)[,] and (3)[, and (4)] of this section, a practitioner of law is a person who has regularly engaged in the authorized practice of law

(A) in a state;

(B) as the principal means of earning a livelihood; and

(C) whose professional experience and responsibilities have been sufficient to satisfy the Board that the petitioner should be admitted under this Rule.

(2) As evidence of the requisite professional experience, for purposes of subsection (c)(1)(C) of this Rule, the Board may consider, among other things:

(A) the extent of the petitioner's experience in general practice;

(B) the petitioner's professional duties and responsibilities, the extent of contacts with and responsibility to clients or other beneficiaries of the petitioner's professional skills, the extent of professional contacts with practicing lawyers and judges, and the petitioner's professional reputation among those lawyers and judges; and

(C) if the petitioner is or has been a specialist, the extent of the petitioner's experience and reputation for competence in such

specialty, and any professional articles or treatises that the petitioner has written.

(3) The Board may consider as the equivalent of practice of law in a state practice outside the United States if the Board concludes that the nature of the practice makes it the functional equivalent of practice within a state.

. . .

REPORTER'S NOTE

The Secretary of the State Board of Law Examiners observed a reference in subsection (c)(1) to a non-existent paragraph. The proposed amendment to Rule 13 deletes this reference.

[10-19-29]

Final Action on Regulations

Symbol Key

- Roman type indicates text already existing at the time of the proposed action.
- *Italic type* indicates new text added at the time of proposed action.
- Single underline, italic indicates new text added at the time of final action.
- Single underline, roman indicates existing text added at the time of final action.
- [[Double brackets]] indicate text deleted at the time of final action.

Title 08

DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.04 Oysters

Authority: Natural Resources Article, §§4-215 and 4-1009.1, Annotated Code of Maryland

Notice of Final Action

[10-209-F]

On August 31, 2010, the Secretary of Natural Resources adopted amendments to Regulation .13 under **COMAR 08.02.04 Oysters**. This action, which was proposed for adoption in 37:15 Md. R. 1004 (July 16, 2010), has been adopted as proposed.

Effective Date: September 20, 2010.

JOHN R. GRIFFIN
Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.11 Fishing in Nontidal Waters

Authority: Natural Resources Article, §§4-602 and 4-205.1, Annotated Code of Maryland

Notice of Final Action

[10-195-F]

On August 31, 2010, the Secretary of Natural Resources adopted amendments to Regulation .04 under **COMAR 08.02.11 Fishing in Nontidal Waters**. This action, which was proposed for adoption in 37:15 Md. R. 1004—1005 (July 16, 2010), has been adopted as proposed.

Effective Date: September 20, 2010.

JOHN R. GRIFFIN
Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.13 Fishing Licenses — Point Assignment, License Revocation and Suspension Schedule and Criteria, and Hearing Procedure

Authority: Natural Resources Article, §§4-206 and 4-701, Annotated Code of Maryland

Notice of Final Action

[10-208-F]

On August 31, 2010, the Secretary of Natural Resources adopted amendments to Regulation .06 under **COMAR 08.02.13 Fishing Licenses — Point Assignment, License Revocation and Suspension Schedule and Criteria, and Hearing Procedure**. This action, which was proposed for adoption in 37:15 Md. R. 1005—1006 (July 16, 2010), has been adopted as proposed.

Effective Date: September 20, 2010.

JOHN R. GRIFFIN
Secretary of Natural Resources

Title 10

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.10 Nursing Facility Services

Authority: Health-General Article, §§2-104(b), 15-103, and 15-105, Annotated Code of Maryland

Notice of Final Action

[10-110-F]

On August 24, 2010, the Secretary of Health and Mental Hygiene adopted amendments to Regulation .10 under **COMAR 10.09.10 Nursing Facility Services**. This action, which was proposed for adoption in 37:7 Md. R. 578 (March 26, 2010), has been adopted as proposed.

Effective Date: September 20, 2010.

JOHN M. COLMERS
Secretary of Health and Mental Hygiene

Subtitle 09 MEDICAL CARE PROGRAMS

Notice of Final Action

[10-182-F]

On August 24, 2010, the Secretary of Health and Mental Hygiene adopted amendments to:

(1) Regulations **.04**, **.09**, and **.10** under **COMAR 10.09.24 Medical Assistance Eligibility**; and

(2) Regulation **.03** under **COMAR 10.09.54 Home/Community Based Services Waiver for Older Adults**.

This action, which was proposed for adoption in 37:14 Md. R. 954—956 (July 2, 2010), has been adopted as proposed.

Effective Date: September 20, 2010.

JOHN M. COLMERS
Secretary of Health and Mental Hygiene

Title 11 DEPARTMENT OF TRANSPORTATION

Subtitle 06 MARYLAND TRANSIT ADMINISTRATION

11.06.01 Free Speech Activities on Maryland Transit Administration Premises

Authority: Transportation Article, §7-204(c), Annotated Code of Maryland

Notice of Final Action

[10-162-F]

On July 20, 2010, the Administrator of the Maryland Transit Administration adopted the repeal of existing Regulations **.01—****.12** and new Regulations **.01—****.06** under **COMAR 11.06.01 Free Speech Activities on Maryland Transit Administration Premises**. This action, which was proposed for adoption in 37:12 Md. R. 810—812 (June 4, 2010), has been adopted with the nonsubstantive changes shown below.

Effective Date: September 20, 2010.

Attorney General's Certification

In accordance with State Government Article, §10-113, Annotated Code of Maryland, the Attorney General certifies that the following changes do not differ substantively from the proposed text. The nature of the changes and the basis for this conclusion are as follows:

Regulation **.06**: Change the word “and” to “or” to clarify that this regulation applies to vending machines that contain printed matter that is offered to the public free of charge as well as printed matter that is offered for sale. Add a comma after the word “with” and “of” to correct punctuation.

.06 Distribution of Printed Matter.

The following guidelines apply to the sale [[and]] or distribution of printed matter to the general public from vending or distribution machines located upon a MTA facility:

A. (proposed text unchanged)

B. *A person desiring to place and operate a vending machine for the sale [[and]] or distribution of printed material to the general public upon MTA stations and premises shall first obtain a written permit from the Administrator or his designee.*

C. — E. (proposed text unchanged)

F. To assure maximum use of the available station entrance areas for commercial speech vending machine permits, vending machines shall be not larger than absolutely necessary to accommodate the printed matter to be sold [[and]] or distributed.

G. — H. (proposed text unchanged)

I. Permits may be revoked for noncompliance with, or any violation of, this regulation.

J. — K. (proposed text unchanged)

RALIGN T. WELLS
Administrator
Maryland Transit Administration

Subtitle 11 MOTOR VEHICLE ADMINISTRATION — ADMINISTRATIVE PROCEDURES

11.11.07 Gratis and Complimentary Records

Authority: Transportation Article, §§12-104(b) and 12-113, Annotated Code of Maryland

Notice of Final Action

[10-173-F]

On August 17, 2010, the Administrator of the Motor Vehicle Administration adopted amendments to Regulations **.02** and **.03** under **COMAR 11.11.07 Gratis and Complimentary Records**. This action, which was proposed for adoption in 37:14 Md. R. 957—958 (July 2, 2010), has been adopted as proposed.

Effective Date: September 20, 2010.

JOHN T. KUO
Administrator
Motor Vehicle Administration

Title 17 DEPARTMENT OF BUDGET AND MANAGEMENT

Subtitle 04 PERSONNEL SERVICES AND BENEFITS

17.04.13 State Employees' Health Benefits

Authority: State Personnel and Pensions Article, Title 2, Subtitle 5 and §4-106, Annotated Code of Maryland

Notice of Final Action

[10-202-F]

On September 1, 2010, the Secretary of Budget and Management adopted amendments to Regulations **.01** and **.03** under **COMAR 17.04.13 State Employees' Health Benefits**. This action, which was proposed for adoption in 37:15 Md. R. 1021 (July 16, 2010), has been adopted as proposed.

Effective Date: September 20, 2010.

T. ELOISE FOSTER
Secretary of Budget and Management

Title 18 DEPARTMENT OF ASSESSMENTS AND TAXATION

Subtitle 15 GROUND RENTS

Notice of Final Action

[10-203-F]

On August 31, 2010, the Director of Assessments and Taxation adopted:

- (1) Amendments to the chapter heading under **COMAR 18.15.01 Redemption**; and
- (2) New Regulations **.01—.06** under a new chapter, **COMAR 18.15.02 Registration**.

This action, which was proposed for adoption in 37:15 Md. R. 1022—1023 (July 16, 2010), has been adopted as proposed.

Effective Date: September 20, 2010.

C. JOHN SULLIVAN, JR.
Director of Assessments and Taxation

Title 20 PUBLIC SERVICE COMMISSION

Subtitle 61 RENEWABLE ENERGY PORTFOLIO STANDARD PROGRAM

Notice of Final Action

[10-184-F]

On August 26, 2010, the Public Service Commission adopted:

- (1) Amendments to Regulations **.03—.06** under **COMAR 20.61.01 General**;
- (2) Amendments to Regulations **.01—.03** under **COMAR 20.61.02 Certifiable Renewable Energy Facilities**;
- (3) Amendments to Regulation **.01**, the repeal of existing Regulation **.02**, amendments to and the recodification of existing Regulations **.03** and **.05** to be Regulations **.02** and **.04**, and the recodification of existing Regulations **.04** and **.06** to be Regulations **.03** and **.05** under **COMAR 20.61.03 Renewable Energy Credit**;
- (4) Amendments to Regulations **.01** and **.02** under **COMAR 20.61.04 Consumer Protection, Reporting, and Enforcement**; and
- (5) Amendments to Regulations **.01** and **.02** under **COMAR 20.61.05 Maryland Strategic Energy Investment Fund**.

This action, which was proposed for adoption in 37:14 Md. R. 958—960 (July 2, 2010), has been adopted with the nonsubstantive changes shown below.

Effective Date: September 20, 2010.

Attorney General's Certification

In accordance with State Government Article, §10-113, Annotated Code of Maryland, the Attorney General certifies that the following changes do not differ substantively from the proposed text. The nature of the changes and the basis for this conclusion are as follows:

COMAR 20.61.03.02: The changes in Regulation **.02** are corrective and clarifying in nature and are nonsubstantive. This clarification comports with the understanding of all participants and

with the Commission's original intent and such clarification would have been reasonably anticipated by the participants in the rule-making process.

.02 REC Creation from Renewable On-Site Generation.

A. — D. (proposed text unchanged)

E. A Maryland-eligible REC issued to a renewable on-site generator under this regulation is valid for *compliance for the calendar year of generation and the following 2 calendar years.*

TERRY J. ROMINE
Executive Secretary
Public Service Commission

Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 11 AIR QUALITY

Notice of Final Action

[10-174-F]

On August 26, 2010, the Secretary of the Environment adopted amendments to:

- (1) Regulation **.01** under **COMAR 26.11.01 General Administrative Provisions**; and
- (2) Regulation **.01** under **COMAR 26.11.09 Control of Fuel-Burning Equipment, Stationary Internal Combustion Engines, and Certain Fuel-Burning Installations**.

This action, which was proposed for adoption in 37:14 Md. R. 961 (July 2, 2010), has been adopted as proposed.

Effective Date: September 20, 2010.

SHARI T. WILSON
Secretary of the Environment

Subtitle 11 AIR QUALITY

26.11.09 Control of Fuel-Burning Equipment, Stationary Internal Combustion Engines, and Certain Fuel-Burning Installations

Authority: Environment Article, §§1-101, 1-404, 2-101—2-103, 2-301—2-303, 10-102, and 10-103, Annotated Code of Maryland

Notice of Final Action

[10-175-F]

On August 27, 2010, the Secretary of the Environment adopted amendments to Regulation **.08-1** under **COMAR 26.11.09 Control of Fuel-Burning Equipment, Stationary Internal Combustion Engines, and Certain Fuel-Burning Installations**. This action, which was proposed for adoption in 37:14 Md. R. 962—964 (July 2, 2010), has been adopted as proposed.

Effective Date: September 20, 2010.

SHARI T. WILSON
Secretary of the Environment

Proposed Action on Regulations

For information concerning citizen participation in the regulation-making process, see inside front cover.

Symbol Key

- Roman type indicates existing text of regulation.
- *Italic type* indicates proposed new text.
- [Single brackets] indicate text proposed for deletion.

Promulgation of Regulations

An agency wishing to adopt, amend, or repeal regulations must first publish in the Maryland Register a notice of proposed action, a statement of purpose, a comparison to federal standards, an estimate of economic impact, an economic impact on small businesses, a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations. The opportunity for public comment must be held open for at least 30 days after the proposal is published in the Maryland Register.

Following publication of the proposal in the Maryland Register, 45 days must pass before the agency may take final action on the proposal. When final action is taken, the agency must publish a notice in the Maryland Register. Final action takes effect 10 days after the notice is published, unless the agency specifies a later date. An agency may make changes in the text of a proposal. If the changes are not substantive, these changes are included in the notice of final action and published in the Maryland Register. If the changes are substantive, the agency must repropose the regulations, showing the changes that were made to the originally proposed text.

Proposed action on regulations may be withdrawn by the proposing agency any time before final action is taken. When an agency proposes action on regulations, but does not take final action within 1 year, the proposal is automatically withdrawn by operation of law, and a notice of withdrawal is published in the Maryland Register.

Title 07

DEPARTMENT OF HUMAN RESOURCES

Subtitle 02 SOCIAL SERVICES ADMINISTRATION

07.02.07 Child Protective Services — Investigations of Child Abuse and Neglect

Authority: Family Law Article, §5-701 et seq.; Human Services Article, §§1-202, 4-202, and 4-207; Annotated Code of Maryland
(Agency Note: 42 U.S.C. 5106a(b)(2)(A)(ii); 45 CFR §1340.20)

Notice of Proposed Action

[10-258-P]

The Secretary of Human Resources proposes to amend Regulations .01 and .02 and adopt new Regulation .23 under **COMAR 07.02.07 Child Protective Services — Investigation of Child Abuse and Neglect**.

Statement of Purpose

The proposed action implements provisions of Chs. 185 and 186, Acts of 2010, that authorize an individual to notify a local department of social services or the appropriate law enforcement agency if the person has reason to believe that a child is at substantial risk of sexual abuse if a parent, guardian, or caregiver of a child allows the child to reside with or be in the regular presence of an individual, other than the child's parent or guardian, who is registered under Criminal Procedure Article, Title 11, Subtitle 7, Annotated Code of Maryland, as a child sexual offender and, based on additional information, poses a substantial risk of sexual abuse to the child, and mandate a local department of social services and the appropriate law enforcement agency to conduct an investigation if certain requirements are met.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Andrea Shuck, Acting Regulations Coordinator, Department of Human Resources, 311 W. Saratoga Street, Room 270, Baltimore, MD 21201, or call 410-767-7193, or email to regulations@dhr.state.md.us, or fax to 410-333-0637. Comments will be accepted through October 12, 2010. A public hearing has not been scheduled.

.01 Purpose and Scope.

A. The purpose of Child Protective Services (CPS) is to stop and prevent child abuse and neglect through the:

(1) Investigation of child abuse and neglect; [and]

(2) Initiation of protective and other services for:

(a) — (b) (text unchanged)

(c) Household or family members of abused or neglected children[.]; and

(3) *Investigation of a substantial risk of child sexual abuse by a registered child sexual offender.*

B. The goals of CPS are to:

(1) Promptly investigate reports of child abuse and neglect *and of a substantial risk of child sexual abuse by a registered child sexual offender*;

(2) — (3) (text unchanged)

(4) Create and maintain accurate reports and records that can serve as tools in providing services and in *conducting* subsequent investigations.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(10) (text unchanged)

(10-1) “CPS unit” means that unit of a local department responsible for investigating reports of suspected child abuse or neglect.

(11)—(35) (text unchanged)

(35-1) “Registered child sexual offender” means an individual who is currently required to register pursuant to Criminal Procedure Article, §11-704, Annotated Code of Maryland, as a result of a sexual crime against a child.

(36)—(40) (text unchanged)

(40-1) “Substantial risk of child sexual abuse” means a likelihood that child sexual abuse will occur.

(41)—(44) (text unchanged)

.23 Reports of Substantial Risk of Child Sexual Abuse.

A. An individual may notify a local law enforcement agency or local department, orally or in writing, if the individual has reason to believe that a parent, guardian, or caretaker allows a child to reside with or be in the regular presence of an individual, other than the child’s parent or guardian, who:

(1) Is a registered child sexual offender; and

(2) Based on additional information, poses a substantial risk of sexual abuse to the child.

B. If acting as a staff member of a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution, an individual who notifies the appropriate authorities under §A of this regulation immediately shall notify and give all the information required by this regulation to the head of the institution or the designee of the head of the institution.

C. An individual reporting under this regulation shall include:

(1) The information required by Regulation .04D(1)—(4) of this chapter;

(2) The identity of the registered child sexual offender; and

(3) Additional specific information regarding the substantial risk of sexual abuse to the child, including the nature and extent of the risk and any evidence or information concerning previous instances of sexual abuse.

D. Receiving Reports.

(1) A local department shall receive reports made pursuant to this regulation from any source.

(2) The local department shall develop procedures for receiving reports under this regulation that are consistent with Regulation .05A—F of this chapter.

(3) If a report fails to contain the information required by §A of this regulation, the local department may take action consistent with Regulation .05 of this chapter.

E. Initial Response to a Report.

(1) The local department shall develop procedures to respond to reports under this regulation that are consistent with Regulation .06A—H, K, and L of this chapter.

(2) The local department shall:

(a) Verify that the report concerns a registered child sexual offender who is not the parent of the child suspected to be at risk; and

(b) Determine whether the report contains specific information that the registered child sexual offender poses a substantial risk of sexual abuse by eliciting additional information, including, but not limited to:

(i) Conduct or statements of the child;

(ii) Conduct or statements of the child sexual offender;

and

(iii) Details of prior offenses committed by the registered child sexual offender including the age and gender of prior victims and the nature, circumstances, dates, and locations of each prior offense.

(3) If appropriate, the local department shall request information from a provider of health care, including mental health or substance abuse treatment, regarding a child or adult being assessed or served in connection with a report under this regulation.

F. Investigation of a Substantial Risk of Child Sexual Abuse.

(1) The local department shall make a thorough investigation to protect the health, safety, and welfare of any child who may be at a substantial risk of child sexual abuse when the local department has:

(a) Credible information that a child’s parent, guardian, or caregiver allows a child to reside with or be in the regular presence of a registered child sexual offender who is not the child’s parent or guardian; and

(b) Additional credible information that the registered child sexual offender poses a substantial risk of child sexual abuse.

(2) The local department shall conduct its investigation with the appropriate law enforcement agency.

(3) The local department and the appropriate law enforcement agency shall, within 5 calendar days of the local department receiving the report:

(a) See the child in person;

(b) Attempt to have an on-site interview with the child’s caregiver;

(c) Attempt to interview the individual identified as the registered child sexual offender;

(d) Determine the safety of and, preliminarily, the level of risk to the child who is the subject of the report and any other children in the child’s household; and

(e) Determine the safety of and, preliminarily, the level of risk to any children residing with or in the regular presence of the registered child sexual offender, including any children in the care and custody of the registered child sexual offender.

(4) The local department shall, as soon as possible but not later than 30 days from its receipt of the report:

(a) Complete the investigation;

(b) Determine whether any child neglect or child abuse, including child sexual abuse, has occurred and, if so, whether the local department should immediately file a petition alleging that a child is in need of assistance;

(c) Determine whether any child is at a substantial risk of child sexual abuse; and

(d) Take appropriate action to protect any child at a substantial risk of child sexual abuse, including:

(i) Advising the child’s parent, guardian, or caregiver of the risk;

(ii) Developing a safety plan with the child’s parent, guardian or caregiver; and

(iii) Offering appropriate services to the child’s family.

(5) The local department shall retain records related to reports and investigations pursuant to this regulation for a period of 5 years.

(6) The local department may decline to investigate a report if it determines that a local department has already investigated a report containing substantially the same allegations.

BRENDA DONALD
Secretary of Human Resources

Title 08 DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.13 Fishing License — Point Assignment, License Revocation and Suspension Schedule and Criteria, and Hearing Procedure

Authority: Natural Resources Article, §4-701, Annotated Code of Maryland

Notice of Proposed Action

[10-266-P]

The Secretary of Natural Resources proposes to amend Regulation .03 under **COMAR 08.02.13 Fishing License — Point Assignment, License Revocation and Suspension Schedule and Criteria, and Hearing Procedure.**

Statement of Purpose

The purpose of this action is to add new points to the commercial fishing license penalty system. The proposed action adds points for two new regulations including: harvesting crabs with a frozen license (Tier II – 10 points and 30-day suspension) and harvesting female crabs with a male only limited crab catcher license (Tier II – 10 points and 30-day suspension). The action also adds points for two proposed regulations, as proposed in the July 2, 2010, Maryland Register, for being in a prohibited area for clamming including a natural oyster bar, leased area, public shellfish fishery area or sanctuary (Tier I – 5 points, no suspension for 150 feet or less in the area and Tier II – 10 points, 30-day suspension for more than 150 feet in the area), and failure to sell oysters to a buy station (Tier II – 10 points and 30-day suspension).

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed action may have an economic impact on the regulated industry.

Revenue (R+/R-)

II. Types of Economic Impact. Expenditure (E+/E-) Magnitude

- A. On issuing agency: NONE
B. On other State agencies: NONE
C. On local governments: NONE

Benefit (+)
Cost (-) Magnitude

- D. On regulated industries or trade groups:
Commercial Watermen (-) Indeterminable
E. On other industries or trade groups: NONE
F. Direct and indirect effects on public: NONE

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

D. The proposed action may have an economic impact on the regulated industry if commercial watermen receive convictions on the added penalties and suffer a negative economic impact from the possible suspension of their fishing license.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Commercial Fishing License Penalty System, Regulatory Staff, Maryland Department of Natural Resources Fisheries Service, 580 Taylor Ave., B-2, Annapolis, MD 21401, or call 410-260-8260, or email to fisheriespubliccomment@dnr.state.md.us, or fax to 410-260-8310. Comments will be accepted through October 12, 2010. A public hearing has not been scheduled.

.03 Point Assignment Schedule.

A. — D. (text unchanged)

E. Tier I. The following violations are Tier I violations. A licensee who receives a single conviction for a Tier I violation receives 5 points, but no immediate suspension.

#	Statute or Regulation	Type	Description
1 — 64	(text unchanged)		
65	4-1007, COMAR 08.02.02.12B, 08.02.07.03C	Area	Harvesting within 150 feet of a (a) natural oyster bar, (b) leased area, (c) public shellfish fishery area, or (d) sanctuary

F. Tier II. The following violations are Tier II violations. A licensee who receives a single conviction for a Tier II violation receives 10 points and may be suspended for 30 days.

#	Statute or Regulation		Description
1 — 21	(text unchanged)		
22	COMAR 08.02.02.12B, COMAR 08.02.07.03C	Area	Harvesting more than within 150 feet of a (a) natural oyster bar, (b) leased area, (c) public shellfish fishery area, or (d) sanctuary
23	4-1007, COMAR 08.02.04.16, COMAR 08.02.23.04F(5)	Species-Protected	Failure to sell oysters to a buy station
24	COMAR 08.02.03.14F	Species – Protected	Harvesting female crabs with a male only limited crab harvester license
25	COMAR 08.02.03.14F	Species-Protected	Harvesting crabs with a frozen limited crab harvester license

G. (text unchanged)

JOHN R. GRIFFIN
Secretary of Natural Resources

Benefit (+)	Magnitude
Cost (-)	

Title 09

DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 32 UNEMPLOYMENT INSURANCE

09.32.06 Board of Appeals — Appeals Procedure

Authority: Labor and Employment Article, §8-5A-02, Annotated Code of Maryland

Notice of Proposed Action

[10-271-P]

The Board of Appeals proposes to repeal Regulations .01 — .10, and adopt new Regulations .01 — .11 under COMAR 09.32.06 Board of Appeals — Appeals Procedure.

Statement of Purpose

The purpose of this action is to set forth the procedures for appeals to the Board of Appeals in various types of unemployment insurance cases. The procedures are currently combined with those for appeals before hearing examiners; the hearing examiner procedures will now be placed in a separate section of the regulations pertaining to the new Lower Appeals Division. The proposed procedures are substantially similar to the existing ones. The substantive change is raising the limit on the allowable amount of attorney's fees for claimant's counsel in response to concerns that claimants have had difficulty securing legal representation at the current level.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The amount of attorney's fees that may be charged to a claimant in an appeal to the Board of Appeals has been raised from 150% of the claimant's weekly benefit amount to 200% of that amount. The Board will continue to have the authority to approve fees in excess of that amount based on the complexity of the case and the reasonableness of the fees. It is not possible to estimate the impact on an individual claimant without knowing that person's weekly benefit amount.

II. Types of Economic Impact.

Revenue (R+/R-)	
Expenditure (E+/E-)	Magnitude

- | | |
|-----------------------------|------|
| A. On issuing agency: | NONE |
| B. On other State agencies: | NONE |
| C. On local governments: | NONE |

D. On regulated industries or trade groups: NONE

E. On other industries or trade groups: NONE

F. Direct and indirect effects on public:

Attorney's fees	(+)	Indeterminable
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III. Assumptions. (Identified by Impact Letter and Number from Section II.)

F. The maximum fee that an attorney may charge a claimant for representation in a case before the Board of Appeals has been increased from 150% of the claimant's weekly benefit to 200% of that amount, subject to the Board's ability to approve a higher amount under certain circumstances. It is not possible to quantify the increase because it is based on the weekly benefit amount, which differs from claimant to claimant. Claimants have had difficulty securing legal representation at the current level, and it is being increased at the request of advocates for claimants.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Donna Watts-Lamont, Chairman, Board of Appeals, Department of Labor, Licensing, and Regulation, 1100 N. Eutaw Street, Baltimore, MD 21201, or call 410-767-2777, or email to dwatts-lamont@dllr.state.md.us, or fax to 410-767-2787. Comments will be accepted through October 15, 2010. A public hearing has not been scheduled.

.01 Special Provisions.

A. The Chairman shall preside at the hearings before the Board of Appeals and shall make all evidentiary and procedural rulings at the hearings. If the Chairman is not present at a hearing, each associate member shall, on alternate hearing days, exercise the powers of the Chairman at the hearing.

B. Two members of the Board of Appeals shall constitute a quorum for the purpose of any hearing under this regulation.

C. If the decision of the three members of the Board of Appeals is not unanimous, the decision of the majority of the members shall control. The minority member may file a dissenting opinion, together with the reasons for that dissent. Each member of the Board of Appeals who participates in a Board of Appeals hearing shall sign the decision on the case and shall indicate his or her concurring opinion, and shall state the reasons for that concurrence.

D. At any time within 10 days of a decision pursuant to Labor and Employment Article, §8-806(h), Annotated Code of Maryland, the Board of Appeals may withdraw its decision by vote of a majority of its members. Notice shall promptly be given to all parties of the withdrawal. Upon withdrawing a decision, the Board of Appeals may issue a revised decision or hold the case for further hearing or argument. The 10-day period is not tolled by the receipt of petitions, appeals, or correspondence from any party.

E. Within 30 days after notice of the decision of the Board of Appeals, an aggrieved party may secure judicial review of the Board of Appeal's decision by appealing to the courts in accordance with the provisions of Labor and Employment Article, §8-5A-12, Annotated Code Maryland, and the Maryland Rules of Procedure.

F. A request for the Board of Appeals to withdraw its decision under §D of this regulation does not toll the time limit for filing an appeal to court.

.02 Appeals and Petitions for Review.

A. Manner of Filing.

(1) An appeal from or a petition for review of a hearing examiner's decision shall be in writing and signed by the appealing party, or the appealing party's attorney or authorized representative.

(2) The appeal may be filed by mail, facsimile, or hand delivery to the administrative office of the Board of Appeals as listed on the hearing examiner decision. The appeal may not be filed by electronic mail.

(3) When filed by an attorney or authorized representative, an appeal from or petition for review of a hearing examiner's decision shall be accompanied by a certification that a copy of the appeal or petition for review and all accompanying papers were mailed to all other parties in the case. Failure to include the certification does not affect a determination as to the timeliness of the appeal.

(4) In the event of an appeal or a petition for review from a hearing examiner's decision involving more than one claimant on the same issue, the appeal or petition for review may be filed by the individual claimants or by an attorney or authorized representative on the claimants' behalf. The attorney or authorized representative shall submit, together with the appeal or petition for review, a list containing the names, addresses, and Social Security numbers of the claimants who are parties to the appeal or petition for review.

B. Time for Filing.

(1) An appeal or petition for review from a hearing examiner's decision shall be filed within 15 calendar days after a decision is mailed to the last known address of the party.

(2) The period for filing an appeal or a petition for review may not be extended by the Board of Appeals.

(3) An appeal or petition for review is considered filed on the earliest of the following dates:

(a) The date an appeal or petition for review is delivered in person to the administrative office of the Board of Appeals;

(b) The U.S. Postal Service postmarked date on which an appeal or petition for review, properly addressed and stamped, is mailed to the administrative office of the Board of Appeals;

(c) The date on the appeal or petition for review itself when the envelope has an illegible postmark; or

(d) The date an appeal or petition for review is received by facsimile transmission at the administrative office of the Board of Appeals.

C. Denial of Petition for Review. The Board of Appeals may deny a petition for review filed pursuant to Labor and Employment Article, §8-5A-10(b)(2), Annotated Code of Maryland, if it agrees with the hearing examiner's decision.

.03 Hearings.

A. Scheduling Authority. The scheduling authority in the case of an appeal or a petition for review pending before the Board of Appeals is the Board of Appeals or its designee.

B. Notice of Hearing.

(1) The interested parties shall be given at least 7 calendar days notice in writing of the time and place of any hearing before the Board of Appeals.

(2) Notice is sufficient when mailed to the party, postage prepaid, at the last known post office address of the party.

(3) In the case of appeals or petitions for review filed under Regulation .02A(3) of this chapter, notice mailed to the attorney or authorized representative, plus notice mailed to each individual appellant who filed an individual appeal or a petition for review or to those persons who requested an individual notice, shall be sufficient notice to all parties represented by the attorney or authorized representative. This subsection shall also apply to notices of hearings in labor disputes in which the Board of Appeals has jurisdiction to issue original determinations.

(4) For notice purposes, the representation of a party by an attorney or authorized representative is effective on the date an appearance is entered in the case, or the date the appearance is noted in the appeal file, whichever is earlier.

C. Public Hearing. Hearings before the Board of Appeals shall be public. The record made in any appeal hearing is a public record. Media coverage of any hearing is permissible unless the Board of Appeals determines that it interferes with the hearing process.

D. Record. The record made by or at the direction of the Board of Appeals is the only official transcript of the oral hearing. Additional recordings or transcriptions may be made by the parties at the hearings, or by third parties, only at the discretion of the Board of Appeals or its designee.

E. Issues.

(1) The Board of Appeals shall inquire fully into the facts of the particular case. The Board of Appeals shall consider all issues expressly appealed by the party in the case and all issues expressly ruled upon in the decision of the hearing examiner. The appeal of a ruling under Labor and Employment Article, §§8-1001, 8-1002, 8-1002.1, or 8-1003, Annotated Code of Maryland, shall be considered an appeal raising all four disqualification issues.

(2) Notwithstanding §E(1) of this regulation, the Board of Appeals may hear and determine any issue in the case, even if not expressly ruled upon by the hearing examiner or indicated in the notice of hearing, if the speedy administration of justice, without prejudice to any party, will be substantially served by doing so.

F. Representation.

(1) An interested party may appear without representation in any proceeding before the Board of Appeals.

(2) A party may be represented by an attorney admitted to practice by the Maryland Court of Appeals. Attorneys admitted to practice before the courts of any other state or territory of the United States may represent a party subject to the rules of the Maryland Court of Appeals.

(3) A claimant may also be represented by an authorized representative other than an attorney, but the representative may not charge or accept payment for the representation.

(4) An employer may appear for itself, or be represented by any other authorized representative.

(5) The Board of Appeals may prohibit an individual from representing others in a hearing if the Board of Appeals finds, after a special hearing convened for that purpose, that the individual has committed unethical conduct in relation to unemployment insurance claims and appeals.

G. Appointment of Interpreter.

(1) If a party or witness is hearing-impaired or mute, and because of this impediment cannot readily understand or communicate the spoken language, or if the party or witness is unable to communicate in the English language, the party or witness may apply to the Board of Appeals for the appointment of a qualified interpreter to assist that person. The scheduling authority may appoint an interpreter on its own motion.

(2) Upon application of the party or witness, the Board of Appeals shall appoint a qualified interpreter to assist that person.

(3) In selecting a qualified interpreter for appointment, the Board of Appeals may consult any directory of interpreters which is maintained by any court in this State.

(4) An interpreter appointed pursuant to this section shall be allowed reasonable compensation subject to approval of the Board of Appeals.

H. Procedure at Hearing.

(1) Unless the Board of Appeals has denied a petition for review, appeals to the Board of Appeals shall be considered upon the evidence in the record based on the hearing before the hearing examiner, but the Board of Appeals may direct the taking of testimony in addition to that contained in the record, in its discretion, or, after notice to the parties, hear the case de novo and disregard testimony taken previously, or take testimony in addition to that contained in the record made before the Lower Appeals Division.

(2) The Board of Appeals shall have the power to call, examine, and cross-examine witnesses and to introduce into the record documentary or other evidence. As authorized by the Board of Appeals, the parties to the hearing may be given an opportunity to cross-examine witnesses, call witnesses on their own behalf, to inspect documents, and to offer evidence in explanation or rebuttal.

(3) The Board of Appeals may also order the taking of testimony in a hearing before a special examiner, unless a party objects in writing.

(4) Upon request of any party at a hearing, the Board of Appeals or its designee shall grant the interested parties a reasonable time for oral argument.

I. Evidence.

(1) Rules of Evidence. The hearings shall be conducted informally in a manner to ascertain the substantial rights of the parties, and the Board of Appeals may not be bound by common law or statutory rules as to the admissibility of evidence or by technical rules of procedures. Witnesses shall testify under oath or affirmation.

(2) Electronically Stored Records. A party who seeks to enter into evidence video recordings, audio recordings, or other electronically stored records shall produce at the hearing the equipment necessary to allow review of the contents of the records. The party offering the records shall have the continuing obligation to produce the equipment necessary to review the records if further administrative proceedings occur. If the party offering the records fails to produce the equipment necessary to review the records, the Board of Appeals may exclude the records from consideration.

(3) Agency Records.

(a) The records of the Department of Labor, Licensing, and Regulation are public records and shall be competent evidence of the facts disclosed in the records. A witness is not required to introduce a public record into evidence. The burden shall be on the party objecting to any Department records being entered into evidence at the hearing to show by a preponderance of the credible evidence the legal reasons why the records should not be entered into evidence.

(b) Requests of any party to an appeal or petition for review for information from the records of the Department of Labor, Licensing, and Regulation or the Board of Appeals shall be forwarded to the Secretary so that relevant and pertinent information may be furnished by the Secretary. Upon request, any party shall be furnished with any information contained in the appeals records that may be pertinent or material to the case. Requests for this information shall be made at least 5 business days before the hearing and state, with particularity, the nature of the information desired. Requests for information made after the fifth business day prior to the hearing, will be granted only at the discretion of the scheduling authority.

(4) Evidence of Medical Condition. In any case when the medical condition of a party is at issue, the Board of Appeals, for good cause shown, may grant a party up to 10 days after the hearing to submit written medical documentation.

J. Subpoenas.

(1) The Board of Appeals may issue subpoenas, to be served by certified mail or by any individual who is not a party and who is 18 years old or older, to compel the attendance of witnesses and the production of books, papers, correspondence, and other records deemed necessary as evidence in writing.

(2) The scheduling authority may deny requests for subpoenas that it determines are frivolous or unreasonably burdensome to the other party, but requests may not be denied without substantial cause.

(3) Requests for subpoenas shall:

- (a) Be in writing;
- (b) State the name and address of the person to be subpoenaed;
- (c) State the reason for the request;
- (d) State with specificity the documents to be subpoenaed; and

(e) Be delivered to the scheduling authority at least 5 business days before the hearing date.

K. Continuance of Hearing. The Board of Appeals, in its sole discretion, may continue any hearing. Whenever it appears that an investigation as to any matter material to the issues involved in the proceedings is necessary to aid in the determination of the case, the Board of Appeals may order an investigation to be made and may continue the hearing pending the investigation.

L. Withdrawal of Appeals. At any time before the conclusion of a hearing before the Board of Appeals or before a decision is issued by the Board of Appeals, a party appealing from a hearing examiner's decision may request that its appeal be withdrawn, and the Board of Appeals may permit the withdrawal. An approved withdrawal is a final decision and is not subject to a request to reopen. Approved withdrawn appeals shall not be subject to further review by the Board of Appeals.

M. Dismissal of Appeal for Failure to Appear. If an appealing party fails to appear at a hearing after having been given the required notice of the hearing, the Board of Appeals may issue a decision on the facts available or may dismiss the appeal. A party's failure to be present at the location designated for the hearing within 10 minutes of the time scheduled is a failure to appear within the meaning of this section.

N. Reopening of Dismissed Case.

(1) A request for reopening of a dismissed case shall be in writing. If an attorney or authorized representative files a request on behalf of a party, the request shall include a notation that a copy of the reopening request was simultaneously mailed or delivered to the opposing parties. A failure to include this notation, however, does not affect the timeliness of the request.

(2) A request for the reopening of a case may be granted for the following reasons:

(a) The party received the hearing notice on or after the date of the hearing as a result of:

- (i) An untimely or incorrect mailing of a hearing notice; or

- (ii) A delay in the delivery of a hearing notice by the United States Postal Service;

(b) An emergency or other unforeseen and unavoidable circumstance that prevented a party from both attending the hearing and requesting a postponement of the hearing; or

(c) A party requested a postponement for the reasons listed in §N(2)(a) or (b) of this regulation, but the request was improperly denied.

(3) Misreading of a properly prepared hearing notice as to the date, time, and place of the hearing is not good cause for reopening a dismissed case.

(4) A dismissal issued by the Board of Appeals after a scheduled hearing may be reopened only by a majority vote of the Board of Appeals taken within 10 days of the date of the dismissal.

(5) The decision of the Chief Hearing Examiner of the Lower Appeals Division that there is not good cause to reopen a dismissed case is appealable to the Board of Appeals.

(6) The decision of the Chief Hearing Examiner of the Lower Appeals Division that there is good cause to reopen a dismissed case is appealable to the Board of Appeals only at the time that a decision on the merits of the underlying case is rendered.

O. Failure to Appear Before Hearing Examiner.

(1) In the event that a party failed to appear for a hearing that resulted in a decision by a hearing examiner, the non-appearing party may request an opportunity to establish good cause for failing to appear for a hearing.

(2) A request for a hearing to determine if there is good cause for failing to appear shall be in writing, and shall be sent to the opposing party or parties. The Board of Appeals may order that a second hearing be held before a hearing examiner if the party establishes a reason listed in COMAR 09.32.11.02O(2)(a) — (c).

P. Attorney's Fees.

(1) An attorney representing a claimant in a proceeding before the Board of Appeals may not charge a fee in excess of 200 percent of the claimant's weekly benefit amount per case without the approval of the Board of Appeals.

(2) Requests for approval of fees greater than 200 percent of the claimant's weekly benefit amount shall be accompanied by an itemized account of services rendered in the case. A request for the excess fee shall be submitted within 30 days of the date of the issuance of the decision. The Board of Appeals shall have authority to approve a fee higher than the maximum allowed under §P(1) of this regulation based upon the complexity of the case and the reasonableness of the fees.

(3) The fee amounts set out in this subsection may be awarded in addition to any fees awarded by the Chief Hearing Examiner of the Lower Appeals Division.

Q. Conflict of Interest. A member of the Board of Appeals may not participate in a hearing or appeal in which the member has an interest. A challenge as to the interest of a particular Board member shall be decided by the other members of the Board of Appeals.

R. Postponement of Hearings.

(1) A request for the postponement of a case shall be in writing, addressed to the scheduling authority, and accompanied by a notation that a copy of the request was simultaneously mailed to the opposing party in the case.

(2) Unless the requirements of §R(5) of this regulation are met, a request for postponement shall be considered only if received by the scheduling authority at least 3 business days before the hearing date.

(3) The scheduling authority may postpone a hearing for good cause shown. The repeated inability of a party's attorney or authorized representative to appear on account of a conflicting court date is not good cause.

(4) Documentary proof of the reason for postponement may be required by the scheduling authority. This documentation must be received by the scheduling authority at least 3 business days before the date of the originally scheduled hearing.

(5) A request for a postponement that is not received by the scheduling authority at least 3 business days before the hearing may be granted for good cause if:

(a) The request for postponement was postmarked at least 5 days before the hearing date but was not received by the Board of Appeals until after the time set in §R(2) of this regulation;

(b) An error on the part of the Board of Appeals has caused such a delay in the requesting party's receipt of the hearing notice that the requirement of §R(2) of this regulation could not reasonably be met, and the requesting party has taken timely and reasonable steps to request a postponement as soon as possible after receipt of the hearing notice; or

(c) The postponement is requested because of sudden and unforeseeable health problems, hazardous weather conditions, or the like, the emergency nature of which would cause a substantial hardship or injustice on a party if the case were not postponed.

S. Witness Fees. Upon written request, a witness not employed by the Department of Labor, Licensing, and Regulation who is subpoenaed for a hearing before the Board of Appeals shall be entitled to receive an attendance fee in the amount of \$25 in a case when the witness is summoned to appear in the county where the witness lives or does business, or \$50 in other cases. Fees for witnesses subpoenaed shall be paid by the Board of Appeals.

T. Telephone Conference Hearings Before Special Examiners.

(1) Testimony before a special examiner designated by the Board of Appeals may be taken by telephone.

(2) A party not wishing to present testimony and evidence by telephone may appear at the hearing and present evidence in person at the location from which the telephone hearing is generated.

(3) In all telephone hearings, documentary evidence that a party participating by telephone intends to offer must be provided to the special examiner and all other parties at least 5 days before the hearing. The special examiner may refuse to consider evidence that is not timely provided. Before the acceptance into evidence of documents at a telephone hearing, the special examiner shall allow the opposing party to cross-examine the submitting party or witness concerning the nature and veracity of the proffered document.

(4) A party shall be afforded all rights at a telephone hearing to which the party would be entitled at a regular hearing, subject only to the limitations of the physical arrangement.

(5) A party's failure to answer the telephone, failure to have a telephone available for a hearing, or failure to be ready to proceed with the hearing shall be considered as a failure to appear at the hearing if these conditions exist for more than 10 minutes after the scheduled time for the hearing.

.04 Remand to Hearing Examiner.

A. The Board of Appeals may remand a case to a hearing examiner for purposes that it may direct. Cases remanded for a de novo or additional hearing shall be placed upon the calendar for prompt hearing. The hearing examiner to whom a case has been remanded for a new decision without a new hearing shall promptly issue the new decision.

B. If a case is remanded for a new hearing, the previous decision of the hearing examiner shall remain in effect unless vacated by the Board of Appeals until the issuance of a new decision by a hearing examiner. Upon the convening of the new hearing, the appellant before the Board of Appeals shall have the burden of going forward. If the appellant before the Board of Appeals does not appear at the remand hearing, the previous decision of the hearing examiner shall remain in effect or be reinstated.

C. The Board of Appeals may issue specific directions to a hearing examiner with regard to the remand of any particular case.

.05 Precedent Decisions.

Decisions of the Board of Appeals designated as precedent by the Board shall constitute legal precedent for decisions of the hearing examiners.

.06 Procedure for Hearings on Claims Under Labor and Employment Article, §8-1004, Annotated Code of Maryland.

A. A claim involving the application of the provisions of Labor and Employment Article, §8-1004, Annotated Code of Maryland, that is referred to a special examiner by order of the Board of Appeals shall be presented, heard, and decided by the special examiner in the manner prescribed by the provisions of this chapter pertaining to hearings before the Board of Appeals.

B. An appeal from the decision of a special examiner shall be decided by the Board of Appeals in the manner prescribed by the provisions of this chapter pertaining to an appeal from a decision of a hearing examiner.

.07 Employer Appeals Arising Under Labor and Employment Article, §8-602(c) or 8-617(g), Annotated Code of Maryland.

A. An employer aggrieved by any decision of the Secretary appealable under Labor and Employment Article, §8-602(c) or 8-617(g), Annotated Code of Maryland, including, but not limited to, the determination of its status as an employer, whether services performed for it are services in employment, the correct employer contribution rate, and whether any particular benefit charges should be placed against the employer's benefit account may file an appeal in writing within 15 days after notice of the Secretary's decision was mailed to the employer's last known address. The provisions of Regulations .02 and .03 of this chapter apply to these appeals.

B. An appeal shall include the following information:

- (1) The name, address, and employer account number, if any;
- (2) A statement of the decision of the Secretary that is being appealed; and
- (3) The date of the Secretary's decision.

C. The Board may refer an appeal to a special examiner for a hearing and a proposed decision, which, if adopted by the Board of Appeals, shall be appealable to a circuit court of the State.

.08 Employer Appeals Involving Assessments Under Labor and Employment Article, §8-629(f), Annotated Code of Maryland.

A. An employer aggrieved by an assessment issued by the Secretary may file an appeal in writing to the Board of Appeals within 15 days after the first notice of the assessment was mailed to the employer's last known address.

B. The appeal shall include the following information:

- (1) The name, address, and account number of the employer;
- (2) The period of time to which the contested assessment applies and the amount assessed;
- (3) The first date on which that assessment notice was issued to the employer; and
- (4) A concise statement of the reason the employer believes the assessment is wrong.

C. In appeals of assessments under Labor and Employment Article, §8-629(f), Annotated Code of Maryland, the Board of Appeals may not consider issues that could have been raised before the Secretary under Labor and Employment Article, §8-602(a) or 8-617, Annotated Code of Maryland, and the applicable regulations. If, in the course of the appeal, the Board of Appeals concludes that the employer is attempting to raise an issue that could have been appealed under Labor and Employment Article, §8-602(a) or 8-617, Annotated Code of Maryland, and that the employer was not previously given an opportunity to raise or appeal that issue, the Board of Appeals may:

- (1) Remand the case to the Secretary for a decision; or
- (2) Decide the issue, based on the evidence before it.

D. The Board of Appeals may refer an appeal to a special examiner for a hearing and a proposed decision, which, if adopted

by the Board of Appeals, shall be appealable to a circuit court of the State.

.09 Employer Request for Refund.

A. A request for a formal hearing before the Board of Appeals from a rejected request for a refund of contributions or interest under Labor and Employment Article, §8-638, Annotated Code of Maryland, shall be filed within 15 days after the employer received the notice of rejection.

B. The Board of Appeals may refer an appeal to a special examiner for a hearing and a proposed decision, which, if adopted by the Board of Appeals, shall be appealable to a circuit court of the State.

.10 Judicial Review of Employer Account Appeals.

Within 30 days after the Board of Appeals mails its decision to the employer's last known address, an employer aggrieved by the decision may secure judicial review of the decision by appeal to the courts according to the provisions of Labor and Employment Article, §8-5A-12, Annotated Code of Maryland, the Maryland Rules of Procedure, and the appropriate rules of court.

.11 Records and Transcripts.

A. All documents received from a party shall be retained either in paper form or by scanning the document electronically into an electronic case file. In cases where duplicate copies of documents are received by the Board of Appeals, only the first copy of the document received by the Board of Appeals shall be retained in the paper or electronic case file.

B. The Board of Appeals shall maintain a record of all testimony and proceedings before the Board of Appeals and its special examiners or in connection with an appeal pursuant to these regulations.

C. Upon the filing of an appeal from a decision of the Board of Appeals to a circuit court, the record of the oral proceedings shall be transcribed.

D. Except as otherwise provided by statute or regulation, the party filing the appeal with a circuit court shall pay to the Department the expense of the transcript, including a reasonable charge for the reproduction of exhibits, in advance of the transcript preparation.

E. An individual claiming benefits may not be charged a fee for transcription of the oral proceedings in that individual's case.

DONNA WATTS-LAMONT
Chairman
Board of Appeals

Subtitle 32 UNEMPLOYMENT INSURANCE

09.32.11 Lower Appeals Division — Appeals Procedure

Authority: Labor and Employment Article, §8-504, Annotated Code of Maryland

Notice of Proposed Action

[10-270-P]

The Secretary of Labor, Licensing, and Regulation proposes to adopt new Regulations .01 — .04 under a new chapter, **COMAR 09.32.11 Division of Lower Appeals — Appeals Procedure.**

Statement of Purpose

The purpose of this action is to establish in regulation hearing procedures specifically for the Division of Lower Appeals. Their

procedures are currently in regulations promulgated by the Board of Appeals. The General Assembly in 2008 created a separate Division of Lower Appeals and gave the Secretary the authority, in consultation with the Chief Hearing Examiner, to promulgate regulations specifically for the Division. The proposed procedures are substantially similar to the existing ones. The substantive change is raising the limit on the allowable amount of attorney's fees for claimant's counsel in response to concerns that claimants have had difficulty securing legal representation at the current level of fees.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The amount of attorney fees that may be charged to a claimant in an appeal before a hearing examiner has been raised from 150% of the claimant's weekly benefit amount to 200% of that amount. The Chief Hearing Examiner will have the authority to approve fees in excess of that amount based on the complexity of the case and the reasonableness of the fees. The current regulations contain similar waiver language with the lower cap provision. It is not possible to estimate the impact on an individual claimant without knowing that person's weekly benefit amount.

II. Types of Economic Impact.	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	
		Magnitude
D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:		
Attorney's fees	(+)	Indeterminable

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

F. The maximum fee that an attorney may charge a claimant for representation in a case before a hearing examiner has been increased from 150% of the claimant's weekly benefit to 200% of that amount, subject to the Chief Hearing Examiner's ability to approve a higher amount under certain circumstances. It is not possible to quantify the increase because it is based on the weekly benefit amount, which differs from claimant to claimant. Claimants have had difficulty securing legal representation at the current level, and it is being increased at the request of advocates for claimants.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Elizabeth Trimble, Principal Counsel, Department of Labor, Licensing, and Regulation, 500 N. Calvert Street, Room 406, Baltimore, MD 21202, or call 410-230-6110, or email to etrimble@dllr.state.md.us, or fax to 410-333-6503. Comments will be accepted through October 15, 2010. A public hearing has not been scheduled.

.01 Filing of Appeal.

A. Manner of Filing.

(1) An appeal from a claims examiner's determination shall be in writing and signed by the party appealing, or the party's attorney or authorized representative. The appeal may be filed by mail, by facsimile, by hand delivery to the Lower Appeals administrative office at the Lower Appeals Division address listed on the benefit determination, or by electronic mail in a format approved by the Chief Hearing Examiner.

(2) In the event of an appeal from a determination of a claims examiner involving more than one claimant on the same issue, the appeal may be filed by the individual claimants or by an attorney or authorized representative on their behalf. The attorney or authorized representative shall submit, together with the appeal, a list containing the names, addresses, and Social Security numbers of the claimants who are parties to the appeal.

B. Time for Filing.

(1) An appeal shall be filed within 15 calendar days after the determination is mailed to the last known address of the party.

(2) An appeal is considered filed on the earliest of the following dates:

(a) The date an appeal is delivered in person to the administrative office of the Lower Appeals Division;

(b) The U.S. Postal Service postmark date on which an appeal, properly addressed and stamped, is mailed to the administrative office of the Lower Appeals Division;

(c) The date on the appeal itself when the envelope has an illegible postmark; or

(d) The date an appeal is received by facsimile or electronic mail at the administrative office of the Lower Appeals Division.

(3) The period for filing an appeal from the claims examiner's determination may be extended by the Hearing Examiner for good cause shown.

.02 Hearings Before the Hearing Examiner.

A. Scheduling Authority. The scheduling authority in the case of an appeal pending before a Hearing Examiner is the Chief Hearing Examiner or the Chief Hearing Examiner's designee.

B. Notice of Hearing.

(1) The interested parties shall be given at least 7 days notice in writing of the time and place of any hearing before the Hearing Examiner.

(2) Notice is sufficient when mailed to the party, postage prepaid, at the last known post office address of the party.

(3) In the case of appeals filed under Regulation .01A(2) of this chapter, notice mailed to the attorney or authorized representative, plus notice mailed to each individual appellant who filed an individual appeal or who requested individual notice, shall be sufficient notice to all parties represented by the attorney or authorized representative.

(4) For notice purposes, the representation of parties by attorneys or authorized representatives is effective on the date an

appearance is entered in the case, or the date the appearance is noted in the appeal file, whichever is earlier.

C. Public Hearing. Hearings before the Hearing Examiner shall be public. The record made in any appeal hearing is a public record. Media coverage of any hearing is permissible unless the Hearing Examiner determines that it interferes with the hearing process.

D. Record. The recording made by or at the direction of the Hearing Examiner is the only official record of the oral hearing. Additional recordings or transcriptions may be made by the parties at the hearing, or by third parties, only at the discretion of the Hearing Examiner hearing the case.

E. Issues. The Hearing Examiner shall inquire fully into the facts of the particular case. A Hearing Examiner shall consider the issue expressly ruled upon in the determination from which the appeal was filed.

F. Representation.

(1) An interested party may appear without representation in any proceeding before a Hearing Examiner.

(2) A party may be represented by an attorney admitted to practice by the Maryland Court of Appeals or by an authorized representative. Attorneys admitted to practice before the courts of any other state or territory of the United States may represent a party subject to the rules of the Maryland Court of Appeals.

(3) A claimant may also be represented by an authorized representative other than an attorney, but the representative may not charge or accept payment for the representation.

(4) An employer may appear for itself, or be represented by any other authorized representative.

(5) The Chief Hearing Examiner may prohibit an individual from representing others in a hearing if the Chief Hearing Examiner finds, after a special hearing convened for that purpose, that the individual has committed unethical conduct in relation to unemployment insurance claims or appeals.

G. Attorney's Fees.

(1) An attorney representing a claimant in any proceeding before a Hearing Examiner may not charge a fee in excess of 200 percent of the claimant's weekly benefit amount per case without the approval of the Chief Hearing Examiner.

(2) Requests for approval of fees greater than 200 percent of the claimant's weekly benefit amount shall be accompanied by an itemized account of services rendered in the case. A request for the excess fee shall be submitted within 30 days of the date of the issuance of the decision. The Chief Hearing Examiner shall have authority to approve a fee higher than the maximum allowed under §G(1) of this regulation based upon the complexity of the case and the reasonableness of the fee. The fee shall be reviewable by the Board of Appeals upon written protest of either the claimant or the attorney.

(3) The fee amounts set out in §G(1) and (2) of this regulation may be awarded for each level of appeal.

(4) Although the maximum fee allowed is governed by these regulations, payment of the fee allowed is a private matter left solely to the claimant and the claimant's attorney.

H. Appointment of Interpreter.

(1) If a party or witness is hearing-impaired or mute, and because of this impediment cannot readily understand or communicate the spoken language, or if the party or witness is unable to communicate in the English language, the party or witness may apply to the Chief Hearing Examiner for the appointment of a qualified interpreter to assist that person.

(2) Upon application of the party or witness, the Chief Hearing Examiner shall appoint a qualified interpreter to assist that person. The Chief Hearing Examiner may also appoint an interpreter on his or her own motion.

(3) In selecting a qualified interpreter for appointment, the Chief Hearing Examiner may consult any directory of interpreters maintained by any court in this State.

(4) An interpreter, appointed pursuant to this section, shall be allowed reasonable compensation subject to approval of the Chief Hearing Examiner.

I. Evidence.

(1) *Rules of Evidence.* The hearings shall be conducted informally in a manner to ascertain the substantial rights of the parties. The Hearing Examiner is not bound by common law or statutory rules as to the admissibility of evidence or by technical rules of procedures. Witnesses shall testify under oath or affirmation.

(2) *Electronically Stored Records.* A party who seeks to enter into evidence videotapes, audiotapes, or other electronically stored records shall produce at the hearing the equipment necessary to allow review of the contents of the records. The party offering the records shall have the continuing obligation to produce the equipment necessary to review the records if further administrative proceedings occur. If the party offering the records fails to produce the equipment necessary to review the records, the Hearing Examiner may exclude the records from consideration.

(3) *Agency Record.* For purposes of an appeal from a claims examiner's determination, the official Agency record shall consist of the appeal letter and envelope or other evidence showing its manner of submission, and the Agency Fact Finding Report. Upon request of a party to an appeal for information from other records of the Department, the Hearing Examiner shall forward the request to the Secretary so that information that may be relevant and pertinent and that is not by definition a part of the Agency record, may be furnished by the Secretary. Upon request, any party shall be furnished with any information contained in the official Agency record, or other Agency documents in the custody of the Secretary that may be pertinent or material to the case. Requests for this information shall be made at least 3 business days before the hearing and shall state, as nearly as possible, the nature of the information desired. Requests made after this time will be granted only at the discretion of the scheduling authority. The records of the Department of Labor, Licensing, and Regulation shall be deemed self-authenticating for purposes of admission under the Rules of Evidence.

(4) *Evidence of Medical Condition.* In any case where the medical condition of a party is at issue, the Hearing Examiner, for good cause shown, may grant a party up to 10 days after the hearing to submit written medical documentation.

J. Subpoenas.

(1) The Hearing Examiner may issue subpoenas, to be served by first-class mail, or by any individual who is not a party and who is at least 18 years of age, to compel the attendance of witnesses and the production of books, papers, correspondence, and other records deemed necessary as evidence in writing.

(2) The scheduling authority may deny requests for subpoenas that request irrelevant information, or are frivolous or unreasonably burdensome to the other party. A request for a subpoena may not be denied without substantial cause.

(3) Requests for subpoenas shall:

(a) Be in writing;

(b) State the name and address of the person to be subpoenaed;

(c) State with specificity the documents to be produced;

(d) State the reason for the request; and

(e) Be delivered to the scheduling authority at least 5 business days before the date of the hearing.

K. Procedure at Hearing. The Hearing Examiner may call, examine, and cross-examine witnesses and may introduce into the

record documentary or other evidence. The parties to the hearing shall be given an opportunity to call witnesses on their own behalf, cross-examine witnesses, inspect documents, and offer evidence in explanation or rebuttal. The Hearing Examiner may order the taking of additional testimony as the Hearing Examiner considers necessary. Upon the request of any party at the hearing, the Hearing Examiner shall grant a reasonable time for oral argument by the interested parties.

L. Continuance of Hearing. The Hearing Examiner may continue any hearing and make any direction or instruction necessary for the efficient disposition of the matter at the Hearing Examiner's discretion.

M. Withdrawal of Appeals. At any time before the hearing, a party appealing from a determination of a claims examiner may request that the appeal be withdrawn, and the Hearing Examiner shall permit the withdrawal. After the hearing has commenced or concluded, a withdrawal may be permitted for good cause shown. A request for withdrawal shall be submitted in writing or placed on the record during a hearing. An approved withdrawal is a final decision and is not subject to a request to reopen.

N. Dismissal of Appeal When Appealing Party Fails to Appear. If a party appealing the determination of a claims examiner fails to appear at a hearing after having been given the required notice, the Hearing Examiner may issue a decision on the facts available or may dismiss the appeal. Failure to be present at the location designated for the hearing within 10 minutes of the time scheduled shall be considered a failure to appear within the meaning of this section.

O. Request by Appealing Party to Reopen Dismissed Case.

(1) A request to reopen a dismissed case shall be in writing and a copy shall be sent to the opposing party. Failure to notify the opposing party does not affect the timeliness of the request.

(2) A request to reopen a case may be granted for the following reasons:

(a) The party received the hearing notice on or after the date of the hearing as a result of:

(i) An untimely or incorrect mailing of a hearing notice; or

(ii) A delay in the delivery of a hearing notice by the United States Postal Service;

(b) An emergency or other unforeseen and unavoidable circumstance that prevented a party from both attending the hearing and requesting a postponement of the hearing; or

(c) A party requested a postponement for the reasons listed in §(O)(2)(a) or (b) of this regulation, but it was improperly denied.

(3) Misreading of a properly prepared hearing notice as to the date, time, and place of the hearing is not good cause for reopening a dismissed case.

(4) A request to reopen a case dismissed by a Hearing Examiner shall be delivered or postmarked within 7 days after the date the dismissal was mailed to the last known address of the requesting party. The Chief Hearing Examiner may:

(a) Grant the requesting party up to 10 days to provide documentary evidence of the reason for the requested reopening; or

(b) Deny a request to reopen in writing or grant a further hearing to determine if good cause exists.

(5) Documentation submitted in support of a request to reopen a case shall become part of the record of that case.

(6) A further hearing granted to determine if there is good cause for reopening a case may be consolidated with a further hearing on the merits unless, in the judgment of the Chief Hearing Examiner, this consolidation would result in substantial inconvenience for either party.

(7) A decision by the Chief Hearing Examiner that there is not good cause to reopen a dismissed appeal is appealable to the Board of Appeals.

(8) A decision by the Chief Hearing Examiner that there is good cause to reopen a dismissed case is appealable to the Board of Appeals only at the time that a decision on the merits is also reached.

P. Conflicts of Interest .

(1) A Hearing Examiner may not participate in a hearing in which the Hearing Examiner or a family member has a personal financial interest. The challenge to the interest of a Hearing Examiner shall be decided by the Chief Hearing Examiner. The challenge to the interest of the Chief Hearing Examiner, when the Chief Hearing Examiner is hearing a case, shall be decided by the Board of Appeals.

(2) A decision by the Chief Hearing Examiner as to a conflict of interest of a Hearing Examiner, and a challenge to the interest of the Chief Hearing Examiner may be appealed to the Board of Appeals but only at the time that a decision on the merits is also reached.

Q. Postponement of Hearings.

(1) A request for the postponement of a case shall be in writing, addressed to the Chief Hearing Examiner, and submitted to the Lower Appeals Division by mail, fax, or hand delivery. A copy of the request shall be simultaneously mailed to the opposing party in the case.

(2) Subject to the requirements of §Q(5) of this regulation, a request for postponement shall be considered only if the request is received by the Chief Hearing Examiner at least 3 business days before the hearing.

(3) The Chief Hearing Examiner may postpone a hearing for good cause shown. The repeated inability of a party's attorney or authorized representative to appear on account of a conflicting court date shall not constitute good cause.

(4) The Chief Hearing Examiner may require documentary proof of the reason for the postponement. This documentation must be received by the Chief Hearing Examiner at least 3 business days before the date of the originally scheduled hearing.

(5) A request for a postponement that is not received by the Chief Hearing Examiner at least 3 business days before the hearing may be granted for good cause if:

(a) The request for postponement was postmarked at least 5 days before the hearing date but was not received by the Lower Appeals Division until after the time set in §Q(2) of this regulation;

(b) An error on the part of the Lower Appeals Division has caused such a delay in the requesting party's receipt of the hearing notice that the requirement of §Q(2) of this regulation could not reasonably be met, and the requesting party has taken timely and reasonable steps to request a postponement as soon as possible after receipt of the hearing notice; or

(c) The postponement request is based on sudden and unforeseeable health problems, hazardous weather conditions, or the like, the emergency nature of which would cause a substantial hardship or injustice on a party if the case were not postponed.

R. Witness Fees.

(1) Upon written request, a witness not employed by the Department of Labor, Licensing, and Regulation, who is subpoenaed for a hearing before a Hearing Examiner, shall be entitled to receive an attendance fee in the amount of \$25 in a case when the witness is summoned to appear in the county where the witness lives or does business, or \$50 in other cases.

(2) Fees allowed in accordance with §R(1) of this regulation for witnesses subpoenaed shall be paid by the Lower Appeals Division.

S. Telephone Conference Hearings.

(1) *Testimony before a Hearing Examiner may be taken by telephone.*

(2) *A party not wishing to present testimony and evidence by telephone has a right to appear at the hearing and present evidence in person at the location from which the telephone hearing is being generated.*

(3) *In all telephone hearings, documentary evidence which a party intends to offer shall be mailed to the Hearing Examiner and all other parties at least 5 days before the hearing. The Hearing Examiner may refuse to consider evidence that is not timely mailed. Before the acceptance of any evidence received by mail, the Hearing Examiner shall allow the opposing party to cross-examine the submitting party or witness concerning the nature and authenticity of the proffered document. A party shall be afforded all rights at a telephone hearing to which the party would be entitled at a regular hearing, subject only to the limitations of the physical arrangement.*

(4) *In the case of a telephone hearing, the failure to answer the telephone, the failure to have a telephone available for the hearing, or the failure to be ready to proceed with the hearing shall be considered as a failure to appear at the hearing if these conditions exist for more than 10 minutes after the scheduled time for the hearing.*

.03 Hearing Examiner Decision.

A. *After the hearing before the Hearing Examiner, the parties and the Secretary shall be notified of the decision of the Hearing Examiner and the reasons for it.*

B. *The Hearing Examiner's decision shall include specific findings of fact on all relevant factual issues, and conclusions of law which apply the law to the facts found.*

C. *Decisions of the Board of Appeals designated as precedent by the Board constitute legal precedent for the Hearing Examiner's decisions.*

.04 Review by the Board of Appeals.

If the Hearing Examiner does not affirm the determination of the claims examiner, the decision shall be accompanied by the notice of the right of appeal to the Board of Appeals. If the Hearing Examiner affirms the determination of the claims examiner, the decision shall be accompanied by the notice of the provisions of the law providing for petition for review.

ALEXANDER M. SANCHEZ

Secretary of Labor, Licensing, and Regulation

Title 10

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.20 Personal Care Services

Authority: Health-General Article, §§2-104(b), 15-103, and 15-105,
Annotated Code of Maryland

Notice of Proposed Action

[10-264-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .07 under **COMAR 10.09.20 Personal Care Services**.

Statement of Purpose

The purpose of this action is to increase the per diem rates of reimbursement for personal care providers for the period of July 1, 2010, through June 30, 2012, by 4 percent.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. Under the provisions of the proposed amendment, per diem rates of reimbursement for personal care providers will increase by 4 percent for effective July 1, 2010.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	(E+)	\$1,073,936
B. On other State agencies:	NONE	
C. On local governments:	NONE	

	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
Personal care providers	(+)	\$1,073,936
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. Personal care provider rates will increase by 4 percent. Projected Program expenditures of \$26,848,398 will therefore increase by \$1,073,936 for 1,104,180 days of service in Fiscal Year 2011.

D. Providers will receive a projected increase of reimbursement in the amount of \$1,073,936 for Fiscal Year 2011, as described in §A.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows. This proposal will have meaningful economic impact on small businesses in that personal care provider agencies will receive an increase in their rates of reimbursement.

Impact on Individuals with Disabilities

The proposed action has an impact on individuals with disabilities as follows: The proposed action will impact individuals with disabilities by increasing the rates of reimbursement for personal care providers that rendered personal care services to this population.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 W. Preston St., Room 512, Baltimore, Maryland 21201, or call 410-767-6499, or email to regs@dhhm.state.md.us, or fax to 410-767-8362. Comments will be

accepted through October 12, 2010. A public hearing has not been scheduled.

.07 Payment Procedures.

A. (text unchanged)

B. Payment to personal care providers shall:

(1)—(2) (text unchanged)

(3) [Be] *Notwithstanding any other provision of this regulation, be* made according to the following fee schedule for personal care services, effective [November 1, 2008] *July 1, 2010, through June 30, 2012:*

Description	Maximum Fee
Day of Personal Care—Level 1	[\$12.74] \$13.25
Day of Personal Care—Level 2	[25.48] 26.50
Day of Personal Care—Level 2B	[38.23] 39.76
Day of Personal Care—Level 3	[55.21] 57.42
Day of Training	[12.74] 13.25

(4)—(6) (text unchanged)

C. Payments to personal care provider agencies shall be:

(1)—(2) (text unchanged)

(3) Made, *notwithstanding any other provision of this regulation, according to the following fee schedule, effective* [November 1, 2008] *July 1, 2010, through June 30, 2012:*

Description	Maximum Fee
Day of Personal Care (Agency)—Level 1	[\$12.74] \$13.25
Day of Personal Care (Agency)—Level 2	[25.48] 26.50
Day of Personal Care (Agency)—Level 2B	[38.23] 39.76
Day of Personal Care (Agency)—Level 3	[55.21] 57.42

(4)—(5) (text unchanged)

D.—E. (text unchanged)

JOHN M. COLMERS
Secretary of Health and Mental Hygiene

Subtitle 27 BOARD OF NURSING

10.27.25 Cosmetic Procedures

Authority: Health Occupations Article, §8-205(a)(1) and (2), Annotated Code of Maryland

Notice of Proposed Action

[10-257-P]

The Secretary of Health and Mental Hygiene proposes to adopt new Regulations .01—.09 under a new chapter, **COMAR 10.27.25 Cosmetic Procedures**. This action was considered by the Board of Nursing at a public meeting held on July 28, 2009, notice of which was given by publication in 36:14 Md. R. 1098 (July 6, 2009) pursuant to State Government Article, §10-506(c)(1), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to regulate the performance of cosmetic procedures by licensed nurses; ensure that nurses have adequate education and skills to perform these procedures; stipulate where and under what conditions a licensed nurse may perform certain cosmetic procedures; require supervision, an assessment, and a prescriptive order from a licensed physician prior to performing any of these procedures; and promote the safe performance of cosmetic procedures. These regulations address the changes in the Board of Physician's proposed new regulations COMAR 10.32.09

Delegation of Performance of Cosmetic Medical Procedures and Use of Cosmetic Devices.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. If any of these procedures are being done by a facility such as a Med-Spa or in a group setting, they cannot be performed in the absence of the prescribing physician, thus necessitating having a physician and nurse on staff. There could be an increase in the costs of performing these procedures if they are performed under the supervision and care of a physician instead of in a Med-Spa or group setting. There will be no economic impact on the Board of Nursing.

II. Types of Economic Impact.	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	
	Magnitude	
D. On regulated industries or trade groups:	(-)	Indeterminable
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	(+)	Indeterminable

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

D. Some of these procedures are performed in Med-Spas or in private gatherings. There will be a loss of revenue to these entities but there is no mechanism for estimating the loss.

F. The indeterminable benefit to the public is the savings that will accrue by avoiding unnecessary complications that may arise when these procedures are performed in a non-medical setting by unlicensed individuals. There is no mechanism for tracking the procedures that are done by unlicensed individuals and any complications that may arise.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows. The proposed regulations will have a meaningful economic impact on small businesses. Med-Spas or group parties, where some of these cosmetic procedures are being performed, will be affected because licensed nurses cannot perform certain cosmetic procedures without the presence of a physician, a physician assessment, a prescriptive order, adequate physician supervision, adequate training, and other safeguards to protect patients. If these small businesses want to continue to offer cosmetic procedures to their clients, they will incur the additional cost of employing a physician and licensed nurse to perform the procedures.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele A. Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499, or email to regs@dhmh.state.md.us, or fax to 410-767-6483. Comments will be accepted through October 12, 2010. A public hearing has not been scheduled.

.01 Exclusion from Regulations.

A. *This chapter is not applicable to, and does not restrict or limit, other health care practitioners who are authorized to perform these duties under their respective practice acts.*

B. *This chapter does not restrict or limit a Maryland Certified Registered Nurse Practitioner from possessing, prescribing, evaluating, or performing the procedures under this chapter.*

.02 Definitions.

A. *The following terms have the meanings indicated.*

B. *Terms Defined.*

(1) *"Body treatment" means cellulite lymphatic drainage and cellulite vacuum massage.*

(2) *"Cellulite lymphatic drainage" means a therapy in which the practitioner uses a range of specialized and gentle rhythmic pumping techniques to move the skin in the direction of the lymph flow.*

(3) *"Cellulite vacuum massage" means:*

(a) *The massage of peripheral blood, lymph, and inter-tissue liquid with the goal of reducing stagnation of these fluids and increasing the skin's elasticity; and*

(b) *The external use of a vacuum component directly on the area to be massaged followed by a straight line, circular, or zigzag movement to massage the area.*

(4) *"Chemical peels" also called deep skin peels, means the removal of the top layers of skin using chemicals applied directly to the skin.*

(5) *"Clinical preceptor" means a licensed or certified individual who is:*

(a) *Proficient in the procedure for which they are precepting; and*

(b) *Permitted by the appropriate health occupation licensing board to provide care and treatment for cosmetic services.*

(6) *"Cryotherapy" means the application of:*

(a) *Extreme cold to destroy abnormal or diseased tissue, warts, moles, skin tags, and solar keratoses; and*

(b) *Liquid nitrogen to freeze tissues at the cellular level.*

(7) *"Dermal fillers" means various types of natural or man-made materials which are injected intradermally to correct imperfections in the skin and subcutaneous tissue.*

(8) *"Direct supervision" means on site, physically present, accessible in the immediate patient care area and available to intervene if necessary.*

(9) *"Injectable treatments" means the use of FDA approved medication and includes the following:*

(a) *Dermal fillers;*

(b) *Micropigmentation, also known as cosmetic tattoo or permanent make-up; and*

(c) *Neuromuscular agents.*

(10) *"Laser treatment" means a technique in which exposure to low-level laser light or light emitting diodes are used to stimulate or inhibit cellular function possibly leading to beneficial clinical effects.*

(11) *Light Treatment.*

(a) *"Light treatment" also known as phototherapy, means the use of non-ionizing electro-magnetic radiation for therapeutic benefit.*

(b) *"Light treatment" does not mean laser treatment.*

(12) *"Lipodissolve" means a procedure that uses subcutaneous micro-injections of drugs with the sole purpose of dissolving fat for body contouring.*

(13) *Magenta Light.*

(a) *"Magenta light" means a non-invasive technique that combines infrared and magenta light with subdermal tissue massage to produce a penetrating light that affects the epidermis, alters cellulite formation, and controls cellulite formation at the cellular level.*

(b) *"Magenta light" does not mean laser or intensive pulse light.*

(14) *"Mesotherapy" also known as intradermotherapy, means a non-invasive cosmetic treatment which employs multiple intra or subcutaneous injections of pharmaceutical and homeopathic medications, plant extracts, vitamins, and other ingredients for the treatment of fat or cellulite.*

(15) *"Micro current treatment" means passing radio frequency electricity through the skin to:*

(a) *Heat up tissue;*

(b) *Cause the tissue to contract; and*

(c) *Stimulate collagen production.*

(16) *"Neuromuscular agents" means injectable drugs that cause muscle weakness for the purpose of cosmetic softening of wrinkles and includes, but is not limited to, Botox and Dysport.*

(17) *"Nurse" means a registered nurse (RN) or a licensed practical nurse (LPN).*

(18) *"Peels" or "Topicals" means:*

(a) *Chemicals peels;*

(b) *Cryotherapy; or*

(c) *Microdermabrasion.*

(19) *"Photochemotherapy" means the use of a photodynamic light source to destroy dystrophic cells.*

(20) *"Photodynamic (PDT)" means the use of a light source, combined with a light-sensitive drug to destroy dystrophic cells.*

(21) *"Photosensitizing agent" means a drug used with a photodynamic light source to produce a therapeutic photosensitivity.*

(22) *"Precepted clinical practice" means after theoretical learning and until competency is achieved:*

(a) *Working directly with patients;*

(b) *Performing cosmetic or dermatologic procedures on patients; and*

(c) *Working under the direct supervision of a clinical preceptor who has the knowledge and ability to perform the procedure independently.*

(23) *Radio Frequency and Current.*

(a) *"Radio frequency and current" means:*

(i) *Magenta light;*

(ii) *Microcurrent treatment;*

(iii) *Photochemotherapy;*

(iv) *Photodynamic;*

(v) *Thermage; and*

(vi) *Ultrasound (therapeutic only).*

(b) *"Radio frequency and current" does not mean laser.*

(24) *Theory.*

(a) *"Theory" means the body of knowledge regarding the principles underlying the safe execution of a cosmetic procedure and is obtained through didactic instruction provided by a licensed health care provider who has the knowledge and skill to perform the procedure.*

(b) "Theory" includes didactic instruction by the licensed health care provider which may be augmented by a manufacturer's representative.

(25) "Thermage" means the use of radio frequency technology to:

(a) Target collagen in the dermis layer of the skin around the eyes and forehead; and

(b) Cause the dermis and underlying tissue to tighten.

(26) Ultrasound.

(a) "Ultrasound" means the therapeutic use of inaudible sound in the frequency range of approximately 20,000 to 10,000,000,000 cycles per second for therapeutic use at low intensity producing a heating effect to stimulate collagen production.

(b) "Ultrasound" does not mean the use of ultrasound for diagnostic purposes.

.03 Procedural Categories.

A. Procedures designated as Category A shall include body treatments with:

(1) Cellulite lymphatic drainage; and

(2) Cellulite vacuum massage.

B. Procedures designated as Category B shall include light treatments with:

(1) Infrared light;

(2) Magenta light;

(3) Photochemotherapy;

(4) Photodynamic;

(5) Photosensitizing agents;

(6) UVA light; and

(7) UVB light.

C. Procedures designated as Category C shall include laser treatments administered by a selective laser.

D. Procedures designated as Category D shall include injectable treatments with:

(1) Dermal fillers;

(2) Micropigmentation with topical anesthetics only; and

(3) Neuromuscular agents.

E. Procedures designated as Category E shall include radio frequency and current treatments with:

(1) Micro current;

(2) Thermage; and

(3) Ultrasound.

F. Procedures designated as Category F shall include peels or topicals with:

(1) Chemical peels;

(2) Cryotherapy;

(3) Microdermabrasion; and

(4) Power peel.

.04 Education.

To administer medication or to perform cosmetic and dermatologic treatments, a nurse shall:

A. Complete a program of study that includes theory appropriate to the medication to be administered and the procedure to be performed that includes, but is not limited to:

(1) Anatomy, physiology, and pathophysiology related to the integumentary system as well as systems specific to the procedure being performed;

(2) Appropriate technique for each cosmetic procedure;

(3) Nursing assessment, cosmetic indications, and contraindications for treatment;

(4) Pharmacology intervention specific to the cosmetic procedure including, but not limited to:

(a) Assessment and monitoring of the receiving the medication;

(b) Effects and potential side effects of the medication;

(c) Contraindications to the administration of the medication;

(d) The ability to anticipate and recognize potential complications of the medication;

(e) The ability to recognize emergency situations and institute appropriate interventions;

(f) Preparation, storing, and handling of the medication; and

(g) Proficiency in administering the medication by the required route;

(5) Selection, maintenance, and utilization of equipment;

(6) Identification of realistic and expected outcomes of the procedure;

(7) Identification of complications or adverse reactions;

(8) Nursing care required and appropriate nursing interventions in the event of complications or untoward outcomes;

(9) Infection control procedures;

(10) Safety precautions appropriate to each procedure;

(11) Documentation appropriate to the type of the procedure being performed; and

(12) Precepted clinical practice by a clinical preceptor that includes documented initial and annual competency of the nurse in each cosmetic procedure the nurse is to perform;

B. Document evidence of clinical and psychomotor proficiency competency before independently performing each cosmetic procedure;

C. Perform the procedures on a frequent routine predictable basis in order to retain practice proficiency;

D. Be evaluated for continued clinical competency at periodic intervals; and

E. Obtain additional education when the population changes or new procedures are introduced into the practice.

.05 Cosmetic Procedures in General.

A. The nurse shall comply with the employment setting's written cosmetic policies and procedures that comply with this chapter.

B. The nurse shall be guided by and comply with the written policies and procedures in keeping with recognized standards of care that include, but are not limited to:

(1) Care and maintenance of appropriate equipment and safe operation;

(2) Description of how the procedure is to be performed;

(3) Education;

(4) Assessment;

(5) Emergency procedures;

(6) Monitoring guidelines;

(7) Operator and safety when utilizing equipment;

(8) A continuous quality improvement process which includes, but is not limited to:

(a) Unexpected outcomes;

(b) Side effects; and

(c) Complications;

(9) Obtaining or ensuring that the client's informed consent has been obtained that documents the patient's awareness that it is the licensed nurse who will perform the cosmetic procedure; and

(10) Documenting the performance of the cosmetic procedure including, but not limited to:

(a) Patient response;

(b) Patient education; and

(c) Safety precautions taken on behalf of the patient.

C. The nurse may perform the identified cosmetic procedure when there is a completed prescriptive order from an authorized prescriber that includes, but is not limited to:

(1) The procedure to be performed;

(2) Identification of the specific treatment area;

(3) Identification of medication, dosage, route, and time interval for administration of the medication for the specific cosmetic procedure;

(4) Identification of the light source and the radio frequency, current dosage, intensity, and time period it is to be applied; and

(5) The use of any topical anesthetic.

D. Before a nurse performs any of these cosmetic procedures, the authorized prescriber shall:

(1) Complete an initial assessment and evaluation of the patient before the procedure is performed;

(2) Develop a treatment plan for the specific patient;

(3) Be physically present in the setting; and

(4) Be immediately available:

(a) At the time the procedure is performed; and

(b) Post-treatment to evaluate the patient.

.06 Cosmetic Procedures—Licensed Practical Nurse.

Except for Category C, the LPN may perform the cosmetic procedures identified in Regulation .03 of this chapter.

.07 Cosmetic Procedures—RN.

The RN may perform all of the procedures identified in Regulation .03 of this chapter.

.08 Exceptions.

Except for cryotherapy, the nurse may perform the cosmetic procedures identified in category F independent of the requirements stated in Regulation .04C of this chapter.

.09 Prohibited Acts.

A. The licensed nurse may not:

(1) Perform cosmetic procedures on a standing order or protocol;

(2) Perform the pre-procedure medical assessment or evaluation;

(3) Perform medical diagnosis or prescribe cosmetic procedures;

(4) Develop the client treatment plan;

(5) Prescribe medications for cosmetic or dermatological procedures;

(6) Perform the post-procedure medical evaluation of the client; and

(7) Administer injections for the purpose of:

(a) Mesotherapy; and

(b) Lipodissolve.

B. The nurse may not perform:

(1) Liposuction;

(2) Hair transplants;

(3) Invasive radiofrequency procedures;

(4) Phenopeels;

(5) Sculptra injections; and

(6) Lipostabil or phosphatidycholine for the purpose of lipodissolve.

JOHN M. COLMERS
Secretary of Health and Mental Hygiene

Subtitle 39 BOARD OF NURSING — CERTIFIED NURSING ASSISTANTS

10.39.05 Standards of Practice for Certified Nursing Assistants (CNA)

Authority: Health Occupations Article, §8-205(a)(1) and (2), and 8-6A-05(a)(1), Annotated Code of Maryland

Notice of Proposed Action

[10-265-P]

The Secretary of Health and Mental Hygiene proposes to adopt new Regulations .01—.03 under a new chapter, **COMAR 10.39.05 Standards of Practice for Certified Nursing Assistants (CNA)**. This action was considered by the Board of Nursing at a public meeting held on June 22, 2010, notice of which was given by publication on the Board of Nursing web site, www.MBON.org, on January 3 — June 22, 2010, pursuant to the State Government Article §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to:

(1) Set forth by regulation the standards of practice for a certified nursing assistant (CNA);

(2) Give the Board a regulatory basis for guidance; and

(3) Establish rules for discipline of a CNA.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499, or email to regs@dhhm.state.md.us, or fax to 410-767-6483. Comments will be accepted through October 12, 2010. A public hearing has not been scheduled.

.01 Exclusions.

This chapter is not applicable to and does not restrict or limit:

A. Other health care practitioners who are authorized to perform these duties under their respective acts;

B. The provision of gratuitous care by self, family, or friends;

C. A nurse from delegating a nursing task to an unlicensed individual if acceptance of delegated nursing tasks does not become a routine part of the unlicensed individual's job duties; or

D. A cognitively capable adult from employing an unlicensed caregiver in the adult's home to assist the adult in treatments of a routine nature and in self-administration of medication.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Assessment" means a comprehensive, dynamic process by which the registered nurse collects and analyzes data through interaction with:

- (a) The client;
- (b) The family;
- (c) Significant others; and
- (d) Other health care providers.

(2) "Certified nursing assistant (CNA)" means an individual certified by the Board to practice as a nursing assistant.

(3) "Delegate" means the nurse:

- (a) Authorizes the CNA to act on behalf of the nurse;
- (b) Authorizes the CNA to augment and supplement the care the nurse provides; and
- (c) Retains the accountability and responsibility for the delegated act.

(4) "Health care team" means a group of individuals that includes licensed health care providers, CNAs, and unlicensed personnel working in collaboration with the client, family, and friends to achieve identified outcomes.

(5) "Health status data" means and includes, but is not limited to:

- (a) Biophysical status to measure:
 - (i) Height;
 - (ii) Weight; and
 - (iii) Vital signs;
- (b) Cultural, religious, and socioeconomic background;

and

- (c) Activities of daily living.

(6) "Nurse" means a licensed registered nurse (RN) or a licensed practical nurse (LPN).

(7) "Nursing plan of care" means an established set of goals, priorities, and methods designed to solve, prevent, and manage a client's identified problems.

(8) "Outcome" means a measurable, expected, client-focused goal which is observable by the client's behavior or status.

.03 Scope of Practice.

A. Responsibility.

(1) A CNA:

- (a) Works under the delegated authority from a nurse to perform a nursing function;
- (b) Assists the nurse in collecting data for a nursing assessment; and
- (c) Is under the supervision of a nurse.

(2) In a team relationship with a registered nurse, and under the instruction, direction, and supervision of a nurse, the CNA shall:

- (a) Collect and record routine health data identified by the nurse on assigned clients;
- (b) Orally report the health status data as required by the nurse;
- (c) Identify when the client's condition or behavior has changed from one day to another or from one part of the assigned shift to another and report any change to the nurse;
- (d) Provide feedback to the nurse regarding the nurse-directed plan of care which is being implemented;
- (e) Provide feedback to the nurse about the client's expressed wishes concerning the plan of care;
- (f) Provide assistance with activities of daily living as delegated by the nurse;
- (g) Perform interventions as delegated by a registered nurse;
- (h) Record routine data and care provided on appropriate documents;

(i) Identify the need for assistance and request assistance when the CNA:

- (i) Is unsure about a client's condition;
- (ii) Does not know how to do an activity;
- (iii) Is aware that client circumstances have changed;
- (iv) Is working in a new practice or work setting; or
- (v) Is working with a new client in an unfamiliar situation;

(j) Report the client's response and the client's progress to the nurse:

- (i) At designated times; and
- (ii) When client circumstances have changed;

(k) Make suggestions or recommendations on how the nursing plan of care can be modified based on observations of the client's performance and statements; and

(l) Demonstrate competency in safely performing CNA functions, which include, but are not limited to:

- (i) Participation in quality of care activities;
- (ii) Performance self-appraisal;
- (iii) Continued learning;
- (iv) Collaboration;
- (v) Completion of delegated assignments; and
- (vi) Refusing or accepting an assignment based on one's knowledge or experience.

B. Confidentiality. The CNA shall:

- (1) Adhere to local, State, and federal guidelines and regulations regarding client confidentiality and privacy rights; and
- (2) Direct all client requests for information to a nurse.

C. Advocacy. The CNA shall:

(1) Advocate for the client by reporting to the nurse statements expressed by the client or family regarding:

- (a) Any request for information;
- (b) Concerns about care; and
- (c) Client needs; and

(2) Collaborate with other health care team members by reporting information and data regarding the client in a timely, truthful, and complete manner.

D. Teaching. The CNA shall:

(1) Reinforce the nurse's health teaching:

- (a) In accordance with the:
 - (i) Facility;
 - (ii) Employer; or
 - (iii) Agency policy; and
- (b) At the direction of the registered nurse's written instruction;

(2) Report the client's response to the teaching; and

(3) Report any request by the client for additional information.

E. Accountability. The CNA shall:

(1) Comply with all policies and procedures of the:

- (a) Facility;
- (b) Employer; and
- (c) Agency;

(2) Comply with all local, State, and federal guidelines and regulations governing nursing assistant practice;

(3) Perform competently all activities as assigned or delegated;

(4) Report to the nurse;

(5) Provide the client with a safe therapeutic environment;

(6) Recognize the CNA's individual limits of knowledge and experience;

(7) As needed, request assistance, direction, and supervision from the nurse;

(8) Recognize the CNA's responsibility and accountability to perform functions safely and competently;

(9) *Comply with the CNA code of ethics in accordance with COMAR 10.39.07;*

(10) *Report all errors, omissions, or incidents which may have occurred during the CNA's own practice or the practice of others; and*

(11) *Follow the basic principle of nursing practice: "First, do no harm to the client".*

JOHN M. COLMERS
Secretary of Health and Mental Hygiene

Title 13A **STATE BOARD OF** **EDUCATION**

Subtitle 04 SPECIFIC SUBJECTS

Notice of Proposed Action [10-263-P]

The Maryland State Board of Education proposes to:

(1) Repeal existing Regulations .01 and .02 and adopt new Regulations .01 and .02 under **COMAR 13A.04.13 Program in Physical Education**; and

(2) Repeal existing Regulations .01 and .02 and adopt new Regulations .01 and .02 under **COMAR 13A.04.18 Program in Comprehensive Health Education**.

This action was considered at the Maryland State Board of Education meeting on July 20, 2010.

Statement of Purpose

The purpose of this action is to repeal and replace existing regulations to be in compliance

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Brian Griffith, Specialist for Health Education, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, or call 410-767-0327, or email to bgriffith@msde.state.md.us, or fax to 410-333-2202. Comments will be accepted through October 12, 2010. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Maryland State Board of Education during a public meeting to be held on October 26—27, 2010, at 200 West Baltimore Street, Baltimore, MD 21201.

13A.04.13 Program in Physical Education

Authority: Education Article, §§2-205(h) and 7-409, Annotated Code of Maryland

.01 Physical Education Instructional Programs for Grades Prekindergarten — 12.

A. Each local school system shall:

(1) Provide in public schools an instructional program in physical education each year with sufficient frequency and duration to meet the requirements of the State curriculum for all students in grades prekindergarten—8; and

(2) Offer in public schools a physical education program in grades 9 — 12 which enables students to meet graduation requirements and to select physical education electives.

B. Maryland Physical Education Program.

(1) The physical education comprehensive instructional program shall provide a developmentally appropriate, instructional program that advances the student's knowledge, confidence, skills, and motivation to enjoy a lifetime of healthful physical activity.

(2) The comprehensive instructional program shall provide for the diversity of student needs, abilities, and interests at the early, middle, and high school learning years, and shall include all of the following Maryland Physical Education Content Standards with related indicators and objectives as set forth in §C of this regulation.

C. Maryland Physical Education Content Standards.

(1) *Skillfulness.* Students will demonstrate the ability to enhance their performance of a variety of physical skills by developing fundamental movement skills, creating original skill combinations, combining skills effectively in skill themes, and applying skills.

(2) *Biomechanical Principles.* Students will demonstrate an ability to use the principles of biomechanics to generate and control force to improve their movement effectiveness and safety.

(3) *Motor Learning Principles.* Students will demonstrate the ability to use motor skill principles to learn and develop proficiency through frequent practice opportunities in which skills are repeatedly performed correctly in a variety of situations.

(4) *Exercise Physiology.* Students will demonstrate the ability to use scientific principles to design and participate in a regular, moderate to vigorous physical activity program that contributes to personal health and enhances cognitive and physical performance on a variety of academic, recreational, and life tasks.

(5) *Physical Activity.* Students will demonstrate the ability to use the principles of exercise physiology, social psychology, and biomechanics to design and adhere to a regular, personalized, purposeful program of physical activity consistent with their health, performance, and fitness goals in order to gain health and cognitive/academic benefits.

(6) *Social Psychological Principles.* Students will demonstrate the ability to use skills essential for developing self-efficacy, fostering a sense of community, and working effectively with others in physical activity settings.

D. *Curriculum Documents.* Consistent with Education Article, §§2-205(h) and 7-409, Annotated Code of Maryland, each local school system shall provide comprehensive physical education curriculum documents for the elementary and secondary schools under its jurisdiction that:

(1) Include the content standards set forth in §C of this regulation; and

(2) Align with the State Curriculum, as developed by the Maryland State Department of Education in collaboration with the local school systems.

E. The local school system shall develop guidelines and procedures for the support of qualified teachers. Each local school system shall establish planned and continuous programs as required

to adequately train its teachers, administrators, supervisors, and personnel in order to update knowledge, instructional materials, and methodology in physical education.

F. *Student Participation.* Each student shall have the opportunity to participate in the comprehensive physical education program required by this chapter.

.02 Certification Procedures.

By September 2015 and each 5 years after that, each local superintendent of schools shall certify to the State Superintendent of Schools that the instructional programming within grades prekindergarten — 12 meets, at a minimum, the requirements set forth in Regulation .01 of this chapter.

13A.04.18 Program in Comprehensive Health Education

Authority: Education Article, §§2-205(h), 7-401, 7-410, 7-411, 7-411.1, and 7-413, Annotated Code of Maryland

.01 Comprehensive Health Education Instructional Programs for Grades Prekindergarten — 12.

A. Each local school system shall:

(1) Provide in public schools an instructional program in comprehensive health education each year with sufficient frequency and duration to meet the requirements of the State curriculum for all students in grades prekindergarten — 8;

(2) Offer in public schools a comprehensive health education program in grades 9 — 12 which enables students to meet graduation requirements and to select health education electives; and

(3) Provide access to the curriculum for non-diploma-bound students.

B. *Maryland Comprehensive Health Education Program.* The comprehensive instructional program shall help students adopt and maintain healthy behaviors and contribute directly to a student's ability to successfully practice behaviors that protect and promote health and avoid or reduce health risks. The instructional program shall provide for the diversity of student needs, abilities, and interests at the early, middle, and high school learning years, and shall include the Maryland Health Education Content Standards with related indicators and objectives as set forth in §5C — 1 of this regulation.

C. *Mental and Emotional Health.* Students will demonstrate the ability to use mental and emotional health knowledge, skills, and strategies to enhance wellness.

D. *Alcohol, Tobacco, and Other Drugs.* Students will demonstrate the ability to use drug knowledge, decision-making skills, and health enhancing strategies to address, the non-use, use, and abuse of medications, alcohol, tobacco, and other drugs.

E. *Personal and Consumer Health.* Students will demonstrate the ability to use consumer knowledge, skills, and strategies to develop sound personal health practices involving the use of health care products, services, and community resources.

F. Family Life and Human Sexuality.

(1) Students will demonstrate the ability to use human development knowledge, social skills, and health enhancing strategies to promote positive relationships and healthy growth and development throughout the lifecycle.

(2) The local school system shall establish a joint committee of educators and representatives of the community for the purpose of reviewing and commenting on instructional material to be submitted to the superintendent for consideration when recommending instructional material to be approved by the local Board of Education.

(3) *Materials and Instruction.*

(a) Material being presented will be in identifiable unit(s) within the total health education program.

(b) Instruction shall be introduced as shortly in advance of puberty as is practical.

(c) Direct teaching of the indicators and objectives will begin in or prior to the fifth grade.

(4) Written notification is made to parents/guardians announcing this unit of study.

(5) Exceptions.

(a) Students may be excused from this unit of the program upon written request from their parent/guardian.

(b) For students excused, the local school shall provide appropriate learning activities in health education.

(c) When practical, curricular materials may be made available for home instruction use by parent/guardian of students excused from the Family Life and Human Sexuality instructional unit.

(d) The local school shall make arrangements to permit those girls not participating in this unit of the program to receive instruction concerning menstruation.

(6) The school shall provide special opportunities for parents/guardians to view all instructional materials to be used in the program before the materials are used in the classroom.

(7) Each local school system shall publish at regular intervals a list of its approved instructional materials.

(8) When teaching a unit in Family Life and Human Sexuality, in addition to general teacher preparation, teachers are required to have additional preparation in content and teaching methods of such depth and duration as to be appropriate for the material taught. The additional preparation may be provided by college courses, local in-service programs, and/or State workshops.

G. *Safety and Injury Prevention.* Students will demonstrate the ability to apply prevention and intervention knowledge, skills, and processes to promote safe living in the home, school, and community.

H. *Nutrition and Fitness.* Students will demonstrate the ability to use nutrition and fitness knowledge, skills, and strategies to promote a healthy lifestyle.

I. Disease Prevention and Control.

(1) Students will demonstrate the ability to apply prevention and treatment knowledge, skills, and strategies to reduce susceptibility and manage disease.

(2) HIV/AIDS Instruction.

(a) Students may be excused from the HIV/AIDS instructional unit upon written request from their parent/guardian.

(b) For students excused, the local school shall provide appropriate learning activities in health education.

(c) When practical, curricular materials may be made available for home instruction use by parent/guardian of students excused from the HIV/AIDS instructional unit.

(3) Local school systems shall provide annual instruction in AIDS to all students at least once in grades 3 — 5, 6 — 8, and 9 — 12.

(4) The local board of education shall determine the three grades between 3 and 12 at which all students are to receive instruction.

(5) School staff selected to teach HIV/AIDS prevention in the classroom shall receive in-service education before initiating instruction and annually after that.

(6) Personnel employed by the local school system shall be provided annually with information or an awareness program about HIV/AIDS and its prevention.

J. *Curriculum Documents.* Consistent with Education Article, §§2-205(h), 7-401, 7-410, 7-411, 7-411.1, and 7-413, Annotated Code of Maryland, each local school system shall provide

comprehensive health education curriculum documents for the elementary and secondary schools under its jurisdiction that:

(1) Include the content standards set forth in §§C — I of this regulation; and

(2) Are aligned with the State Curriculum, as developed by the Maryland State Department of Education in collaboration with the local school systems.

K. The local school system shall develop guidelines and procedures for the selection of qualified teachers, and, because the teacher is a vital factor in the program, qualifications such as the following shall be considered:

(1) Health Education certification; and

(2) Appropriate specialized training.

L. The local school system shall develop guidelines and procedures for the support of qualified teachers. Each local school system shall establish planned and continuous programs as required to adequately train its personnel (teachers, administrators, and supervisors) in order to update knowledge, instructional materials, and methodology in health education.

M. Student Participation. Each student shall have the opportunity to participate in the comprehensive health education program required by this chapter.

.02 Certification Procedures.

By September 2015 and each 5 years after that, each local superintendent of schools shall certify to the State Superintendent of Schools that the instructional programming within grades prekindergarten — 12 meets, at a minimum, the requirements set forth in Regulation .01 of this chapter.

NANCY S. GRASMICK
State Superintendent of Schools

Subtitle 06 SUPPORTING PROGRAMS

13A.06.03 Interscholastic Athletics in the State

Authority: Education Article, §§2-205 and 2-303(k), Annotated Code of Maryland

Notice of Proposed Action

[10-261-P]

The Maryland State Board of Education proposes to amend Regulation .04 under **COMAR 13A.06.03 Interscholastic Athletics in the State**. This action was considered at the Maryland State Board of Education meeting on July 20, 2010.

Statement of Purpose

The purpose of this action is to require coaching education for long-term emergency coaches in Maryland high school athletic programs and to create the classification of Credentialed Coach that would provide equivalent hiring consideration for continuing in the same coaching assignment to that of a certificated educator.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Edward Sparks, Executive Director, Athletics Programs, Division of Instruction, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, or call 410-767-0555, or email to nsparks@msde.state.md.us, or fax to 410-333-3111. Comments will be accepted through October 12, 2010. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Maryland State Board of Education during a public meeting to be held on October 26—27, 2010, at 200 West Baltimore Street, Baltimore, MD 21201.

.04 Operational Guidelines.

The regulations given below are established for all MPSSAA interscholastic sports:

A. — A-1. (text unchanged)

B. MPSSAA Coaching Eligibility.

(1) Member MPSSAA schools shall employ as coaches [only teachers or certificated professional educator employees of the local Board of Education for a specific coaching assignment.]:

(a) Teachers or certificated professional educator employees of the local Board of Education for a specific coaching assignment.

(b) Persons certifiable as a professional educator by the State Department of Education according to 13A.12.01.

(c) Credentialed Coaches who meet the following requirements:

(i) Is eligible to hold a Maryland certificate under COMAR 13A.12.01.04;

(ii) Possesses a MPSSAA/MSDE Coach Certification;

(iii) Has completed two years of successful coaching as an emergency coach; and

(iv) Has spent the previous one year as a successful emergency coach at the school of hire in the position of hire.

(2) If no acceptable and qualified coaches are available from the teachers or certifiable professional [educator teachers] educators employed by the local board of education, temporary emergency coaches may be employed if the following procedures are followed:

[(a) With no acceptable professional staff members available to fill the coaching vacancy, the local school system shall attempt to locate as a coach a person certifiable as a professional educator by the State Department of Education according to COMAR 13A.12.01;

(b) With no acceptable and certifiable professional educator available, a person acceptable to the local school system may be employed as an emergency coach;

(c) Any person employed as a coach under the emergency provision shall comply with the following:

(i) The person shall be officially appointed by the local Board of Education on a 1-season basis for a specific coaching assignment,

(ii) The coaching salary of the appointed emergency coach shall be paid exclusively by the local school system;]

(a) The person shall be officially appointed by the local superintendent of schools on a one-season basis for a specific coaching assignment;

(b) The coaching salary of the appointed coach shall be paid exclusively by the local school system;

(c) After July 1, 2010, an emergency coach is required to possess an MPSSAA/MSDE coach certification prior to the start of his or her fourth year as an emergency coach;

(d) — (e) (text unchanged)

(3) (text unchanged)

(4) Member MPSSAA schools may permit volunteer athletic coaches to assist their coaching staff. The volunteer coaches may not serve as head coaches at any level and shall work only under the direction of the head coach. The volunteer coach may be used if the following procedures are followed:

(a) The volunteer coach is at least 21 years old and possesses a high school diploma *or equivalent*;

(b) — (c) (text unchanged)

C. — J. (text unchanged)

NANCY S. GRASMICK
State Superintendent of Schools

Subtitle 07 SCHOOL PERSONNEL

13A.07.02 Terms of Employment

Authority: Education Article, §§2-205, 4-103, 4-204(a), 6-201, 6-202, and 6-302; State Personnel and Pensions Article, §§22-406 and 23-407; Annotated Code of Maryland

Notice of Proposed Action

[10-262-P]

The Maryland State Board of Education proposes to amend Regulation .01 under **COMAR 13A.07.02 School Personnel**. This action was considered at the Maryland State Board of Education meeting on June 22, 2010.

Statement of Purpose

The purpose of this action is to align the regular employment contract for teachers in Maryland with legislation enacted by the General Assembly and signed May 4, 2010 by the Governor as part of The Education Reform Act, 2010 extending the period of tenure in Maryland to 3 years.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Jean Satterfield, Assistant State Superintendent, Certification and Accreditation, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, or call 410-767-0385, or email to jsatterfield@msde.state.md.us, or fax to 410-333-8963. Comments will be accepted through October 11, 2010. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Maryland State Board of Education during a public meeting to be held on October 26—27, 2010, at 200 West Baltimore Street, Baltimore, MD 21201.

.01 Contracts.

A. Contracts to Be in Writing. (text unchanged)

B. Regular (Teacher's) Contract.

(1) (text unchanged)

(2) The following is the approved form:

REGULAR CONTRACT
STATE OF MARYLAND, COUNTY OF

IT IS HEREBY AGREED by and between the LOCAL BOARD OF EDUCATION OF _____ COUNTY and _____ that the said certificated employee shall be and is hereby employed in the public schools of the said County subject to assignment by the Local Superintendent or transfer to some other position with the County, provided that if the transfer be made during the school year or after the opening of the school for any year, the salary shall not be reduced for the remainder of the year. The salary of said certificated employee shall be fixed by the Local Board of Education which salary shall be not less than the minimum salary provided by law.

The term "school year" as used in this contract means the period of time the certificated employee is obligated to perform duties (teaching and nonteaching) under his or her assignment for a local school system.

AND IT IS FURTHER AGREED that the certificated employee named herein shall become a member of the Teachers' _____* of the State of Maryland, if eligible, as of date on which his/her service begins.

AND IT IS FURTHER AGREED that the said certificated employee will not rescind an employment contract with the local school system after July 15 except in case of emergency, of which the Local Board of Education shall exercise judgment on a reasonable basis.

AND IT IS FURTHER AGREED that the said certificated employee will perform all duties required by the rules and regulations of the Local Board of Education and the State Board of Education.

AND IT IS FURTHER AGREED that:

(a) *Except as provided in subparagraphs (c)—(d) below, the probationary period of employment of a certificated employee in a local school system shall be three years from the date of employment.*

[(a)] (b) [Except as provided in subparagraphs (b)—(e) below, either] *Either of the parties to this contract may terminate it at the end of the first, [and] second, or third school year or on the first, second, or third anniversary date of employment in regard to employees hired after January 1 following the commencement of a school year by giving notice in writing to the other, as of the following dates:*

(i) In the case of employees employed before January 1 following the commencement of a school year, not later than May 1 [of that year or of the second year];

(ii) In the case of employees employed on or after January 1 following the commencement of a school year, not later than June 15 [of that year or of the second year], or not later than sixty (60) days prior to the *first, second, or third* anniversary date at the discretion of the Local Board of Education. Notwithstanding (i) above to the contrary, in the case in which the Board of Education must effect a reduction in force because a position must be abolished as a result of budgetary action by the local appropriating authority on or after May 1, notice must be given to the employee within 15 days following final action by the appropriating authority or June 30, whichever is earlier.

[(b)] The probationary period of a certificated employee in a public school system hired on or after July 1, 1999, may be extended for a third year from the date of employment if the certificated employee does not qualify for tenure at the end of the second year based on established performance evaluation criteria, and the employee demonstrates a strong potential for improvement.

(c) In order to extend the probationary period as provided in (b) above, the Local Board of Education shall give notice of such extension to an employee employed before January 1 following the commencement of a school year, not later than May 1 of the second year, and to an employee employed on or after January 1 following the commencement of a school year, not later than June 15 of the second year, or not later than 60 days prior to the second anniversary date, at the discretion of the Local Board of Education.

(d) If the probationary period is extended as provided in (b) and (c) above, the local school superintendent or designee shall assign a mentor to the employee and shall evaluate the employee at the end of the third year based on established performance evaluation criteria.

(e) A third-year probationary contract may be terminated by either party at the end of the third year by giving notice in writing as of the dates specified in subparagraph (a) above.]

(c) A certificated employee who has achieved tenure in a local school system and moves to another local school system shall retain tenure in the new local school system under the following conditions:

(i) The employee's contract is renewed after one year of probationary employment in the local school system to which the employee relocated;

(ii) The employee's final evaluation rating in the local school system from which the employee departed is "satisfactory" or better; and

(iii) There has been no break in the employee's service between the two local school systems of longer than one year.

(d) A certificated employee's probationary period in a new local school system, specified in subparagraph (c) above, may be extended for a second year from the date of employment if:

(i) The employee does not qualify for tenure at the end of the first year based on established performance evaluation criteria; and

(ii) The employee demonstrates a strong potential for improvement.

AND IT IS FURTHER AGREED that if the certificated employee named herein wishes to vacate his or her position after becoming tenured, thirty days' notice in writing shall be given the Local Board of Education prior to the beginning of his or her next school year but not later than July 15, except in case of emergency, of which the Local Board of Education shall exercise judgment on a reasonable basis.

If any of the conditions of this contract shall be violated by the certificated employee named herein, salary already accrued will be forfeited, in the discretion of the Local Board of Education.

This contract shall continue from year to year, subject to the foregoing conditions. The Local Board of Education, pursuant to the provisions of §6-202 of the Education Article of the Annotated Code of Maryland, as amended, may suspend or dismiss the employee at any time, upon the recommendation of the Local Superintendent, for immorality; misconduct in office, including knowingly failing to report suspected child abuse in violation of §5-701 et seq. of the Family Law Article; insubordination; incompetency; or willful neglect of duty, provided that the charge or charges be stated, in writing, to the employee, and that the employee be given an opportunity to be heard by the Local Board of Education upon not less than 10 days' notice with the right to bring counsel and witnesses, if so desired. An appeal may be made to the State Board of Education within 30 days of the decision of the Local Board of Education.

This contract shall automatically terminate if the employee ceases to hold a professional certificate.

This contract is made in accordance with the provisions of the School Law, and is subject to §§2-205[(n)], 4-103, 4-204(a), 6-201,

6-202, and 6-302 of the Education Article of the Annotated Code of Maryland, and any amendments thereto, and will be filed among the records of the Local Board of Education.

The said certificated employee on his or her part hereby accepts said employment, to take effect on the _____ day of _____, 20____. Date of signing this contract _____, 20____.

WITNESS OUR HANDS:

Secretary, Local Board of Education

Certificated Employee

C. Provisional Contract. (text unchanged)

NANCY S. GRASMICK
State Superintendent of Schools

Title 14

INDEPENDENT AGENCIES

Subtitle 01 STATE LOTTERY AGENCY

Notice of Proposed Action

[10-268-P]

The Maryland State Lottery Agency proposes to adopt:

(1) Amendments to Regulations **.14**, **.15**, and **.17** under **COMAR 14.01.10 Video Lottery Terminals**; and

(2) New Regulation **.08** under **COMAR 14.01.11 Video Lottery Facility Operation Licenses**.

This action was considered at the Maryland State Lottery Commission open meeting held on July 22, 2010, notices of which were given pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to update regulations to incorporate provisions required for implementation and operation of the State's new Video Lottery Terminal program and for the VLT Facilities which are scheduled to begin opening in Fall 2010.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Robert W. Howells, Regulations Coordinator, Maryland State Lottery Agency, 1800 Washington Boulevard, Suite 330, Baltimore, MD 21230, or call 410-230-8789, or email to rhowells@msla.state.md.us, or fax to 410-230-8727. Comments will be accepted through October 12, 2010. A public hearing has not been scheduled.

14.01.10 Video Lottery Terminals

Authority: State Government Article, Title 9, Subtitle 1A, Annotated Code of Maryland

.14 Bonds.

- A. — E. (text unchanged)
- F. For a gaming employee, *who is not covered by a bond under §D of this regulation*, the amount of the bond:
 - (1) — (2) (text unchanged)
- G. — I. (text unchanged)

.15 Manufacturer Licenses.

- A. — B. (text unchanged)
- C. Application and License Fees.
 - (1) (text unchanged)
 - (2) The license fee for a person is:
 - (a) [\$1,000] \$5,000 for a manufacturer of a video lottery terminal;
 - (b) (text unchanged)
 - (c) [\$1,000] \$5,000 for a manufacturer of associated equipment and software; and
 - (d) (text unchanged)
- D. — E. (text unchanged)
- F. Term; Renewal; License Renewal Fee.
 - (1) The term of a manufacturer license is [1 year] 3 years.
 - (2) The Commission may renew the license if, before the term of the license expires, the licensee:
 - (a) — (c) (text unchanged)
 - (d) Pays a license renewal fee [of \$10,000] *in the amount of the license fee that is required under §C(2) of this regulation.*

.17 Contractor — Qualification.

- A. — D. (text unchanged)
- E. Application and License Fees.
 - (1) The application fee for [the Commission's qualification of] a contractor is [\$500] \$1,500; and
 - (2) *The license fee for a contractor is \$2,500.*
- F. Term; Renewal; Fees.
 - (1) The term of qualification is [2] 3 years.
 - (2) The Commission may renew the qualification if, before the expiration of [2] 3 years, the contractor:
 - (a) — (c) (text unchanged)
 - (d) Pays a renewal fee of [\$500] \$2,500.
- G. — H. (text unchanged)

14.01.11 Video Lottery Facility Operation Licenses

Authority: State Government Article, Title 9, Subtitle 1A, Annotated Code of Maryland

.08 Predatory Marketing.

- A. Definition.
 - (1) *In this regulation, the following term has the meaning indicated.*
 - (2) *Term Defined. "Predatory marketing practice" means an advertisement or promotion of an activity, product or service related to play of a video lottery terminal that is:*
 - (a) *False or deceptive;*
 - (b) *Illegal; or*
 - (c) *Knowingly directed to an individual:*
 - (i) *Who is under the age of 21 years;*
 - (ii) *Whose name is included on the voluntary exclusion list maintained by the Commission under COMAR 14.01.16;*

- (iii) *Whose name is included on the mandatory exclusion list maintained by the Commission under COMAR 14.01.17; or*
- (iv) *Who is otherwise prohibited by law or court order from being on the premises of any video lottery operation licensed by the State.*

B. *A facility operator may not:*

- (1) *Engage in a predatory marketing practice; or*
- (2) *Contract with another person to engage in a predatory marketing practice.*

STEPHEN L. MARTINO
Director
State Lottery Agency

Subtitle 01 STATE LOTTERY AGENCY

14.01.11 Video Lottery Facility Operation Licenses

Authority: State Government Article, Title 9, Subtitle 1A, Annotated Code of Maryland

Notice of Proposed Action

[10-269-P]

The Maryland State Lottery Agency proposes to adopt new Regulation .07 under **COMAR 14.01.11 Video Lottery Facility Operation Licenses**. This action was considered at the Maryland State Lottery Commission open meeting held on July 22, 2010, notice of which was given pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

The adoption of new Regulation .07, as proposed in 37:9 Md. R. 687 (April 23, 2010), is being withdrawn at this time.

Statement of Purpose

The purpose of this action is to update regulations to incorporate provisions required for implementation and operation of the State's new Video Lottery Terminal program and for the VLT Facilities which are scheduled to begin opening in Fall 2010.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Robert W. Howells, Regulations Coordinator, Maryland State Lottery Agency, 1800 Washington Boulevard, Suite 330, Baltimore, MD 21230, or call 410-230-8789, or email to rhowells@msla.state.md.us, or fax to 410-230-8727. Comments will be accepted through October 12, 2010. A public hearing has not been scheduled.

.07 Automated Teller Machines.

A. *Placement; Limitations.*

(1) *A facility operator may place automated teller machines within the facility.*

(2) *Gaming Floor. Except as otherwise provided in §A(3), the proximity of an automated teller machine to a video lottery terminal that is on a gaming floor is subject to the following limitations:*

(a) *An automated teller machine may be placed no closer than 15 feet to a video lottery terminal; and*

(b) *There may be no more than one automated teller machine for every 175 video lottery terminals.*

(3) *Waiver.*

(a) *A facility operator may submit a written request to the Commission for waiver of a requirement set forth in § A(2).*

(b) *The Commission may consider the following factors in deciding whether to grant the waiver request:*

(i) *Size of the video lottery facility;*

(ii) *Proposed location of the automated teller machine within the facility;*

(iii) *Any physical separation of the automated teller machine from any video lottery terminal; and*

(iv) *Any other relevant information.*

(c) *The Commission shall approve the location of an automated teller machine for which it has granted a waiver under this subsection.*

(d) *The Commission's decision on the waiver request is final.*

B. Withdrawal Limits. Between the hours of 8 a.m. and 2 a.m., the maximum amount that a player may withdraw from an account by using an automated teller machine shall be:

(1) *No more than \$250 per transaction; and*

(2) *No more than \$1,000.*

STEPHEN L. MARTIN

Director

State Lottery Agency

Title 26

DEPARTMENT OF THE ENVIRONMENT

Subtitle 08 WATER POLLUTION

26.08.02 Water Quality

Authority: Environment Article, §§9-303.1, 9-313 — 9-316, 9-319, 9-320 — 9-325, 9-327, and 9-328, Annotated Code of Maryland

Notice of Proposed Action

[10-259-P-I]

The Secretary of the Environment proposes to amend Regulations .03-2, .03-3, .04-1, .05-1, and .08 under **26.08.02 Water Quality**.

Statement of Purpose

The purpose of this action is to revise water quality standards regulations as a result of the Department's review. Several necessary amendments and additions to the regulations were identified:

(1) Update numeric toxics criteria for acrolien and phenol;

(2) Update the assessment procedures for dissolved oxygen and clarity in Use II waters;

(3) Establish site-specific dissolved oxygen criteria for portions of the Pocomoke River;

(4) Establish a restoration variance for a portion of the Chester River;

(5) Amend the antidegradation policy and update the list of High Quality (Tier II) waters;

(6) Revise the intermittent stream regulation; and

(7) Amend designated uses which reflect existing uses by adding the Seasonal Deep Water Fish and Shellfish Use to the South, Severn, and Magothy Rivers.

Background

The Clean Water Act requires that States review their water quality standards at least every 3 years (Triennial Review) and revise the standards as necessary. The water quality standards consist of three parts:

A designated use that sets goals for a water body: Examples are support of aquatic life, drinking water supply, or a coldwater fishery such as trout.

Criteria that support the designated uses: There are numerous criteria for chemical substances, bacteria, acidity, and physical characteristics such as temperature. Examples include dissolved oxygen sufficient to support aquatic life or metals in sufficient low concentrations that they will not interfere with aquatic life.

An antidegradation policy: Maryland has a policy in place, but updates the list of high quality waters as necessary.

Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to John Backus, Chief, Water Quality Standards Section, Maryland Department of the Environment, 1800 Washington Blvd., Baltimore, MD 21230, or call 410-537-3965, or email to jbackus@mde.state.md.us, or fax to 410-537-3998. Comments will be accepted through October 12, 2010. A public hearing will be held on September 24, 2010, at 4 p.m., at Montgomery Business Park, 1800 Washington Blvd., Baltimore, MD 21230

Editor's Note on Incorporation by Reference

Pursuant to State Government Article, §7-207, Annotated Code of Maryland, Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity and Chlorophyll a for the Chesapeake Bay and Its Tidal Tributaries — 2008 Technical Support for Criteria Assessment Protocols Addendum (EPA 903-R-08-001), Chapter III, and Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity and Chlorophyll a for the Chesapeake Bay and Its Tidal Tributaries — 2010 Technical Support for Criteria Assessment Protocols Addendum (EPA 903-R-10-002), Chapters II and III, have been declared documents generally available to the public and appropriate for incorporation by reference. For this reason, they will not be printed in the Maryland Register or the Code of Maryland Regulations (COMAR). Copies of these documents are filed in special public depositories located throughout the State. A list of these depositories was published in 37:1 Md. R. 9 (January 4, 2010), and is available online at www.dsd.state.md.us. These documents may also be inspected at the office of the Division of State Documents, 16 Francis Street, Annapolis, Maryland 21401.

.03-2 Numerical Criteria for Toxic Substances in Surface Waters.

A. — F. (text unchanged)

G. Tables of Ambient Water Quality Criteria.

(1) (text unchanged)

(2) Table 2. Toxic Substances for Ambient Water Quality Criteria—Organic Compounds.

Substance	CAS#	Aquatic Life (µg/L)				Human Health for Consumption of:		
		Fresh Water		Salt Water		Drinking Water + Organism (µg/L)	Organism Only (µg/L)	Drinking Water MCL (mg/L)
		Acute	Chronic	Acute	Chronic			
1,1 Dichloroethylene (DCE) —3,3’-Dichlorobenzidine (text unchanged)								
Acrolein	107028	3	3			[190] 6	[290] 9	
Acrylonitrile — N-Nitrosodiphenylamine (text unchanged)								
Phenol	108952					[21000] 10000	[1700000] 860000	
Tetrachloroethylene — Vinyl chloride (text unchanged)								

¹ (text unchanged)

(3) — (4) (text unchanged)

H. — K. (text unchanged)

.03-3 Water Quality Criteria Specific to Designated Uses.

A. — B. (text unchanged)

C. Criteria for Use II Waters — Support of Estuarine and Marine Aquatic Life and Shellfish Harvesting.

(1) — (7) (text unchanged)

(8) Dissolved Oxygen Criteria for Use II Waters.

(a) — (c) (text unchanged)

(d) Open-Water Fish and Shellfish Subcategory. The dissolved oxygen concentrations in areas designated as open-water fish and shellfish subcategory shall be:

(i) — (iii) (text unchanged)

(iv) Greater than or equal to 3.2 milligrams/liter as an instantaneous minimum year-round; [and]

(v) For protection of the endangered shortnose sturgeon, greater than or equal to 4.3 milligrams/liter as an instantaneous minimum at water column temperatures greater than 29°C (77°F)[.]; and

(vi) For the Upper Pocomoke River Tidal Fresh (POCTF) and the Maryland portion of the Middle Pocomoke River Oligohaline (POCOH), greater than or equal to 4.0 milligrams/liter for a 30-day averaging period year-round.

(e) Seasonal Deep-Water Fish and Shellfish Subcategory. The dissolved oxygen concentrations in areas designated as seasonal deep-water fish and shellfish subcategory shall be:

(i) — (iv) (text unchanged)

(v) For the dissolved oxygen criteria restoration variance for Chesapeake Bay Mainstem Segment 4 mesohaline (CB4MH) seasonal deep-water fish and shellfish subcategory, not lower for dissolved oxygen in segment CB4MH than the stated criteria for the seasonal deep-water seasonal fish and shellfish use for more than 7 percent spatially and temporally (in combination), from June 1 to September 30; [and]

(vi) For dissolved oxygen criteria restoration variance for Patapsco River mesohaline (PATMH) seasonal deep-water fish and shellfish subcategory, not lower for dissolved oxygen in segment PATMH than the stated criteria for the deep-water seasonal fish and shellfish use for more than 7 percent spatially and temporally (in combination), from June 1 to September 30[.]; and

(vii) For the dissolved oxygen criteria restoration variance for Lower Chester River Mesohaline (CHSMH) seasonal

deep-channel refuge subcategory, not lower for dissolved oxygen in segment CHSMH than the stated criteria for the seasonal deep-channel refuge use for more than 14 percent spatially and temporally (in combination), from June 1 to September 30.

(f) (text unchanged)

(g) Implementation of the Dissolved Oxygen Water Quality Standard. The attainment of the dissolved oxygen criteria that apply to the Chesapeake Bay and tidally influenced tributary waters shall be determined using the guidelines established in the U.S. Environmental Protection Agency publications “Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity and Chlorophyll a for the Chesapeake Bay and its Tidal Tributaries (EPA 903-R-03-002), Chapter III”, “Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity and Chlorophyll a for the Chesapeake Bay and its Tidal Tributaries—2004 Addendum (EPA 903-R-04-005) Chapter V”, [and] “Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity and Chlorophyll a for the Chesapeake Bay and its Tidal Tributaries—2007 Addendum (EPA 903-R-07-003), Chapter IV”, “Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity and Chlorophyll a for the Chesapeake Bay and Its Tidal Tributaries — 2008 Technical Support for Criteria Assessment Protocols Addendum (EPA 903-R-08-001), Chapter III”, and “Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity and Chlorophyll a for the Chesapeake Bay and Its Tidal Tributaries — 2010 Technical Support for Criteria Assessment Protocols Addendum (EPA 903-R-10-002), Chapters II and III”, which are incorporated by reference.

(h) (text unchanged)

(9) Water Clarity Criteria for Seasonal Shallow-Water Submerged Aquatic Vegetation Subcategory.

(a) — (b) (text unchanged)

(c) Table 2. SAV Acreage Restoration Goals.

Segment Description ¹	Segment Designator	SAV Acreage Restoration Goal	Secchi Application Depth
Northern Chesapeake Bay CB1TF2 — Northern Chesapeake Bay CB1TF1 (text unchanged)			
[Middle Pocomoke River Oligohaline	POCOH	22	0.5 meters]
Lower Pocomoke River Mesohaline — Eastern Bay (text unchanged)			

Upper Chester River Tidal Fresh	CSHTF	[230] <i>I</i>	0.5 meters
Middle Chester River Oligohaline — Middle River Oligohaline (text unchanged)			
Back River Oligohaline	BACOH	[340] <i>30</i>	0.5 meters
Patapsco River Mesohaline — Lower Central Chesapeake Bay (text unchanged)			

¹⁻² (text unchanged)

(d) SAV No Grow Zones. Certain Chesapeake Bay segments contain areas designated as shallow water use that are not suitable for growth of submerged aquatic vegetation due to natural conditions and permanent physical alterations. Tables V-1 and Figures V-1 to V-12 in the 2004 U.S. Environmental Protection Agency publication “Technical Support Document for Identification of Chesapeake Bay Designated Uses and Attainability — 2004 Addendum (EPA 903-R-04-006)”, which is incorporated by reference, indicate the SAV No Grow Zones. The segments Upper Choptank River (CHOTF), Upper Nanticoke River (NANTD) [and], Upper Pocomoke River (POCTF), and *Middle Pocomoke River Oligohaline (POCOH)* are entirely SAV no grow zones, therefore, the shallow-water designated use does not apply to these segments.

(e) Implementation. The attainment of the water clarity criteria that apply to the seasonal shallow-water submerged aquatic vegetation use subcategory in the Chesapeake Bay and tidally influenced tributary waters will be determined using the guidelines documented within the U.S. Environmental Protection Agency publications “Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity and Chlorophyll a for the Chesapeake Bay and its

Tidal Tributaries (EPA 903-R-03-002)”, “Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity and Chlorophyll a for the Chesapeake Bay and its Tidal Tributaries — 2004 Addendum (EPA 903-R-04-005)”, “Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity and Chlorophyll a for the Chesapeake Bay and its Tidal Tributaries — 2007 Addendum (EPA 903-R-07-003)”, “*Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity and Chlorophyll a for the Chesapeake Bay and Its Tidal Tributaries — 2008 Technical Support for Criteria Assessment Protocols Addendum (EPA 903-R-08-001)*”, “Technical Support Document for Identification of Chesapeake Bay Designated Uses and Attainability (EPA 903-R-03-004)”, and “Technical Support Document for Identification of Chesapeake Bay Designated Uses and Attainability — 2004 Addendum (EPA 903-R-04-006)” which are incorporated by reference.

(10) — (11) (text unchanged)

C-1. — H. (text unchanged)

.04-1 Antidegradation Policy Implementation Procedures.

A. — C. (text unchanged)

D. Waters Not Listed as Tier II.

(1) — (2) (text unchanged)

(3) Waters may be listed as Tier II, if the exclusion under §D(2) of this regulation is not applicable and [where] *if*:

[(a) Existing uses are met; and

(b) One of the following:]

[(i)] *(a)* — [(ii)] *(b)* (text unchanged)

(4) (text unchanged)

E. — N. (text unchanged)

[O.] (proposed for repeal)

O. List of Tier II Waters.

Date	Stream Name	County	12-Digit Watershed	From Lat	From Long	To Lat	To Long	Baseline:	
								Fish IBI	Benthic IBI
2007	Black Sulphur Run 1	Allegany	021405110138	39.66571	-78.49952	39.65183	-78.47808	4.33	4.25
2007	Elklick Run 1	Allegany	021410040090	39.57690	-78.91140	39.57095	-78.93507	4.00	4.50
2007	Fifteenmile Creek 1	Allegany	021405110137	39.71230	-78.44577	39.70747	-78.45106	4.67	4.25
2007	Fifteenmile Creek 2	Allegany	021405110137	39.69293	-78.45128	39.67463	-78.45777	4.67	4.00
2003	Fifteenmile Creek 3	Allegany	021405110135	39.64046	-78.39719	39.63082	-78.38600	5.00	4.25
2007	Fifteenmile Creek 4	Allegany	021405110137	39.71921	-78.44378	39.71230	-78.44577	4.67	4.00
2007	Fifteenmile Creek 5	Allegany	021405110137	39.70188	-78.44975	39.69293	-78.45128	4.67	4.25
2007	Mudlick Hollow 1	Allegany	021405110141	39.69590	-78.39292	39.65611	-78.40011	4.33	4.50
2007	Murley Branch 1	Allegany	021405120130	39.66398	-78.61768	39.66340	-78.61151	4.33	4.00
2007	Town Creek 1	Allegany	021405120122	39.54048	-78.54280	39.52337	-78.54404	4.67	4.25
2007	Town Creek 2	Allegany	021405120131	39.71306	-78.53643	39.69388	-78.54752	4.33	4.00
2007	White Sulphur Run 1	Allegany	021405110137	39.65183	-78.47808	39.66107	-78.45709	4.00	4.25
2003	Sideling Hill Creek 1	Allegany, Washington	021405100148	39.66097	-78.36225	39.63948	-78.33408	4.67	4.25
2003	Lyons Creek 1	Anne Arundel, Calvert	021311020910	38.76807	-76.62204	38.76693	-76.63353	5.00	4.71
2007	Lyons Creek 2	Anne Arundel, Calvert	021311020909	38.76498	-76.65334	38.76474	-76.65903	4.67	5.00
2009	Patuxent River 1	Anne Arundel, Prince George's	021311040937	39.01110	-76.73676	39.00709	-76.73319	4.00	4.71
2007	Beetree Run 1	Baltimore Co.	021308050311	39.68323	-76.66591	39.66633	-76.67247	4.33	5.00
2007	Blackrock Run 1	Baltimore Co.	021308050303	39.54230	-76.73384	39.52739	-76.72217	4.67	4.00

2007	Cooks Branch 1	Baltimore Co.	021309071048	39.43616	-76.84026	39.43789	-76.86894	4.67	4.84
2007	Cooks Branch 2	Baltimore Co.	021309071048	39.43792	-76.86879	39.43825	-76.87277	4.84	5.00
2007	Deer Creek 1	Baltimore Co.	021202020332	39.72289	-76.61175	39.70730	-76.59021	4.67	4.00
2007	Delaware Run 1	Baltimore Co.	021308050303	39.49910	-76.77293	39.50196	-76.76216	4.00	4.33
2007	Indian Run 1	Baltimore Co.	021308050307	39.54821	-76.74264	39.54230	-76.73384	4.00	4.33
2003	Keysers Run 1	Baltimore Co.	021309071048	39.46914	-76.83976	39.47156	-76.87929	5.00	4.00
2008	Little Falls 1	Baltimore Co.	021308050309	39.62193	-76.63046	39.61385	-76.62302	4.33	4.00
2007	North Branch Patapsco River UT 1	Baltimore Co.	021309071048	39.48558	-76.84373	39.49465	-76.86359	4.67	4.67
2007	Peggys Run 1	Baltimore Co.	021308060314	39.60906	-76.79718	39.61597	-76.79254	5.00	4.00
2007	Peggys Run UT 1	Baltimore Co.	021308060314	39.60402	-76.82804	39.60906	-76.79718	5.00	4.67
2007	Red Run 1	Baltimore Co.	021309051045	39.41111	-76.81224	39.40074	-76.79887	4.67	4.17
2003	Timber Run 1	Baltimore Co.	021309071048	39.44400	-76.84151	39.43794	-76.86878	4.48	4.67
2007	Western Run 1	Baltimore Co.	021308050303	39.51503	-76.74060	39.52739	-76.72217	4.00	4.00
2007	Gunpowder Falls 1	Baltimore Co., Carroll	021308060316	39.69574	-76.80339	39.68389	-76.76963	4.00	4.50
2007	First Mine Branch 1	Baltimore Co., Harford	021308050309	39.62700	-76.55549	39.62524	-76.59857	4.33	4.33
2003	Little Gunpowder Falls 1	Baltimore Co., Harford	021308040298	39.50453	-76.42982	39.48592	-76.42739	4.00	4.33
2003	Little Gunpowder Falls 2	Baltimore Co., Harford	021308040298	39.48150	-76.42516	39.47306	-76.40243	4.33	4.17
2008	Little Gunpowder Falls 3	Baltimore Co., Harford	021308040298	39.52930	-76.51334	39.52561	-76.49405	4.00	4.00
2007	Choptank River UT 1	Caroline	021304040494	38.89921	-75.80250	38.90032	-75.82887	4.33	4.43
2007	Choptank River	Caroline	021304040487	38.88450	-75.87640	38.87218	-75.85988	4.33	4.14

	UT 2								
2007	Faulkner Branch 1	Caroline	021303060611	38.71178	-75.79381	38.71002	-75.77321	4.00	4.71
2007	Forge Branch 1	Caroline	021304040505	38.99411	-75.81912	38.96356	-75.82510	4.67	4.14
2008	Herring Run 1 (Caroline Co.)	Caroline	021304040490	38.85163	-75.78393	38.84814	-75.80201	5.00	4.43
2008	Hog Creek 1	Caroline	021304040484	38.75614	-75.90846	38.78274	-75.93954	5.00	4.71
2007	Hunting Creek 1	Caroline	021304030471	38.71848	-75.88225	38.70389	-75.89296	4.33	4.43
2009	Marsh Creek 1	Caroline	021304040476	38.71487	-75.93561	38.70310	-75.94396	4.00	4.71
2007	Robins Creek 1	Caroline	021304040486	38.79651	-75.84430	38.81482	-75.86926	4.67	4.43
2008	Sullivan Branch 1	Caroline	021303060614	38.75398	-75.78257	38.72927	-75.76085	4.33	4.43
2008	Tull Branch 1	Caroline	021303060613	38.74128	-75.79902	38.71843	-75.77007	4.33	4.14
2008	Watts Creek 1	Caroline	021304040492	38.87704	-75.78880	38.85750	-75.81524	4.67	5.00
2008	Tuckahoe River 1	Caroline, Queen Anne's	021304050531	38.99067	-75.92972	38.98128	-75.93486	4.67	5.00
2007	Beaver Run 1	Carroll	021309071057	39.52564	-76.94339	39.51553	-76.93306	4.67	4.00
2007	Gillis Falls 1	Carroll	021309081030	39.41843	-77.07169	39.41370	-77.07350	5.00	4.33
2003	Gillis Falls 2	Carroll	021309081025	39.38573	-77.08755	39.36202	-77.06503	4.67	4.00
2007	Joe Branch 1	Carroll	021309071050	39.49684	-76.98763	39.47308	-76.98504	5.00	4.67
2007	Little Morgan Run 1	Carroll	021309071049	39.44303	-77.00405	39.43667	-76.98714	5.00	5.00
2008	Little Morgan Run 2	Carroll	021309071049	39.43418	-76.97782	39.42667	-76.96086	4.00	4.33
2003	Little Morgan Run UT 1	Carroll	021309071049	39.44732	-77.02609	39.44303	-77.00405	5.00	5.00
2007	Little Morgan Run UT 2	Carroll	021309071049	39.45284	-76.99936	39.43667	-76.98714	4.33	4.00
2008	Middle Run 1	Carroll	021309071056	39.49246	-76.94485	39.47679	-76.92717	5.00	4.33
2007	Morgan Run 1	Carroll	021309071050	39.47892	-76.99912	39.47308	-76.98504	4.33	4.00
2007	Morgan Run UT 1	Carroll	021309071047	39.41909	-76.94624	39.42504	-76.94703	4.67	4.00
2007	North Branch Patapsco River 1	Carroll	021309071048	39.52245	-76.87527	39.51010	-76.88719	4.00	4.17
2007	North Branch	Carroll	021309071048	39.52579	-76.87790	39.52245	-76.87527	4.00	4.00

	<i>Patapsco River 2</i>								
2009	<i>Piney Branch 2 (Carroll Co.)</i>	<i>Carroll</i>	<i>021309081026</i>	<i>39.37318</i>	<i>-77.01189</i>	<i>39.35703</i>	<i>-76.99621</i>	<i>4.67</i>	<i>4.00</i>
2007	<i>South Branch Gunpowder Falls UT 1</i>	<i>Carroll</i>	<i>021308060317</i>	<i>39.66661</i>	<i>-76.88386</i>	<i>39.70835</i>	<i>-76.85661</i>	<i>5.00</i>	<i>4.00</i>
2007	<i>South Branch Patapsco River 1</i>	<i>Carroll, Howard</i>	<i>021309081025</i>	<i>39.36322</i>	<i>-77.07507</i>	<i>39.36202</i>	<i>-77.06503</i>	<i>5.00</i>	<i>4.00</i>
2007	<i>Basin Run 1</i>	<i>Cecil</i>	<i>021202030344</i>	<i>39.65615</i>	<i>-76.08164</i>	<i>39.65530</i>	<i>-76.11020</i>	<i>4.33</i>	<i>4.67</i>
2007	<i>Big Elk Creek 1</i>	<i>Cecil</i>	<i>021306060386</i>	<i>39.66985</i>	<i>-75.82816</i>	<i>39.66294</i>	<i>-75.82655</i>	<i>4.00</i>	<i>4.33</i>
2007	<i>Big Elk Creek 2</i>	<i>Cecil</i>	<i>021306060386</i>	<i>39.66297</i>	<i>-75.82656</i>	<i>39.61737</i>	<i>-75.82005</i>	<i>4.67</i>	<i>4.43</i>
2007	<i>Gramies Run 1</i>	<i>Cecil</i>	<i>021306060387</i>	<i>39.70360</i>	<i>-75.85958</i>	<i>39.66983</i>	<i>-75.82808</i>	<i>4.50</i>	<i>4.67</i>
2003	<i>Little North East Creek 1</i>	<i>Cecil</i>	<i>021306080377</i>	<i>39.72566</i>	<i>-75.95853</i>	<i>39.66625</i>	<i>-75.93462</i>	<i>4.67</i>	<i>4.67</i>
2007	<i>Mill Creek 1</i>	<i>Cecil</i>	<i>021202010319</i>	<i>39.58515</i>	<i>-76.05275</i>	<i>39.56460</i>	<i>-76.06549</i>	<i>4.00</i>	<i>4.33</i>
2007	<i>Principio Creek 1</i>	<i>Cecil</i>	<i>021306090380</i>	<i>39.64415</i>	<i>-76.03558</i>	<i>39.61434</i>	<i>-76.03344</i>	<i>4.67</i>	<i>4.00</i>
2007	<i>Principio Creek 2</i>	<i>Cecil</i>	<i>021306090380</i>	<i>39.59454</i>	<i>-76.02519</i>	<i>39.58707</i>	<i>-76.02894</i>	<i>4.00</i>	<i>4.67</i>
2009	<i>Principio Creek 3</i>	<i>Cecil</i>	<i>021306090380</i>	<i>39.58703</i>	<i>-76.02897</i>	<i>39.57064</i>	<i>-76.03058</i>	<i>4.33</i>	<i>4.00</i>
2003	<i>Principio Creek UT 1</i>	<i>Cecil</i>	<i>021306090380</i>	<i>39.61544</i>	<i>-76.05885</i>	<i>39.60709</i>	<i>-76.03070</i>	<i>4.00</i>	<i>4.67</i>
2007	<i>Hill Top Fork UT 1</i>	<i>Charles</i>	<i>021401100775</i>	<i>38.48924</i>	<i>-77.16391</i>	<i>38.46113</i>	<i>-77.15144</i>	<i>4.33</i>	<i>4.43</i>
2008	<i>Hoghole Run 1</i>	<i>Charles</i>	<i>021401090773</i>	<i>38.51805</i>	<i>-77.03583</i>	<i>38.50957</i>	<i>-77.02469</i>	<i>4.13</i>	<i>4.60</i>
2009	<i>Jennie Run 1</i>	<i>Charles</i>	<i>021401090774</i>	<i>38.56786</i>	<i>-76.98150</i>	<i>38.54646</i>	<i>-77.01716</i>	<i>4.33</i>	<i>4.29</i>
2007	<i>Mattawoman Creek UT 1</i>	<i>Charles</i>	<i>021401110780</i>	<i>38.53477</i>	<i>-77.16806</i>	<i>38.54767</i>	<i>-77.17246</i>	<i>4.00</i>	<i>4.43</i>
2003	<i>Mattawoman Creek UT 2</i>	<i>Charles</i>	<i>021401110780</i>	<i>38.53761</i>	<i>-77.18100</i>	<i>38.55605</i>	<i>-77.19043</i>	<i>4.33</i>	<i>4.71</i>
2008	<i>Mattawoman Creek UT 3</i>	<i>Charles</i>	<i>021401110781</i>	<i>38.56562</i>	<i>-77.13269</i>	<i>38.58862</i>	<i>-77.12501</i>	<i>4.67</i>	<i>4.43</i>
2009	<i>Mill Dam Run 1</i>	<i>Charles</i>	<i>021401080767</i>	<i>38.56503</i>	<i>-76.83737</i>	<i>38.56415</i>	<i>-76.84207</i>	<i>4.67</i>	<i>4.71</i>
2008	<i>Mill Run 3 (Charles Co.)</i>	<i>Charles</i>	<i>021401100779</i>	<i>38.49943</i>	<i>-77.08434</i>	<i>38.47626</i>	<i>-77.08420</i>	<i>4.11</i>	<i>4.62</i>
2007	<i>Mill Run UT 1 (Charles Co.)</i>	<i>Charles</i>	<i>021401100779</i>	<i>38.51104</i>	<i>-77.10720</i>	<i>38.50039</i>	<i>-77.08561</i>	<i>4.50</i>	<i>4.29</i>

2008	Nanjemoy Creek 1	Charles	021401100777	38.42378	-77.21466	38.41522	-77.20368	4.00	4.86
2003	Old Womans Run 1	Charles	021401110784	38.59669	-77.02960	38.59612	-77.05501	4.33	4.71
2007	Old Womans Run 2	Charles	021401110784	38.59708	-77.00973	38.59669	-77.02960	4.67	4.43
2007	Piney Branch 1 (Charles Co.)	Charles	021401080764	38.56180	-76.87701	38.55004	-76.87041	4.33	4.43
2008	Potomac River UT 1	Charles	021401020789	38.46814	-77.24377	38.47086	-77.26168	4.67	4.14
2007	Reeder Run 1	Charles	021401020789	38.50839	-77.18502	38.51782	-77.20231	4.84	4.29
2003	Reeder Run 2	Charles	021401020789	38.51592	-77.21343	38.53274	-77.22703	4.33	4.71
2007	Swanson Creek UT 1	Charles	021311010892	38.55236	-76.77384	38.56324	-76.75700	4.67	4.43
2003	Wards Run 1	Charles	021401100778	38.51808	-77.13581	38.51012	-77.14786	4.67	4.71
2009	Wards Run 2	Charles	021401100778	38.50346	-77.15071	38.48449	-77.13184	4.00	4.71
2003	Wolf Den Branch 1	Charles	021401080769	38.63601	-76.82109	38.62192	-76.82043	4.33	4.71
2003	Zekiah Swamp Run 1	Charles	021401080769	38.63464	-76.79846	38.62196	-76.82036	4.33	4.14
2007	Zekiah Swamp Run 2	Charles	021401080768	38.60216	-76.83388	38.59608	-76.83771	4.67	4.71
2003	Zekiah Swamp Run 3	Charles	021401080765	38.58953	-76.84107	38.56355	-76.85086	4.50	4.57
2007	Zekiah Swamp Run 4	Charles	021401080760	38.52679	-76.90389	38.51257	-76.91427	4.67	4.43
2007	Zekiah Swamp Run 5	Charles	021401080760	38.49396	-76.92612	38.48639	-76.92853	4.00	4.71
2007	Zekiah Swamp Run 6	Charles	021401080768	38.61391	-76.83263	38.60216	-76.83388	4.00	4.43
2003	Zekiah Swamp Run UT 1	Charles	021401080762	38.52253	-76.87598	38.52817	-76.89208	5.00	4.43
2007	Zekiah Swamp Run UT 2	Charles	021401080766	38.61249	-76.86986	38.58952	-76.84111	4.34	4.00
2008	Zekiah Swamp Run UT 3	Charles	021401080763	38.54068	-76.83338	38.55595	-76.86021	4.33	4.14
2008	Mattawoman Creek 1	Charles, Prince George's	021401110786	38.65497	-76.93916	38.65767	-76.98456	5.00	4.43
2003	Swanson Creek 1	Charles, Prince	021311010893	38.60760	-76.74634	38.58927	-76.74244	4.67	5.00

		<i>George's</i>							
2007	Swanson Creek 2	Charles, Prince George's	021311010890	38.55844	-76.74044	38.55404	-76.72821	4.67	4.14
2007	Swanson Creek 3	Charles, Prince George's	021311010893	38.58927	-76.74244	38.55844	-76.74044	4.67	4.43
2007	Smoots Pond Run 1	Charles, Saint Mary's	021401070751	38.47788	-76.79137	38.49444	-76.80455	5.00	4.43
2007	Blinkhorn Creek 1	Dorchester	021304030467	38.65297	-75.90070	38.65195	-75.93188	4.33	4.71
2003	Davis Millpond Branch 1	Dorchester	021303060607	38.66525	-75.75797	38.67465	-75.77339	4.67	5.00
2008	Skinnners Run 1	Dorchester	021303060608	38.67503	-75.82252	38.66851	-75.81497	4.00	4.29
2003	Big Hunting Creek 1	Frederick	021403030251	39.62634	-77.45965	39.60990	-77.41044	4.33	4.25
2008	High Run 1	Frederick	021403030251	39.60468	-77.46215	39.60823	-77.41093	4.00	4.50
2007	Talbot Branch UT 1	Frederick	021403020238	39.46420	-77.13548	39.45535	-77.16043	4.33	4.25
2007	Weldon Creek 1	Frederick	021403020238	39.47694	-77.15018	39.47488	-77.16046	4.00	4.00
2003	Bear Creek 1	Garrett	050202010018	39.65018	-79.28886	39.65101	-79.29905	4.43	4.07
2007	Bear Creek 2	Garrett	050202010018	39.65484	-79.36376	39.65316	-79.38472	4.67	4.00
2008	Bear Creek 3	Garrett	050202010018	39.66006	-79.32011	39.65441	-79.33055	4.67	4.25
2008	Bear Creek 4	Garrett	050202010016	39.56476	-79.32195	39.65018	-79.28886	4.00	4.50
2007	Bear Creek 5	Garrett	050202010018	39.65482	-79.36370	39.65593	-79.33884	4.67	4.00
2003	Bear Creek UT 1	Garrett	050202010018	39.64821	-79.34058	39.65559	-79.33808	5.00	4.50
2007	Bear Pen Run 1	Garrett	021410060077	39.59163	-79.14355	39.57341	-79.12028	4.75	4.25
2007	Big Run UT 1	Garrett	021410060078	39.57855	-79.19347	39.58348	-79.17124	4.00	4.75
2007	Blacklick Run 1	Garrett	021410060080	39.63910	-79.09647	39.61727	-79.08702	4.00	4.25
2007	Buffalo Run 1	Garrett	050202010019	39.68685	-79.40998	39.69053	-79.40417	4.67	4.00
2008	Buffalo Run 2	Garrett	050202010019	39.69264	-79.43757	39.68915	-79.42334	4.00	4.25
2010	Casselman River 1	Garrett	050202040034	39.66851	-79.17745	39.67513	-79.17104	4.67	4.00
2003	Crabtree Creek 1	Garrett	021410060074	39.47779	-79.19210	39.50564	-79.15474	4.47	4.30
2003	Double Lick Run	Garrett	021410060076	39.54257	-79.21921	39.53356	-79.20082	4.92	4.38

	<i>1</i>								
2007	Dry Run 1	Garrett	021410060077	39.54299	-79.17013	39.52313	-79.14385	4.00	4.50
2007	Hoyes Run 1	Garrett	050202010012	39.53193	-79.40384	39.52879	-79.41254	5.00	4.25
2003	Little Bear Creek 1	Garrett	050202010016	39.65775	-79.26858	39.65019	-79.28882	4.50	4.25
2008	Little Savage River 1	Garrett	021410060081	39.65111	-78.99097	39.59315	-79.04834	4.00	4.00
2003	Middle Fork Crabtree Creek 1	Garrett	021410060076	39.51193	-79.16195	39.51261	-79.15403	4.67	4.50
2009	Middle Fork Crabtree Creek 2	Garrett	021410060076	39.53353	-79.20087	39.53507	-79.18800	5.00	4.25
2003	Mill Run 1 (Garrett Co.)	Garrett	050202010021	39.71883	-79.30088	39.70909	-79.34891	4.21	4.56
2003	Mill Run 2 (Garrett Co.)	Garrett	050202010021	39.70907	-79.36308	39.71472	-79.38469	4.67	4.00
2003	Monroe Run 1	Garrett	021410060078	39.54471	-79.22830	39.54944	-79.14434	4.00	4.25
2003	Poplar Lick Run 1	Garrett	021410060079	39.59098	-79.10319	39.58389	-79.09140	4.50	4.38
2003	Puzzley Run 1	Garrett	50202010022	39.69028	-79.22870	39.72189	-79.23219	4.00	4.75
2007	Savage River 1	Garrett	021410060077	39.57974	-79.08983	39.56218	-79.11099	4.34	4.25
2003	Savage River 2	Garrett	021410060077	39.56219	-79.11102	39.54306	-79.13744	4.72	4.29
2007	Savage River 3	Garrett	021410060075	39.50101	-79.10657	39.48643	-79.08279	4.33	4.13
2009	Savage River 4	Garrett	021410060081	39.59811	-79.05554	39.60227	-79.07229	5.00	4.50
2007	South Branch Bear Creek 1	Garrett	050202010015	39.62367	-79.37594	39.65316	-79.38472	4.33	4.50
2007	South Branch Casselman River 1	Garrett	050202040033	39.62616	-79.19151	39.64653	-79.18124	4.67	4.00
2007	South Branch Casselman River 2	Garrett	050202040033	39.64814	-79.18152	39.66851	-79.17745	4.00	4.25
2007	Youghiogheny River UT 1	Garrett	050202010020	39.67943	-79.35317	39.68632	-79.38164	4.00	4.00
2007	Broad Creek 1	Harford	021202050339	39.67899	-76.35243	39.66468	-76.32487	4.00	4.17
2008	Bynum Run UT 1	Harford	021307041131	39.50923	-76.27523	39.50505	-76.28355	4.33	4.00
2007	Deer Creek 2	Harford	021202020329	39.67564	-76.45429	39.67445	-76.44291	4.00	4.67

2003	Deer Creek 3	Harford	021202020324	39.63225	-76.41051	39.61776	-76.39938	4.33	5.00
2003	Deer Creek 4	Harford	021202020322	39.59924	-76.26823	39.60333	-76.24910	4.33	4.33
2008	Deer Creek 5	Harford	021202020330	39.68097	-76.51724	39.67993	-76.50004	4.00	4.00
2008	Deer Creek 6	Harford	021202020327	39.65641	-76.43661	39.65238	-76.43784	4.00	5.00
2008	Deer Creek 7	Harford	021202020322	39.61660	-76.23174	39.62119	-76.21763	4.33	4.00
2009	Deer Creek 8	Harford	021202020327	39.64722	-76.43147	39.63217	-76.41041	4.00	4.33
2007	Deer Creek UT 1	Harford	021202020330	39.64980	-76.55578	39.67578	-76.54223	4.33	4.00
2007	Deer Creek UT 2	Harford	021202020321	39.58866	-76.20168	39.61740	-76.19373	4.33	5.00
2007	Deer Creek UT 3	Harford	021202020324	39.65935	-76.39446	39.64010	-76.35041	4.67	4.00
2007	Falling Branch 1	Harford	021202020329	39.72913	-76.46723	39.67453	-76.44299	4.00	4.33
2007	Hollands Branch 1	Harford	021202020322	39.64115	-76.24400	39.62126	-76.21756	4.00	4.67
2007	Little Deer Creek 1	Harford	021202020328	39.64640	-76.50645	39.65453	-76.49075	4.67	4.33
2008	Little Deer Creek 2	Harford	021202020328	39.65455	-76.49075	39.66009	-76.48109	4.00	4.00
2008	Otter Point Creek 1	Harford	021307021130	39.43296	-76.29982	39.43281	-76.28558	4.33	4.14
2003	Wet Stone Branch 1	Harford	021202020327	39.63021	-76.45688	39.64721	-76.43147	4.67	4.33
2007	Carrolls Branch 1	Howard	021331060960	39.19818	-76.95531	39.19474	-76.93510	4.00	4.67
2007	Dorsey Branch 1	Howard	021311080968	39.28402	-77.00921	39.26105	-77.04475	4.00	5.00
2007	Patuxent River UT 2	Howard	021311070942	39.18842	-76.97725	39.16340	-76.97520	4.06	4.44
2007	Rocky Gorge Reservoir UT 1	Howard	021311070941	39.17385	-76.96164	39.15066	-76.96862	4.67	4.00
2007	South Branch Patapsco River UT 1	Howard	021309081022	39.34471	-76.96235	39.34836	-76.95941	4.33	5.00
2007	Cypress Branch 1	Kent	021305100427	39.30475	-75.74799	39.28812	-75.78414	4.00	4.14
2009	Cypress Branch 2	Kent	021305100427	39.28429	-75.79552	39.27214	-75.81757	4.67	4.14
2003	East Fork Langford Creek	Kent	021305060408	39.21050	-76.13505	39.19893	-76.11633	4.67	4.14

	UT 1								
2010	Goshen Run UT 1	Montgomery	021402080864	39.21470	-77.17439	39.21709	-77.14649	4.00	4.75
2003	Patuxent River UT 1	Montgomery	021311080969	39.28851	-77.19257	39.28496	-77.13996	4.17	5.00
2007	Bald Hill Branch 1	Prince George's	021311030925	38.99228	-76.84371	38.92241	-76.82020	4.00	4.14
2007	Beaverdam Creek 1	Prince George's	021402050823	39.02370	-76.85045	39.02190	-76.85974	4.33	4.43
2007	Beaverdam Creek 2	Prince George's	021402050823	39.02287	-76.86218	39.01585	-76.89775	4.33	4.71
2007	Mataponi Creek UT 1	Prince George's	021311020905	38.72979	-76.82511	38.71989	-76.79437	4.00	4.43
2003	Piscataway Creek 1	Prince George's	021402030803	38.73428	-76.86811	38.73258	-76.87590	4.67	4.43
2007	Piscataway Creek 2	Prince George's	021402030799	38.70638	-76.97208	38.69906	-76.98589	4.33	4.14
2007	Rock Creek 1	Prince George's	021311010904	38.69443	-76.75155	38.69093	-76.72613	4.67	4.71
2009	Turkey Branch 1	Prince George's	021311030921	38.84980	-76.84000	38.85763	-76.78847	4.67	4.14
2008	Alder Branch 1	Queen Anne's	021305070395	39.07879	-76.06344	39.07197	-76.07868	4.67	4.71
2003	Andover Branch 1	Queen Anne's	021305100425	39.22355	-75.76977	39.23043	-75.78289	4.17	4.57
2009	Andover Branch 2	Queen Anne's	021305100425	39.23044	-75.78285	39.24174	-75.79593	4.33	5.00
2007	Andover Branch UT 1	Queen Anne's	021305100425	39.21407	-75.80767	39.24699	-75.82277	4.67	4.71
2007	Blockston Branch UT 1	Queen Anne's	021304050529	38.98971	-75.99870	38.98086	-75.97180	4.00	4.14
2008	Browns Branch 1	Queen Anne's	021305080401	39.11759	-75.95646	39.11650	-75.96562	4.33	4.71
2008	Browns Branch 2	Queen Anne's	021305080401	39.11651	-75.96563	39.13035	-75.97788	4.44	4.71
2007	Granny Finley Branch 1	Queen Anne's	021305080399	39.08786	-75.95688	39.11766	-76.04025	4.00	4.00
2008	Mill Stream Branch 1	Queen Anne's	021305070396	39.01998	-76.03938	39.02288	-76.06394	4.67	4.43
2007	Norwich Creek 1	Queen Anne's	021304050522	38.97574	-76.01146	38.95164	-75.99614	4.67	4.71
2003	Red Lion Branch 1	Queen Anne's	021305100419	39.22756	-75.90160	39.23418	-75.90438	4.22	4.43

2003	Red Lion Branch 2	Queen Anne's	021305100419	39.18442	-75.89387	39.20305	-75.89646	4.27	4.43
2007	Red Lion Branch 3	Queen Anne's	021305100419	39.20657	-75.89344	39.22756	-75.90160	4.50	4.57
2007	Red Lion Branch UT 1	Queen Anne's	021305100420	39.17411	-75.86903	39.18442	-75.89387	4.33	4.14
2007	Southeast Creek 1	Queen Anne's	021305060401	39.13192	-75.97889	39.13975	-75.98786	4.67	4.43
2008	Southeast Creek 2	Queen Anne's	021305080401	39.13989	-75.98794	39.14592	-75.98986	4.17	4.29
2003	Southeast Creek UT 1	Queen Anne's	021305080403	39.15968	-75.92076	39.16360	-75.95177	4.33	5.00
2007	Three Bridges Branch 1	Queen Anne's	021305070397	39.05323	-76.03293	39.05027	-76.06391	4.17	4.43
2007	Wye East River UT 1	Queen Anne's	021305030436	38.98305	-76.08860	38.94966	-76.10908	4.67	4.71
2008	Wye East River UT2	Queen Anne's	021305030436	38.99155	-76.03511	38.99231	-76.07751	4.00	4.14
2007	Burnt Mill Creek 1	Saint Mary's	021401040724	38.36375	-76.65992	38.34639	-76.64235	4.00	4.43
2007	Burnt Mill Creek UT 1	Saint Mary's	021401040724	38.38129	-76.66945	38.37031	-76.65860	4.00	4.71
2007	Chaptico Run 1	Saint Mary's	021401060736	38.37100	-76.75610	38.36489	-76.78197	4.67	4.43
2008	Forrest Hall Branch 1	Saint Mary's	021401060742	38.42298	-76.72010	38.38460	-76.74243	5.00	4.14
2007	Hayden Run 1	Saint Mary's	021401060742	38.43916	-76.73770	38.41884	-76.74437	4.33	4.43
2009	Hillton Run 1	Saint Mary's	021401030715	38.24596	-76.46944	38.22383	-76.46161	4.00	4.43
2007	Johns Creek 1	Saint Mary's	021401030714	38.23144	-76.52353	38.23587	-76.49717	4.34	4.43
2008	McIntosh Run 1	Saint Mary's	021401040721	38.32959	-76.63552	38.32555	-76.64338	4.00	4.86
2008	McIntosh Run 2	Saint Mary's	021401040721	38.31354	-76.65517	38.32555	-76.64337	4.00	4.43
2007	Persimmon Creek 1	Saint Mary's	021311010880	38.42150	-76.71305	38.44077	-76.69696	4.00	4.14
2007	Saint Clements Bay UT 1	Saint Mary's	021401050726	38.32481	-76.69673	38.29953	-76.71233	4.33	4.71
2007	Saint Clements Creek 1	Saint Mary's	021401050728	38.34856	-76.73058	38.33257	-76.72384	4.17	4.43
2007	Saint Mary's River 1	Saint Mary's	021401030717	38.27485	-76.51438	38.25265	-76.50721	4.00	4.71
2007	Saint Marys River UT 1	Saint Mary's	021401030710	38.21487	-76.43063	38.21155	-76.45141	4.00	4.00

2007	Saint Marys River UT 2	Saint Mary's	021401030712	38.21065	-76.40308	38.19760	-76.41921	5.00	4.14
2010	Saint Mary's River UT 3	Saint Mary's	021401030719	38.27771	-76.51543	38.30595	-76.52726	4.00	4.43
2003	Warehouse Run 1	Saint Mary's	021401030714	38.20522	-76.49843	38.22150	-76.48619	4.67	4.43
2007	Dividing Creek 1	Somerset, Worcester	021302040064	38.21149	-75.57593	38.18183	-75.54768	4.33	5.00
2007	Highfield Creek 1	Talbot	021304050517	38.89321	-75.97110	38.89050	-75.96166	4.17	4.72
2007	Jadwins Creek 1	Talbot	021304050516	38.84859	-75.97328	38.83436	-75.93300	4.00	4.43
2007	Kings Creek 1	Talbot	021304040473	38.79141	-76.02193	38.79367	-75.99319	4.67	4.71
2007	Skipton Creek UT 1	Talbot	021305030434	38.88226	-76.04616	38.87955	-76.05344	4.00	4.43
2003	Adkins Race 1	Wicomico	021302030648	38.33427	-75.37668	38.31965	-75.35493	4.67	4.15
2007	Aydelotte Branch 1	Wicomico	021302030653	38.41395	-75.44652	38.40576	-75.38133	4.67	4.14
2008	Little Burnt Branch 1	Wicomico	021303040567	38.43934	-75.62701	38.41103	-75.59458	4.00	5.00
2007	Nassawango Creek 1	Wicomico	021302050668	38.31299	-75.46914	38.30312	-75.46400	4.17	4.57
2007	Plum Creek 1	Wicomico	021303050584	38.51243	-75.70759	38.53541	-75.74588	4.00	4.43
2010	Little Mill Creek 1	Worcester	021301060672	38.02677	-75.46306	38.04621	-75.42736	4.00	4.71
2007	Nassawango Creek 2	Worcester	021302050668	38.28361	-75.45386	38.25998	-75.46283	4.67	4.21
2008	Nassawango Creek 3	Worcester	021302050667	38.26000	-75.46286	38.23505	-75.47196	4.56	4.62

P. (text unchanged)

.05-1 Intermittent Streams.

A. [Discharges when feasible alternatives are available] *New wastewater discharges to intermittent streams are not permitted after the effective date of this regulation except to resolve existing on-site sewage disposal failures when other alternatives are not available.*

[B. Effluent limitations for discharges to specific intermittent streams may be determined by the Department on a case-by-case basis.]

[C.] B. Effluent limitations *for discharge to intermittent streams* may not be less stringent than:

(1) (text unchanged)

(2) Those levels necessary to maintain the water quality standards *of the intermittent stream and* of downstream segments;

(3) — (4) (text unchanged)

.08 Stream Segment Designations.

A.—K. (text unchanged)

L. Sub-Basin 02-13-10: West Chesapeake Bay Area.

(1) (text unchanged)

(2) Use II:

(a) Magothy River Mesohaline (MAGMH):

Designated Use Present in Segment	Latitude (Decimal Degrees)	Longitude (Decimal Degrees)	Limits
Migratory Spawning and Nursery Use: February 1 to May 31, inclusive Shallow Water Submerged Aquatic Vegetation Use: April 1 to October 30, inclusive Application Depth: 1.0 meters NGZ present <i>Seasonal Deep Water Fish and Shellfish Use Upper pycnocline to lower pycnocline from June 1 to September 30, inclusive</i> Open Water Fish and Shellfish Use: January 1 to December 31, inclusive Shellfish Harvest: See §L(2)(f) of this regulation	39.039185 39.074715 39.114807	-76.414330 -76.422539 -76.548195	(1) Between Beacon Hill and Tydings on the Bay (2) East side Gibson I. across from Hapenny Way (3) End of estuary below Catherine Ave.
(b) Severn River Mesohaline (SEVMH):			
Migratory Spawning and Nursery Use: February 1 to May 31, inclusive Shallow Water Submerged Aquatic Vegetation Use: April 1 to October 30, inclusive Application Depth: 1.0 meters Open Water Fish and Shellfish Use: January 1 to December 31, inclusive <i>Seasonal Deep Water Fish and Shellfish Use Upper pycnocline to lower pycnocline from June 1 to September 30, inclusive</i> Shellfish Harvest: See §L(2)(f) of this regulation	38.946095 38.976032 39.079697	-76.455879 -76.452377 -76.623398	(1) Bay Ridge, near Bainbridge Ave (2) Greenbury Pt., 800 feet up east side from the tip (3) Severn Run, 1,100 feet downstream of Veterans Hwy.
(c) South River Mesohaline (SOUTH):			
Migratory Spawning and Nursery Use: February 1 to May 31, inclusive Shallow Water Submerged Aquatic Vegetation Use: April 1 to October 30, inclusive Application Depth: 1.0 meters NGZ present Open Water Fish and Shellfish Use: January 1 to December 31, inclusive <i>Seasonal Deep Water Fish and Shellfish Use Upper pycnocline to lower pycnocline from June 1 to September 30, inclusive</i>	38.888672 38.886829 38.907860 38.983105	-76.489876 -76.475616 -76.466240 -76.606232	(1) Saunders Pt., south of Mayo Beach Park (2) 0.8 miles east of Saunders Pt. (3) Southern shore of Thomas Pt. Park (4) 700 feet upstream of Rt. 50

(d)—(f) (text unchanged)

(3)—(6) (text unchanged)
M.—U. (text unchanged)

SHARI T. WILSON
Secretary of the Environment

Title 31

MARYLAND INSURANCE ADMINISTRATION

Subtitle 10 HEALTH INSURANCE— GENERAL

31.10.06 Standards for Medicare Supplement Policies

Authority: Insurance Article, §§2-109 and 8-403(b), Title 15, Subtitle 9, and Title 27; Health-General Article, §§19-705 and 19-706; Annotated Code of Maryland

Notice of Proposed Action

[10-260-P]

The Acting Insurance Commissioner proposes to amend Regulations **.13**, **.28**, and **.30** and repeal existing Regulation **.29** under **COMAR 31.10.06 Standards for Medicare Supplement Policies**.

Statement of Purpose

The purpose of this action is to make several minor corrections in order to conform Maryland regulations with the model regulations of the National Association of Insurance Commissioners (NAIC).

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Alexis E. Gibson, Regulations Coordinator, Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, Baltimore, MD 21202, or call (410) 468-2011, or email to agibson@mdinsurance.state.md.us, or fax to (410) 468-2020. Comments will be accepted through October 12, 2010. A public hearing has not been scheduled.

.13 Required Disclosure Provisions.

A. — D. (text unchanged)

E. Outline of Coverage Requirements for Medicare Supplement Policies.

(1) — (2) (text unchanged)

(3) Outline of Coverage.

(a) (text unchanged)

[(b) The outline of coverage for 1990 standardized Medicare supplement benefit plan policies or certificates shall be in the language and format described in Regulation .29 of this chapter in not less than 12-point type.]

[(c)] (b) — [(g)] (f) (text unchanged).

F. (text unchanged)

.28 Standard Medicare Supplement Benefit Plans for 2010 Plans.

A. — G. (text unchanged)

H. Make-up of 2010 Standardized Benefit Plans.

(1) — (7) (text unchanged)

(8) Standardized Medicare Supplement Benefit Plan K.

(a) (text unchanged)

(b) Plan K shall include only the following:

(i) — (ii) (text unchanged)

(iii) Part A Hospitalization After [150 Days] *Lifetime Reserve Days are Exhausted* — Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 100 percent of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days;

(iv) — (x) (text unchanged)

(c) (text unchanged)

(9) — (11) (text unchanged)

I. (text unchanged)

.30 Outlines of Coverage for 2010 Standardized Medicare Supplement Benefit Plans.

A. — H. (text unchanged)

I. Plan K.

PLAN K

* You will pay half the cost-sharing of some covered services until you reach the annual out-of-pocket limit of \${Insert Plan K out-of-pocket limit} each calendar year. The amounts that count toward your annual limit are noted with diamonds (♦) in the chart below. Once you reach the annual limit, the plan pays 100% of your Medicare copayment and coinsurance for the rest of the calendar year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called “Excess Charges”) and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

MEDICARE (PART A) — HOSPITAL SERVICES — PER BENEFIT PERIOD

** A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY*
HOSPITALIZATION**			
Semiprivate room and board, general nursing, and miscellaneous services and supplies			
First 60 days	All but \${Insert amount of Medicare Part A deductible}	\${Insert amount equal to 50% of Medicare Part A deductible} (50% of Part A deductible)	\${Insert amount equal to 50% of Medicare Part A deductible} (50% of Part A deductible) ♦
61st thru 90th day	All but \${Insert amount equal to 25% of the Medicare Part A deductible} a day	\${Insert amount equal to 25% of the Medicare Part A deductible} a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but \${Insert amount equal to 50% of Medicare Part A deductible} a day	\${Insert amount equal to 50% of Medicare Part A deductible} a day	\$0
- Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0***
- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE**			
You must meet Medicare’s requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \${Insert amount equal to 12.5% of Medicare Part A deductible} a day	Up to \${Insert amount equal to 6.25% of Medicare Part A deductible} a day (50% of Part A Coinsurance)	Up to \${Insert amount equal to 6.25% of Medicare Part A deductible} a day (50% of Part A Coinsurance) ♦
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints Additional amounts	\$0 100%	50% \$0	50% ♦ \$0
HOSPICE CARE			
You must meet Medicare’s requirements, including a doctor’s certification of terminal illness	All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care	50% of copayment/coinsurance	50% of Medicare copayment/coinsurance ♦

PROPOSED ACTION ON REGULATIONS

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*** NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN K

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

**** Once you have been billed \${Insert amount of Medicare Part B deductible} of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY*
MEDICAL EXPENSES—IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment			
First \${Insert amount of Medicare Part B deductible} of Medicare-approved amounts****	\$0	\$0	\${Insert amount of Medicare Part B deductible} (Part B deductible)**** ♦
Preventive Benefits for Medicare-covered services	Generally [75%] 80% or more of Medicare-approved amounts	Remainder of Medicare-approved amounts	All costs above Medicare-approved amounts
Remainder of Medicare-approved amounts	Generally 80%	Generally 10%	Generally 10% ♦
Part B Excess Charges (Above Medicare-approved amounts)	\$0	\$0	All costs (and they do not count toward annual out-of-pocket limit of \${Insert Plan K out-of-pocket limit})*
BLOOD			
First 3 pints	\$0	50%	50%♦
Next \${Insert amount of Medicare Part B deductible} of Medicare-approved amounts****	\$0	\$0	\${Insert amount of Medicare Part B deductible} (Part B deductible)**** ♦
Remainder of Medicare-approved amounts	Generally 80%	Generally 10%	Generally 10%♦
CLINICAL LABORATORY SERVICES—TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

* This plan limits your annual out-of-pocket payments for Medicare-approved amounts to \${Insert Plan K out-of-pocket limit} per year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

PLAN K

PARTS A & B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY*
HOME HEALTH CARE MEDICARE APPROVED SERVICES			
- Medically necessary skilled care services and medical supplies	100%	\$0	\$0
- Durable medical equipment first \${Insert amount of Medicare Part B deductible} of Medicare-approved amounts*****	\$0	\$0	\${Insert amount of Medicare Part B deductible} (Part B deductible) ♦
Remainder of Medicare-approved amounts	80%	10%	10% ♦

*****Medicare benefits are subject to change. Please consult the latest Guide to Health Insurance for People with Medicare.

J. Plan L.

PLAN L

* You will pay one-fourth of the cost-sharing of some covered services until you reach the annual out-of-pocket limit of \${Insert Plan L out-of-pocket limit} each calendar year. The amounts that count toward your annual limit are noted with diamonds (?) in the chart below. Once you reach the annual limit, the plan pays 100% of your Medicare copayment and coinsurance for the rest of the calendar year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

MEDICARE (PART A) — HOSPITAL SERVICES — PER BENEFIT PERIOD

** A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY*
HOSPITALIZATION**			
Semiprivate room and board, general nursing, and miscellaneous services and supplies			
First 60 days	All but \${Insert amount of Medicare Part A deductible}	\${Insert amount equal to 75% of Medicare Part A deductible} (75% of Part A deductible)	\${Insert amount equal to 25% of Medicare Part A deductible} (25% of Part A deductible) ♦
61st thru 90th day	All but \${Insert amount equal to 25% of Medicare Part A deductible} a day	\${Insert amount equal to 25% of Medicare Part A deductible} a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but \${Insert amount equal to 50% of Medicare Part A deductible} a day	\${Insert amount equal to 50% of Medicare Part A deductible} a day	\$0
- Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0***
- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE**			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \${Insert amount equal to 12.5% of Medicare Part A deductible} a day	Up to \${Insert amount equal to 75% of the amount remaining after the Medicare payment} a day (75% of Part A Coinsurance) ♦	Up to \${Insert amount equal to 25% of the amount remaining after the Medicare payment} a day (25% of Part A Coinsurance) ♦
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints Additional amounts	\$0 100%	75% \$0	25% ♦ \$0
HOSPICE CARE			
You must meet Medicare's requirements, including a doctor's certification of terminal illness	All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care	75% of copayment/coinsurance	25% of copayment/coinsurance ♦

*** NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PROPOSED ACTION ON REGULATIONS

PLAN L

MEDICARE (PART B) — MEDICAL SERVICES — PER CALENDAR YEAR

**** Once you have been billed \${Insert amount of Medicare Part B deductible} of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY*
MEDICAL EXPENSES—IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment			
First \${Insert amount of Medicare Part B deductible} of Medicare-approved amounts****	\$0	\$0	\${Insert amount of Medicare Part B deductible} (Part B deductible)**** ♦
Preventive Benefits for Medicare-covered services	Generally [75%] 80% or more of Medicare-approved amounts	Remainder of Medicare-approved amounts	All costs above Medicare-approved amounts
Remainder of Medicare-approved amounts	Generally 80%	Generally 15%	Generally 5% ♦
Part B Excess Charges (Above Medicare-approved amounts)	\$0	\$0	All costs (and they do not count toward annual out-of-pocket limit of {Insert Plan L annual out-of-pocket limit})*
BLOOD			
First 3 pints	\$0	\$75%	25% ♦
Next \${Insert amount of Medicare Part B deductible} of Medicare-approved amounts****	\$0	\$0	\${Insert amount of Medicare Part B deductible} (Part B deductible) ♦
Remainder of Medicare-approved amounts	Generally 80%	Generally 15%	Generally 5% ♦
CLINICAL LABORATORY SERVICES — TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

* This plan limits your annual out-of-pocket payments for Medicare-approved amounts to \${Insert Plan L out-of-pocket limit} per year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

PLAN L

PARTS A & B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY*
HOME HEALTH CARE MEDICARE APPROVED SERVICES			
- Medically necessary skilled care services and medical supplies	100%	\$0	\$0
- Durable medical equipment			
First \${Insert amount of Medicare Part B deductible} of Medicare-approved amounts****	\$0	\$0	{Insert amount of Medicare Part B deductible} (Part B deductible) ♦
Remainder of Medicare-approved amounts	80%	15%	5% ♦

*****Medicare benefits are subject to change. Please consult the latest Guide to Health Insurance for People with Medicare.

K. — L. (text unchanged)

ELIZABETH SAMMIS
Acting Insurance Commissioner

Errata

COMAR 26.17.01.01

At 37:18 Md. R. 1246 (August 27, 2010), col. 2, line 3 from the bottom:

For: streams, storm drain systems, public ditches, tax ditches, and public

Read: streams, *storm drain systems*, public ditches, tax ditches, and public

COMAR 26.17.01.09

At 37:18 Md. R. 1250 (August 27, 2010), col. 1, line 22 from the top:

For: *authority*:

Read: *authority shall*:

[10-19-34]

COMAR 31.09.15

At 37:13 Md. R. 916 (June 18, 2010), column 1, line 33 from the top:

For: *Method, the valuation net premium is $PVFB/\ddot{a}_x + ((a) - (b))/\ddot{a}_x$*

Read: *Method, the valuation net premium is $PVFB/\ddot{a}_x + ((a) - (b))/\ddot{a}_x$*

[10-19-32]

Special Documents

DEPARTMENT OF THE ENVIRONMENT SUSQUEHANNA RIVER BASIN COMMISSION

Notice of Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice of Approved Projects.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in "DATES."

DATE: July 1, 2010, through July 31, 2010.

ADDRESS: Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, PA 17102-2391.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238-0423, ext. 306; fax: (717) 238-2436; e-mail: rcairo@srbc.net or Stephanie L. Richardson, Secretary to the Commission, telephone: (717) 238-0423, ext. 304; fax: (717) 238-2436; e-mail: srichardson@srbc.net. Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR §806.22(e) and 18 CFR §806.22(f) for the time period specified above:

Approvals By Rule Issued Under 18 CFR §806.22(e):

Eastern Shore Natural Gas Company, Mainline Extension Interconnect Project, ABR-201007001, Salisbury Township, Lancaster County and West Sadsbury Township, Chester County, Pa.; Consumptive Use of up to 0.300 mgd; Approval Date: July 6, 2010.

Approvals By Rule Issued Under 18 CFR §806.22(f):

Anadarko E&P Company, LP; Pad ID: COP Tract 285 Pad G, ABR-201007002, Grugan Township, Clinton County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 6, 2010, including a partial waiver of 18 CFR §806.15.

Ultra Resources, Inc.; Pad ID: Stewart 805, ABR-201007003, Elk Township, Tioga County, Pa.; Consumptive Use of up to 4.990 mgd; Approval Date: July 6, 2010.

Talisman Energy USA, Inc.; Pad ID: Shedden 01 075, ABR-201007004, Granville Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 6, 2010.

Chesapeake Appalachia, LLC; Pad ID: Redmond, ABR-201007005, Meshoppen Township, Wyoming County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 6, 2010.

Ultra Resources, Inc.; Pad ID: Fox 813, ABR-201007006, Gaines Township, Tioga County, Pa.; Consumptive Use of up to 4.990 mgd; Approval Date: July 6, 2010.

Carrizo Marcellus, LLC; Pad ID: Solanick 5H, ABR-201007007, Washington Township, Wyoming County, Pa.; Consumptive Use of up to 1.400 mgd; Approval Date: July 6, 2010.

Chief Oil & Gas, LLC; Pad ID: Squier Drilling Pad #1, ABR-201007008, Springville Township, Susquehanna County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: July 7, 2010.

East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Synnestvedt 878, ABR-201007009, Osceola Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 7, 2010.

East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Matz 824, ABR-201007010, Chatham Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 7, 2010.

Talisman Energy USA, Inc.; Pad ID: Noble 03 029, ABR-201007011, Wells Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 7, 2010.

East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Cochran 705, ABR-201007012, Union Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 7, 2010.

Southwestern Energy Production Company, Pad ID: Greenzweig 1, ABR-20090437.1, Herrick Township, Bradford County, Pa.; Consumptive Use of up to 4.999 mgd; Approval Date: July 7, 2010.

East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Frost 573, ABR-201007013, Covington Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 8, 2010.

East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Wood 513R, ABR-201007014, Rutland Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 8, 2010.

East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Murdock 862, ABR-201007015, Deerfield Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 8, 2010.

East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Taylor 718, ABR-201007016, Liberty Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 8, 2010.

East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Wesneski 724, ABR-201007017, Union Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 8, 2010.

Chesapeake Appalachia, LLC; Pad ID: McCarty, ABR-201007018, Fox Township, Sullivan County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 9, 2010.

Chesapeake Appalachia, LLC; Pad ID: Moose, ABR-201007019, Wysox Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 9, 2010.

Talisman Energy USA, Inc.; Pad ID: Nolt 01 082, ABR-201007020, Granville Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 9, 2010.

East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Sorensen 876, ABR-201007021, Osceola Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 9, 2010.

Chesapeake Appalachia, LLC; Pad ID: Forbes NEW, ABR-201007022, Asylum Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 9, 2010.

Chesapeake Appalachia, LLC; Pad ID: Insinger, ABR-201007023, Forks Township, Sullivan County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 9, 2010.

- Chesapeake Appalachia, LLC; Pad ID: Coveytown, ABR-201007024, Cherry Township, Sullivan County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 9, 2010.
- Chesapeake Appalachia, LLC; Pad ID: Tiffany, ABR-201007025, Windham Township, Wyoming County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 9, 2010.
- Hess Corporation, Pad ID: Miller, ABR-201007026, Scott Township, Wayne County, Pa.; Consumptive Use of up to 5.000 mgd; Approval Date: July 12, 2010.
- Hess Corporation, Pad ID: Steinberg, ABR-201007027, Preston Township, Wayne County, Pa.; Consumptive Use of up to 5.000 mgd; Approval Date: July 12, 2010.
- Chesapeake Appalachia, LLC; Pad ID: Jacobs, ABR-201007028, Rome Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 13, 2010.
- Chesapeake Appalachia, LLC; Pad ID: Katzenstein NEW, ABR-201007029, Wysox Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 13, 2010.
- Chesapeake Appalachia, LLC; Pad ID: Simpson, ABR-201007030, West Burlington Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 13, 2010.
- Range Resources – Appalachia, LLC; Pad ID: Lone Walnut H.C. Unit #3H Drilling Pad, ABR-201007031, Cummings Township, Lycoming County, Pa.; Consumptive Use of up to 5.000 mgd; Approval Date: July 13, 2010.
- Chief Oil & Gas, LLC; Pad ID: Kobbe Drilling Pad #1, ABR-201007032, Elkland Township, Sullivan County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: July 14, 2010.
- Talisman Energy USA, Inc.; Pad ID: Yurkanin 03 014, ABR-201007033, Columbia Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 14, 2010.
- Chesapeake Appalachia, LLC; Pad ID: Milochik, ABR-201007034, Auburn Township, Susquehanna County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 15, 2010.
- Chesapeake Appalachia, LLC; Pad ID: Strobe, ABR-201007035, Ulster Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 15, 2010.
- Chesapeake Appalachia, LLC; Pad ID: Robinson NEW, ABR-201007036, Orwell Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 15, 2010.
- Chesapeake Appalachia, LLC; Pad ID: Breezy, ABR-201007037, Troy Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 15, 2010.
- East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Westerbaan 723, ABR-201007038, Union Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 14, 2010.
- Ultra Resources, Inc.; Pad ID: State 819 (rev); ABR-201007039, Gaines Township, Tioga County, Pa.; Consumptive Use of up to 4.990 mgd; Approval Date: July 15, 2010, including a partial waiver of 18 CFR §806.15.
- Ultra Resources, Inc.; Pad ID: State 822; ABR-201007040, Gaines Township, Tioga County, Pa.; Consumptive Use of up to 4.990 mgd; Approval Date: July 15, 2010, including a partial waiver of 18 CFR §806.15.
- Ultra Resources, Inc.; Pad ID: State 824; ABR-201007041, Gaines Township, Tioga County, Pa.; Consumptive Use of up to 4.990 mgd; Approval Date: July 15, 2010, including a partial waiver of 18 CFR §806.15.
- Ultra Resources, Inc.; Pad ID: State 825; ABR-201007042, Gaines Township, Tioga County, Pa.; Consumptive Use of up to 4.990 mgd; Approval Date: July 15, 2010, including a partial waiver of 18 CFR §806.15.
- Ultra Resources, Inc.; Pad ID: State 826; ABR-201007043, Shippen Township, Tioga County, Pa.; Consumptive Use of up to 4.990 mgd; Approval Date: July 15, 2010, including a partial waiver of 18 CFR §806.15.
- Gastem, Inc./Gastem-USA, Inc.; Pad ID: Sheckells 1, ABR-201007044, Cherry Valley Town, Otsego County, NY; Consumptive Use of up to 0.080 mgd; Approval Date: July 15, 2010.
- Chief Oil & Gas, LLC; Pad ID: Lightner Drilling Pad #1, ABR-201007045, Juniata Township, Blair County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: July 15, 2010.
- East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Maneval 296, ABR-201007046 Delmar Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 15, 2010.
- East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Taft 851, ABR-201007047, Middlebury Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 15, 2010.
- Chesapeake Appalachia, LLC; Pad ID: Barnes, ABR-201007048, Smithfield Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 15, 2010.
- Anadarko E&P Company, LP; Pad ID: Robert C. Ulmer Pad A, ABR-201007049, Watson Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 16, 2010.
- East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Thomas 503, ABR-201007050, Sullivan and Rutland Townships, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 16, 2010.
- Energy Corporation of American, Pad ID: Coldstream Affiliates #1MH, ABR 201007051, Goshen Township, Clearfield County, Pa.; Consumptive Use of up to 1.980 mgd; Approval Date: July 16, 2010.
- Anadarko E&P Company, LP; Pad ID: COP Tract 356 Pad D, ABR-201007052, Cummings Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 16, 2010, including a partial waiver of 18 CFR §806.15.
- Anadarko E&P Company, LP; Pad ID: COP Tract 343 Pad B, ABR-201007053, Beech Creek Township, Clinton County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 19, 2010, including a partial waiver of 18 CFR §806.15.
- Talisman Energy USA, Inc.; Pad ID: McMurray 01 031, ABR-201007054, Canton Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 19, 2010.
- Hess Corporation, Pad ID: Medved, ABR-201007055, Preston Township, Wayne County, Pa.; Consumptive Use of up to 5.000 mgd; Approval Date: July 19, 2010.
- Hess Corporation, Pad ID: Galiardo, ABR-201007056, Starrucca Borough, Wayne County, Pa.; Consumptive Use of up to 5.000 mgd; Approval Date: July 19, 2010.
- East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Reese 289, ABR-201007057, Charleston Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 19, 2010.
- Chief Oil & Gas, LLC; Pad ID: M & L Beinlich South Drilling Pad #1, ABR-201007058, Elkland Township, Sullivan County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: July 19, 2010.
- Chief Oil & Gas, LLC; Pad ID: M & L Beinlich North Drilling Pad #1, ABR-201007059, Overton Township, Bradford County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: July 19, 2010.

- Southwestern Energy Production Company, Pad ID: Ball, ABR-201007060, Stevens Township, Bradford County, Pa.; Consumptive Use of up to 4.999 mgd; Approval Date: July 19, 2010.
- East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Sawyer 376, ABR-201007061, Union Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 19, 2010.
- Anadarko E&P Company, LP; Pad ID: COP Tract 285 Pad C, ABR-201007062, Grugan Township, Clinton County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 19, 2010, including a partial waiver of 18 CFR §806.15.
- Chesapeake Appalachia, LLC; Pad ID: Dewees, ABR-201007063, Rome Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 20, 2010.
- Carrizo Marcellus, LLC; Pad ID: Shaskas, ABR-201007064, Jessup Township, Susquehanna County, Pa.; Consumptive Use of up to 1.400 mgd; Approval Date: July 20, 2010.
- Chesapeake Appalachia, LLC; Pad ID: Pieszala, ABR-201007065, Windham Township, Wyoming County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 20, 2010.
- East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Harsell 883, ABR-201007066, Nelson Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 20, 2010.
- Chief Oil & Gas, LLC; Pad ID: Davis Drilling Pad #1, ABR-201007067, West St. Clair Township, Bedford County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: July 21, 2010.
- East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Baldwin 881, ABR-201007068, Farmington Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 21, 2010.
- East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Wood 874, ABR-201007069, Deerfield Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 21, 2010.
- Anadarko E&P Company, LP; Pad ID: Jason M Phillips Pad A, ABR-201007070, Cogan House Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 21, 2010.
- Anadarko E&P Company, LP; Pad ID: Ann M Mercier Pad A, ABR-201007071, Cogan House Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 21, 2010.
- Anadarko E&P Company, LP; Pad ID: COP Tract 357 Pad B, ABR-201007072, Cummings Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 21, 2010, including a partial waiver of 18 CFR §806.15.
- Anadarko E&P Company, LP; Pad ID: COP Tract 356 Pad A, ABR-201007073, Cummings Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 21, 2010, including a partial waiver of 18 CFR §806.15.
- Anadarko E&P Company, LP; Pad ID: COP Tract 285 Pad E, ABR-201007074, Grugan Township, Clinton County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 21, 2010, including a partial waiver of 18 CFR §806.15.
- Anadarko E&P Company, LP; Pad ID: COP Tract 357 Pad A, ABR-201007075, Cummings Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 21, 2010, including a partial waiver of 18 CFR §806.15.
- Anadarko E&P Company, LP; Pad ID: Clearview HC Pad A, ABR-201007076, Gamble Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 22, 2010.
- Chesapeake Appalachia, LLC; Pad ID: Schlick NEW, ABR-201007077, Rush Township, Susquehanna County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 22, 2010.
- Chesapeake Appalachia, LLC; Pad ID: Delima, ABR-201007078, Albany Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 22, 2010.
- East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Smith 140, ABR-201007079, Charleston Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 22, 2010.
- Talisman Energy USA, Inc.; Pad ID: 05 080 Young, ABR-201007080, Warren Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 22, 2010.
- Williams Production Appalachia, LLC; Pad ID: M. Martin 1V, ABR-201007081, Sugarloaf Township, Columbia County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 22, 2010.
- Talisman Energy USA, Inc.; Pad ID: Thorpe 03 049, ABR-201007082, Wells Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 23, 2010.
- Talisman Energy USA, Inc.; Pad ID: Szumski 03 022, ABR-201007083, Columbia Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 26, 2010.
- Talisman Energy USA, Inc.; Pad ID: Watson 03 051, ABR-201007084, Columbia Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 26, 2010.
- Williams Production Appalachia, LLC; Pad ID: Alder Run Land LP #5H, ABR-201007085, Cooper Township, Clearfield County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: July 26, 2010.
- Talisman Energy USA, Inc.; Pad ID: 05 006 Ugliuzza L, ABR-201007086, Pike Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 26, 2010.
- Norse Energy Corporation USA, Pad ID: Thornhill #1, ABR-201007087, Colesville Town, Broome County, N.Y.; Consumptive Use of up to 0.150 mgd; Approval Date: July 26, 2010.
- Talisman Energy USA, Inc.; Pad ID: Cummings 01 081, ABR-201007088, Troy Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 26, 2010.
- East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Cleveland 616, ABR-201007089, Delmar Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 27, 2010.
- Talisman Energy USA, Inc.; Pad ID: 05 047 Kipp, ABR-201007090, Warren Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 26, 2010.
- Talisman Energy USA, Inc.; Pad ID: Kirkowski 01 066, ABR-201007091, Canton Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 27, 2010.
- East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Hedrick 702, ABR-201007092, Union Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 27, 2010.
- East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Gee 848V, ABR-201007093, Middlebury Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 27, 2010.
- Talisman Energy USA, Inc.; Pad ID: Feusner 03 044, ABR-201007094, Columbia Township, Bradford County, Pa.;

- Consumptive Use of up to 6.000 mgd; Approval Date: July 27, 2010.
- Talisman Energy USA, Inc.; Pad ID: Feusner 03 045, ABR-201007095, Columbia Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 27, 2010.
- Talisman Energy USA, Inc.; Pad ID: Walters 05 001, ABR-201007096, Herrick Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 27, 2010.
- Anadarko E&P Company, LP; Pad ID: COP Tract 231 Pad E, ABR-201007097, Boggs Township, Centre County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 27, 2010, including a partial waiver of 18 CFR §806.15.
- East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Wolfe 1114, ABR-201007098, Nelson Township, Tioga, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 27, 2010.
- Talisman Energy USA, Inc.; Pad ID: 05 004 Cooley P, ABR-201007099, Orwell Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 27, 2010.
- Chesapeake Appalachia, LLC; Pad ID: Lopatofsky NEW, ABR-201007100, Washington Township, Wyoming County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 27, 2010.
- Chesapeake Appalachia, LLC; Pad ID: Rowe, ABR-201007101, Rome Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 27, 2010.
- Chesapeake Appalachia, LLC; Pad ID: Scheffler, ABR-201007102, Standing Stone Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 27, 2010.
- Chesapeake Appalachia, LLC; Pad ID: Bluegrass, ABR-201007103, Rush Township, Susquehanna County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 27, 2010.
- Chesapeake Appalachia, LLC; Pad ID: Wilmot, ABR-201007104, Rome Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 27, 2010.
- Chesapeake Appalachia, LLC; Pad ID: Champluvier, ABR-201007105, Tuscarora Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 27, 2010.
- Chesapeake Appalachia, LLC; Pad ID: Van DeMark, ABR-201007106, Windham Township, Wyoming County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 27, 2010.
- Norse Energy Corporation USA, Pad ID: Knapp, J. #1, ABR-201007107, Colesville Town, Broome County, N.Y.; Consumptive Use of up to 0.150 mgd; Approval Date: July 27, 2010.
- Norse Energy Corporation USA, Pad ID: Klecha, M. #1, ABR-201007108, Coventry Township, Chenango County, N.Y.; Consumptive Use of up to 0.150 mgd; Approval Date: July 27, 2010.
- Norse Energy Corporation USA, Pad ID: Norse East #1, ABR-201007109, Afton Township, Chenango County, N.Y.; Consumptive Use of up to 0.150 mgd; Approval Date: July 27, 2010.
- Norse Energy Corporation USA, Pad ID: Norse West #1, ABR-201007110, Afton Township, Chenango County, N.Y.; Consumptive Use of up to 0.150 mgd; Approval Date: July 27, 2010.
- Norse Energy Corporation USA, Pad ID: Anderson, C. #1, ABR-201007111, Coventry Township, Chenango County, N.Y.; Consumptive Use of up to 0.150 mgd; Approval Date: July 27, 2010.
- Norse Energy Corporation USA, Pad ID: Norse #3, ABR-201007112, Colesville Town, Broome County, N.Y.; Consumptive Use of up to 0.150 mgd; Approval Date: July 28, 2010.
- East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Sticklin 610, ABR-201007113, Delmar Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 28, 2010.
- Anadarko E&P Company, LP; Pad ID: COP Tract 356 Pad I, ABR-201007114, Cummings Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 28, 2010, including a partial waiver of 18 CFR §806.15.
- Seneca Resources Corporation, Pad ID: Lehmann Pad K, ABR-201007115, Covington Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 28, 2010.
- East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Wood 499, ABR-201007116, Sullivan Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 28, 2010.
- East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Hamblin 860, ABR-201007117, Middlebury Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 28, 2010.
- East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Foti 721, ABR-201007118, McNett Township, Lycoming County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 28, 2010.
- East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Clegg 722, ABR-201007119, McNett Township, Lycoming County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 28, 2010.
- Cabot Oil & Gas Corporation, Pad ID: DavisG P1, ABR-201007120, Gibson Township, Susquehanna County, Pa.; Consumptive Use of up to 3.575 mgd; Approval Date: July 28, 2010.
- Cabot Oil & Gas Corporation, Pad ID: AdamsJ P1, ABR-201007121, Harford Township, Susquehanna County, Pa.; Consumptive Use of up to 3.575 mgd; Approval Date: July 28, 2010.
- East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Seeley 524, ABR-201007122, Rutland Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 28, 2010.
- Chesapeake Appalachia, LLC; Pad ID: Covington, ABR-201007123, Sheshequin Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 28, 2010.
- Anadarko E&P Company, LP; Pad ID: COP Tract 356 Pad F, ABR-201007124, Cummings Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 29, 2010, including a partial waiver of 18 CFR §806.15.
- Chesapeake Appalachia, LLC; Pad ID: EDF NEW, ABR-201007125, Mehoopany Township, Wyoming County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 29, 2010.
- Chesapeake Appalachia, LLC; Pad ID: Petty, ABR-201007126, Leroy Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 29, 2010.
- Chesapeake Appalachia, LLC; Pad ID: Faith New, ABR-201007127, Sheshequin Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 29, 2010.
- East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Dewey Hollow Rod & Gun Club 601, ABR-201007128, Sullivan Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 29, 2010.
- East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Swingle 725, ABR-201007129, Canton Township,

Bradford County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 29, 2010.

Talisman Energy USA, Inc.; Pad ID: 05 002 Warner W, ABR-201007130, Pike Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 29, 2010.

Norse Energy Corporation USA, Pad ID: Stone #1, ABR-201007131, Afton Township, Chenango County, N.Y.; Consumptive Use of up to 0.150 mgd; Approval Date: July 30, 2010.

AUTHORITY: P.L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: August 13, 2010.

STEPHANIE L. RICHARDSON
Secretary to the Commission

[10-19-27]

SUSQUEHANNA RIVER BASIN COMMISSION

Notice of Public Hearing and Commission Meeting

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice of Public Hearing and Commission Meeting.

SUMMARY: The Susquehanna River Basin Commission will hold a public hearing as part of its regular business meeting on September 16, 2010, in Corning, N.Y. At the public hearing, the Commission will consider: 1) action on certain water resources projects; 2) compliance matters involving three projects; 3) action on a project involving a diversion; and 4) the rescission of two docket approvals. Details concerning the matters to be addressed at the public hearing and business meeting are contained in the Supplementary Information section of this notice.

DATE: September 16, 2010, at 8:30 a.m.

ADDRESS: Radisson Hotel Corning, 125 Denison Parkway East, Corning, N.Y. 14830

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238-0423, ext. 306; fax: (717) 238-2436; e-mail: rcairo@srbc.net or Stephanie L. Richardson, Secretary to the Commission, telephone: (717) 238-0423, ext. 304; fax: (717) 238-2436; e-mail: srichardson@srbc.net.

SUPPLEMENTARY INFORMATION: In addition to the public hearing and its related action items identified below, the business meeting also includes actions or presentations on the following items: 1) update on the SRBC Remote Water Quality Monitoring Network; 2) hydrologic conditions in the basin; 3) final rulemaking covering 18 CFR Parts 806 and 808; 4) ratification/approval of grants/contracts; and 5) revision of the FY-2012 budget resolution. The Commission will also hear Legal Counsel's report.

Public Hearing — Compliance Matters

Project Sponsor: Talisman Energy USA Inc. Pad ID: Castle 01 047 (ABR-20100128), Armenia Township; Harvest Holdings 01 036 (ABR-20100225), Canton Township; and Putnam 01 076 (ABR-20100233), Armenia Township; Bradford County, Pa.

Project Sponsor: Cabot Oil & Gas Corporation. Withdrawal ID: Susquehanna River-3 (Docket No. 20080905), Great Bend Borough, Susquehanna County, Pa.

Project Sponsor: Seneca Resources Corporation. Pad ID: M. Pino H (ABR-20090933), DCNR 100 1V (ABR-20090436), Wilcox F (ABR-20090505), T. Wivell (ABR-20090814), Wivell I (ABR-20100607), DCNR 595 E (ABR-20100307), DCNR 595 D (ABR-20090827); Withdrawal ID: Arnot 5 – Signor (Docket No. 20090908).

Public Hearing — Projects Scheduled for Action

Project Sponsor and Facility: Anadarko E&P Company LP (Beech Creek), Snow Shoe Township, Centre County, Pa. Application for surface water withdrawal of up to 0.249 mgd.

Project Sponsor and Facility: Anadarko E&P Company LP (Pine Creek – 2), McHenry Township, Lycoming County, Pa. Application for surface water withdrawal of up to 0.499 mgd.

Project Sponsor and Facility: Anadarko E&P Company LP (Wolf Run), Snow Shoe Township, Centre County, Pa. Application for surface water withdrawal of up to 0.499 mgd.

Project Sponsor: Aqua Pennsylvania, Inc. Project Facility: Monroe Manor Water System, Monroe Township, Snyder County, Pa. Application for groundwater withdrawal of up to 0.180 mgd from Well 4.

Project Sponsor and Facility: Buck Ridge Stone, LLC (Salt Lick Creek), New Milford Township, Susquehanna County, Pa. Application for surface water withdrawal of up to 0.083 mgd.

Project Sponsor and Facility: Chesapeake Appalachia, LLC (Susquehanna River), Mehoopany Township, Wyoming County, Pa. Modification to project features of the withdrawal approval (Docket No. 20080923).

Project Sponsor and Facility: Chief Oil & Gas LLC (Martins Creek), Hop Bottom Borough, Susquehanna County, Pa. Application for surface water withdrawal of up to 0.360 mgd.

Project Sponsor and Facility: Citrus Energy (Susquehanna River), Washington Township, Wyoming County, Pa. Application for surface water withdrawal of up to 1.495 mgd.

Project Sponsor and Facility: Geary Enterprises (Buttermilk Creek), Falls Township, Wyoming County, Pa. Application for surface water withdrawal of up to 0.099 mgd.

Project Sponsor and Facility: Mansfield Borough Municipal Authority, Richmond Township, Tioga County, Pa. Application for groundwater withdrawal of up to 0.079 mgd from Well 3.

Project Sponsor: New Morgan Landfill Company, Inc. Project Facility: Conestoga Landfill, Bethel Township, Berks County, Pa. Application for groundwater withdrawal of up to 0.003 mgd from the Shop Well.

Project Sponsor: New Morgan Landfill Company, Inc. Project Facility: Conestoga Landfill (Quarry Pond), Bethel Township, Berks County, Pa. Application for surface water withdrawal of up to 0.250 mgd.

Project Sponsor and Facility: Novus Operating, LLC (Cowanesque River), Westfield Township, Tioga County, Pa. Application for surface water withdrawal of up to 0.750 mgd.

Project Sponsor and Facility: Novus Operating, LLC (Tioga River), Covington Township, Tioga County, Pa. Application for surface water withdrawal of up to 1.750 mgd.

Project Sponsor and Facility: Smith Transport Warehouse (Bald Eagle Creek), Snyder Township, Blair County, Pa. Application for surface water withdrawal of up to 0.160 mgd.

Project Sponsor and Facility: Sugar Hollow Trout Park and Hatchery, Eaton Township, Wyoming County, Pa. Application for groundwater withdrawal of up to 0.864 mgd combined total from Wells 1, 2, and 3 (Hatchery Well Field).

Project Sponsor and Facility: Talisman Energy USA Inc. (Seeley Creek), Wells Township, Bradford County, Pa. Application for surface water withdrawal of up to 0.750 mgd.

Project Sponsor and Facility: Talisman Energy USA Inc. (Wyalusing Creek), Stevens Township, Bradford County, Pa. Application for surface water withdrawal of up to 2.000 mgd.

Project Sponsor and Facility: Walker Township Water Association, Walker Township, Centre County, Pa. Modification to increase the total groundwater system withdrawal limit (30-day average) from 0.523 mgd to 0.962 mgd (Docket No. 20070905).

Project Sponsor and Facility: Williams Production Appalachia, LLC (Snake Creek), Liberty Township, Susquehanna County, Pa. Modification to project features of the withdrawal approval (Docket No. 20090302).

Public Hearing — Project Scheduled for Action Involving a Diversion:

Project Sponsor: Gettysburg Municipal Authority. Project Facility: Hunterstown Wastewater Treatment Plant, Abbottstown Borough, Adams County, Pa. Application for an existing into-basin diversion of up to 0.123 mgd from the Potomac River Basin.

Public Hearing — Projects Scheduled for Rescission Action:

Project Sponsor: McNeil PPC. Project Facility: Johnson & Johnson (Docket No. 20050906), Lititz Borough, Lancaster County, Pa.

Project Sponsor: Northampton Fuel Supply Company, Inc. Project Facility: Loomis Bank Operation (Docket No. 20040904), Hanover Township, Luzerne County, Pa.

Opportunity to Appear and Comment:

Interested parties may appear at the above hearing to offer written or oral comments to the Commission on any matter on the hearing agenda, or at the business meeting to offer written or oral comments on other matters scheduled for consideration at the business meeting. The chair of the Commission reserves the right to limit oral statements in the interest of time and to otherwise control the course of the hearing and business meeting. Written comments may also be mailed to the Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, Pennsylvania 17102-2391, or submitted electronically to Richard A. Cairo, General Counsel, e-mail: rcairo@srbc.net or Stephanie L. Richardson, Secretary to the Commission, e-mail: srichardson@srbc.net. Comments mailed or electronically submitted must be received prior to September 10, 2010, to be considered.

AUTHORITY: P.L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808

Dated: August 17, 2010.

THOMAS W. BEAUDUY
Deputy Director

[10-19-26]

General Notices

Notice of ADA Compliance

The State of Maryland is committed to ensuring that individuals with disabilities are able to fully participate in public meetings. Anyone planning to attend a meeting announced below who wishes to receive auxiliary aids, services, or accommodations is invited to contact the agency representative at least 48 hours in advance, at the telephone number listed in the notice or through Maryland Relay.

BOARD OF ARCHITECTS

Subject: Public Meeting
Date and Time: September 22, 2010, 9:30 a.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Pamela J. Edwards (410) 230-6263

[10-19-31]

BOARD OF AUDIOLOGISTS, HEARING AID DISPENSERS, AND SPEECH-LANGUAGE PATHOLOGISTS

Subject: Public Meeting
Date and Time: September 16, 2010, 4 — 6 p.m.
Place: Metro Executive Bldg., 4201 Patterson Ave., Baltimore, MD
Contact: Christopher Kelter (410) 764-4725

[10-19-17]

BOARD OF COSMETOLOGISTS

Subject: Public Meeting
Date and Time: October 4, 2010, 9:30 a.m. — 4 p.m.
Place: 500 N. Calvert St., 2nd Fl., Baltimore, MD
Add'l. Info: Centre St. Entrance
Contact: Robert Wood (410) 230-6195

[10-19-35]

GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

Subject: Public Meeting
Date and Time: September 16, 2010, 3 — 5 p.m.
Place: Baltimore County, Loch Raven Library, Baltimore, MD
Contact: Jessica Winpigler (410) 821-2829

[10-19-05]

GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

Subject: Public Meeting
Date and Time: January 10, 2011, 3 — 5 p.m.
Place: Baltimore County, Loch Raven Library, Baltimore, MD
Contact: Jessica Winpigler (410) 821-2829

[10-19-06]

GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

Subject: Public Meeting
Date and Time: March 14, 2011, 3 — 5 p.m.
Place: Baltimore County, Loch Raven Library, Baltimore, MD
Contact: Jessica Winpigler (410) 821-2829

[10-19-07]

CRIMINAL JUSTICE INFORMATION ADVISORY BOARD

Subject: Public Meeting
Date and Time: September 20, 2010, 1 — 3 p.m.
Place: Judicial Training Center, 2009-D Commerce Park Dr., Annapolis, MD
Contact: Robyn Lyles (410) 585-3185

[10-19-25]

COMMISSION ON CRIMINAL SENTENCING POLICY

Subject: Public Meeting
Date and Time: September 21, 2010, 5:30 — 7:30 p.m.
Place: House Office Bldg., Montgomery Co. Delegation Rm. (Rm. 170), 6 Bladen St., Annapolis, MD
Contact: David Soule (301) 403-4165

[10-19-12]

GOVERNOR'S OFFICE OF THE DEAF AND HARD OF HEARING

Subject: Public Meeting
Date and Time: September 21, 2010, 10:30 a.m. — 12 p.m.
Place: The Hearing and Speech Agency (HASA), 5900 Metro Dr., Baltimore, MD

Add'l. Info: Town Hall Meeting Hosted by Hearing Loss Association — Greater Baltimore Chapter

This meeting is to solicit public comment and feedback from the community. Information helpful to ODHHS includes:

- Comments on the quality of State services and programs affecting deaf, deafblind, and hard-of-hearing individuals;
- ODHHS related functions and operations; and
- Other issues affecting the community.

Sign Language interpreters and CART will be provided. If you need additional accommodations, please contact Laura Quinn at lquinn@gov.state.md.us.

For directions go to www.hasa.org and click on directions at the top right corner of the page.

Contact: Laura Quinn (410) 767-7794

[10-19-19]

MARYLAND STATE BOARD OF EDUCATION

Subject: Public Meeting
Date and Time: September 21, 2010, 9 a.m. — 5 p.m.; Additional Dates: September 22, October 26—27, and December 14—15, 2010
Place: Nancy S. Grasmick State Education Bldg., 200 W. Baltimore St., Baltimore, MD

Add'l. Info: The State Board of Education is pleased to receive oral public comment at each of its regular monthly meetings. In order to allow the State Board sufficient time for its other business, the total time allotted to public comment will generally be limited to thirty (30) minutes. Individuals seeking to speak to the Board will be given three (3) minutes each. Persons desiring to speak to the State Board, must call (410-767-0467) or e-mail (cnecessary@msde.state.md.us) the Board office not earlier than 1 week prior to the meeting to register to speak. Registration will be accepted on a first-come, first-served basis. In order to make the limited time available most effective, speakers are urged to provide multiple written copies of their comments or other material amplifying their views.

Contact: Charlene Necessary (410) 767-0467

[10-19-24]

BOARD OF ENVIRONMENTAL SANITARIANS

Subject: Public Meeting
Date and Time: October 6, 2010, 9 a.m. — 4 p.m.
Place: Howard Co. Bureau of Utilities, 8270 Old Montgomery Rd., Columbia, MD

Add'l. Info: A portion of this meeting may be held in closed session.

Contact: Lee Haskins (410) 537-3594

[10-19-04]

BOARD OF FORESTERS

Subject: Public Meeting
Date and Time: October 18, 2010, 10 a.m. — 12 p.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Dennis L. Gring (410) 230-6224

[10-19-01]

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subject: Public Meeting
Date and Time: September 29, 2010, 9:30 a.m. — 12 p.m.
Place: MD Dept. of Transportation, 7201 Corporate Center Dr., Harry Hughes Rm., Lower Level, Hanover, MD (410-865-1142)
Add'l. Info: Please contact Joan Patterson ahead of time to register and to confirm the date/time/location of the meeting. Everyone entering the building must have photo ID. The State Child Fatality Review Website is http://fha.maryland.gov/mch/cfr_home.cfm.

Contact: Joan Patterson (410) 767-6727
 [10-19-16]

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subject: Public Meeting
Date and Time: October 4, 2010, 9 — 11 a.m.; Additional Date: December 6, 2010
Place: MD Dept. of the Environment, 1800 Washington Blvd., Baltimore, MD
Add'l. Info: Name of Public Body: Children's Health Protection and Advisory Council
Contact: Rachel Hess-Mutinda (410) 767-2196

[10-19-15]

DEPARTMENT OF HEALTH AND MENTAL HYGIENE/LABORATORIES ADMINISTRATION/FORENSIC LABORATORY ADVISORY COMMITTEE

Subject: Public Meeting
Date and Time: September 29, 2010, 10 a.m. — 12 p.m.
Place: MSP—Forensic Sciences Laboratory, 221 Milford Mill Rd., Pikesville, MD
Add'l. Info: Meeting may run later than scheduled.
Contact: Michael Wajda (410) 767-6909

[10-19-37]

DEPARTMENT OF HEALTH AND MENTAL HYGIENE/MARYLAND BOARD OF PHYSICIANS

Subject: Public Meeting
Date and Time: September 22, 2010, 9 a.m. — 10 p.m.; Open Meetings will be held at 9 a.m. and 3 p.m.
Place: 4201 Patterson Ave., Rms. 108/109, Baltimore, MD
Add'l. Info: Appropriate auxiliary aids and services provided for qualified individuals upon request. Call Ellen D. Smith at (410) 764-2477.

Contact: Tammy Austin (410) 764-4769
 [10-19-08]

BOARD OF HEATING, VENTILATION, AIR-CONDITIONING, AND REFRIGERATION CONTRACTORS (HVACR)

Subject: Public Meeting
Date and Time: October 13, 2010, 9:30 a.m. — 12 p.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Steve Smitson (410) 230-6169
 [10-19-09]

STATE HIGHWAY ADMINISTRATION/PROJECT PLANNING DIVISION

Subject: Public Hearing
Date and Time: September 28, 2010, 5 — 9 p.m. (5 p.m. Workshop; 6:30 p.m. Public Hearing)
Place: Patuxent High School (Calvert Co.), 12485 Rousby Hall Rd., Lusby, MD
Add'l. Info: The Maryland Department of Transportation, State Highway Administration (SHA), in coordination with the Federal Highway Administration, is conducting a Project Planning Study on MD 4 from MD 235 (Three Notch Road) to Patuxent Point Parkway Study in Calvert and St. Mary's Counties.

The purpose of the Location/Design Public Hearings is to afford all interested persons the opportunity to comment on the location, general design, and associated social, economic, cultural, and natural environmental impacts of the project alternatives.

Beginning at 5 p.m., the project alternatives and other information will be on display. Project team members will be available to discuss the project and answer questions.

A formal presentation beginning at 6:30 p.m. and lasting approximately 30 minutes will include a description of the project alternatives, a summary of

environmental impacts, environmental impact summary, information on right-of-way acquisition and relocation assistance procedures, and an explanation of Title VI of the Equal Opportunity Program. This presentation will be followed by the receipt of public testimony.

Contact: Jeremy Beck (410) 545-8518
 [10-19-21]

STATE HIGHWAY ADMINISTRATION/PROJECT PLANNING DIVISION

Subject: Public Hearing
Date and Time: September 29, 2010, 5 — 9 p.m. (5 p.m. Workshop; 6:30 p.m. Public Hearing)
Place: Esperanza Middle School (Saint Mary's Co.), 22790 Maple Rd., Lexington Park, MD
Add'l. Info: The Maryland Department of Transportation, State Highway Administration (SHA), in coordination with the Federal Highway Administration, is conducting a Project Planning Study on MD 4 from MD 235 (Three Notch Road) to Patuxent Point Parkway Study in Calvert and St. Mary's Counties.

The purpose of the Location/Design Public Hearings is to afford all interested persons the opportunity to comment on the location, general design, and associated social, economic, cultural, and natural environmental impacts of the project alternatives.

Beginning at 5 p.m., the project alternatives and other information will be on display. Project team members will be available to discuss the project and answer questions.

A formal presentation beginning at 6:30 p.m. and lasting approximately 30 minutes will include a description of the project alternatives, a summary of environmental impacts, environmental impact summary, information on right-of-way acquisition and relocation assistance procedures, and an explanation of Title VI of the Equal Opportunity Program. This presentation will be followed by the receipt of public testimony.

Contact: Jeremy Beck (410) 545-8518
 [10-19-22]

DIVISION OF LABOR AND INDUSTRY/MARYLAND OCCUPATIONAL SAFETY AND HEALTH (MOSH) ADVISORY BOARD

Subject: Public Meeting
Date and Time: October 6, 2010, 10 a.m.

GENERAL NOTICES

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Place: Laurel College Center, 312 Marshall Ave., Rm. 600, Laurel, MD

Add'l. Info: The Board is scheduled to meet to discuss issues relating to occupational safety and health. Interested persons should call the contact person to confirm the meeting.

Contact: Debbie Stone (410) 767-2225

[10-19-36]

BOARD OF EXAMINERS OF LANDSCAPE ARCHITECTS

Subject: Public Meeting

Date and Time: September 20, 2010, 1:30 p.m.

Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD

Contact: Pamela J. Edwards (410) 230-6263

[10-19-30]

MARYLAND HEALTH CARE COMMISSION

Subject: Public Meeting

Date and Time: September 16, 2010, 1 p.m.

Place: Maryland Health Care Commission, 4160 Patterson Ave., Conf. Rm. 100, Baltimore, MD

Add'l. Info: Individuals requiring special accommodations are requested to contact Valerie Wooding at (410) 764-3460, or the Department of Health and Mental Hygiene TTY at (410) 383-7755, not later than 20 working days before the meeting to make arrangements.

Contact: Valerie Wooding (410) 764-3460

[10-19-10]

MINORITY BUSINESS ENTERPRISE ADVISORY COMMITTEE

Subject: Public Meeting

Date and Time: September 29, 2010, 8:30 a.m. — 5 p.m.

Place: Harry R. Hughes Dept. of Transportation Bldg., 7201 Corporate Center Dr., Harry Hughes Stes. 1 and 2, Ground Fl., Hanover, MD

Contact: Pam Gregory (410) 865-1253

[10-19-33]

BOARD OF EXAMINERS IN OPTOMETRY

Subject: Public Hearing

Date and Time: September 22, 2010, 9:30 — 11 a.m.

Place: Metro Executive Bldg., 4201 Patterson Ave., Rm. 110, Baltimore, MD

Add'l. Info: Health Occupations Article, Title 11, Annotated Code of Maryland, and COMAR 10.28, amendments, additions, and revisions, including fee changes, may be discussed/voted on. Budget information may also be discussed. It may be necessary to go into executive session.

Contact: Patricia G. Bennett (410) 764-4710

[10-19-20]

BOARD OF PODIATRIC MEDICAL EXAMINERS

Subject: Public Meeting

Date and Time: September 16, 2010, 1 p.m.

Place: 4201 Patterson Ave., Rms. 108/109, Baltimore, MD

Contact: Eva Schwartz (410) 764-4784

[10-19-13]

RACING COMMISSION

Subject: Public Meeting

Date and Time: September 21, 2010, 12:30 — 1 p.m.

Place: Laurel Park, Laurel, MD

Contact: J. Michael Hopkins (410) 296-9682

[10-19-14]

REAL ESTATE COMMISSION

Subject: Public Meeting

Date and Time: October 13, 2010, 2 p.m.

Place: Dept of Labor, Licensing, and Regulation, 500 N. Calvert St., 2nd Fl. Conf. Rm., Baltimore, MD

Add'l. Info: Task Force to Develop Supervision Course

Contact: Patricia Hannon (410) 230-6199

[10-19-11]

BOARD OF REVENUE ESTIMATES

Subject: Public Meeting

NOTE: CHANGE IN TIME

Date and Time: September 16, 2010, 10 — 10:30 a.m.

Place: Louis L. Goldstein Treasury Bldg., 80 Calvert St., Assembly Rm., Annapolis, MD

Contact: Linda I. Vasbinder (410) 260-7450

[10-19-18]

DEPARTMENT OF VETERANS AFFAIRS/MARYLAND VETERANS HOME COMMISSION

Subject: Public Meeting

Date and Time: September 15, 2010, 10:30 a.m. — 1 p.m.

Place: Charlotte Hall Veterans Home, Charlotte Hall, MD

Contact: Sharon Mattia (301) 884-8171, ext. 402

[10-19-23]

BOARD OF WATERWORKS AND WASTE SYSTEMS OPERATORS

Subject: Public Meeting

Date and Time: October 21, 2010, 10 a.m. — 3 p.m.

Place: Little Patuxent Water Reclamation Plant, Savage, MD

Add'l. Info: A portion of this meeting may be held in closed session.

Contact: Pat Kratochvil (410) 537-3167

[10-19-02]

BOARD OF WELL DRILLERS

Subject: Public Meeting

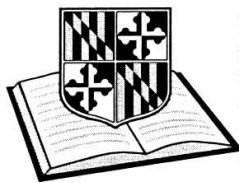
Date and Time: September 22, 2010, 9 a.m. — 4 p.m.

Place: MDE, 1800 Washington Blvd., Terra Conf. Rm., Baltimore, MD

Add'l. Info: A portion of this meeting may be held in closed session.

Contact: Pat Kratochvil (410) 537-3644

[10-19-03]



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