

Maryland Register

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Regulatory Review and
Evaluation
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General Notices

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before January 6, 2014, 5 p.m.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 January 6, 2014.

Brian Morris
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
- 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

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 410-260-3876.

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 \$15.00 per issue.

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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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.

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CLOSING DATES AND ISSUE DATES through JULY 25, 2014

Issue Date	Emergency and Proposed Regulations 5 p.m.*	Final Regulations 10:30 a.m.	Notices, etc. 10:30 a.m.
February 7**	January 17	January 29	January 27
February 21	February 3	February 12	February 10
March 7**	February 14	February 26	February 24
March 21	March 3	March 12	March 10
April 4	March 17	March 26	March 24
April 18	March 31	April 9	April 7
May 2	April 14	April 23	April 21
May 16	April 28	May 7	May 5
May 30	May 12	May 21	May 19
June 13**	May 23	June 4	June 2
June 27	June 9	June 18	June 16
July 11	June 23	July 2	June 30
July 25	July 7	July 16	July 14

* Due date for documents containing 8 to 18 pages — 48 hours before date shown; due date for documents exceeding 18 pages — 1 week before date shown

NOTE: ALL DOCUMENTS MUST BE SUBMITTED IN TIMES NEW ROMAN, 9 POINT, SINGLE-SPACED FORMAT. THE REVISED PAGE COUNT REFLECTS THIS FORMATTING.

** Note closing date changes

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 Chapter Section Paragraph
 Subtitle Regulation Subsection 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.

01 EXECUTIVE DEPARTMENT

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02 OFFICE OF THE ATTORNEY GENERAL

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03 COMPTROLLER OF THE TREASURY

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03.01.04.01—09 • 40:26 Md. R. 2167 (12-27-13)
03.03.05.01 • 40:21 Md. R. 1782 (10-18-13)
03.03.05.28 • 41:2 Md. R. 95 (1-24-14)
03.04.01.01 • 41:1 Md. R. 14 (1-10-14)
03.04.02.02,03,06,15,16 • 41:1 Md. R. 14 (1-10-14)
03.04.10.01,04,08 • 41:1 Md. R. 14 (1-10-14)
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HB0029 Del Gutierrez. Maryland Law Enforcement Trust Act.

HB0030 Del McDermott. Contraband Tobacco Products and Conveyances - Seizures and Disposition.

HB0031 Dels McDermott and Smigiel. Sentencing Procedures - Statement by Victim or Victim's Representative (Alex's Law).

HB0032 Del McDermott. Vehicle Laws - Law Enforcement Vehicles - Tinted Windows.

HB0033 Del Smigiel. Criminal Law - Professional Counselors and Therapists - Conduct (Lynette's Law).

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- HB0057** Del Cardin. Vehicle Laws - Speed Monitoring Systems and Work Zone Speed Control Systems.
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- HB0060** Del Smigiel. Repeal of the Firearm Safety Act of 2013.
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HB0122 Del K. Kelly. Public Safety - Assault Weapons and Detachable Magazines - Possession or Transport by Nonresident.

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HB0130 Del Rudolph. Motor Vehicle Insurance - Task Force to Study Methods to Reduce the Rate of Uninsured Drivers.

HB0131 Montgomery County Delegation. Montgomery County - City of Takoma Park - Alcoholic Beverages - Class B On- and Off-Sale License MC 18-14.

HB0132 Montgomery County Delegation. Montgomery County - Alcoholic Beverages - Beer Sales and Delivery to Retail Dealers MC 19-14.

HB0133 Del Beitzel. Vehicle Laws - School Vehicles - Definition.

HB0134 Del Morhaim. State Government - Commemorative Days - National Healthcare Decisions Day.

HB0135 Montgomery County Delegation. Montgomery County - Town of Kensington - Alcoholic Beverages - Special B-K Licenses MC 15-14.

HB0136 Montgomery County Delegation. Alcoholic Beverages - Montgomery County - Beer Festivals MC 11-14.

HB0137 Montgomery County Delegation. Montgomery County - Alcoholic Beverages - Beauty Salon License MC 9-14.

HB0138 Montgomery County Delegation. Montgomery County - Archery Hunting - Safety Zone MC 5-14.

HB0139 Montgomery County Delegation. Montgomery County - Law Enforcement Vehicles - Automated External Defibrillator MC 17-14.

HB0140 Montgomery County Delegation. Montgomery County - Micro-Brewery Licenses and Class D Beer and Light Wine Licenses MC 3-14.

HB0141 Montgomery County Delegation. Montgomery County - Barbershops - Restriction on Operation Repealed MC 1-14.

HB0142 Montgomery County Delegation. Montgomery County - Proportion of Food and Alcoholic Beverages Sales - Class B Licenses and Class B-BWL (H-M) Licenses MC 14-14.

HB0143 Montgomery County Delegation. Montgomery County - Alcoholic Beverages Sales - Prohibition on Use of Self-Scanning Cash Registers MC 6-14.

HB0144 Montgomery County Delegation. Montgomery County - Alcoholic Beverages - Class B Beer, Wine and Liquor Licenses MC 12-14.

HB0145 Del McIntosh. Natural Resources - Fisheries Management - Regulations.

HB0146 Montgomery County Delegation. Montgomery County - Alcoholic Beverages - Special BWL Community Performing Arts Facility License MC 7-14.

HB0147 Montgomery County Delegation. Montgomery County - Maryland Tort Claims Act - Human Services Torts MC 13-14.

HB0148 Del Sophocleus, et al. Education - Public School Holidays - Veterans' Day.

[14-02-55]

Senate Bills

SB0001 Sen Hershey. Bay Restoration Fee - Exemption - On-Site Sewage Disposal System Using Best Available Technology.

SB0002 Sen Edwards. Garrett County - Industrial Wind Energy Conversion Systems - Setback Requirement.

SB0003 Sens Jacobs and Simonaire. Vehicle Laws - Operation of Vehicle When Approaching a Tow Truck or Service Vehicle.

SB0004 Sen Young. Vehicle Laws - Special Registration Plates - Appalachian Trail.

SB0005 Sen Kittleman. Stormwater Management - Watershed Protection and Restoration Program - Repeal.

SB0006 Chr JPR (Dept). Vehicle Laws - Preventive Maintenance Program - Preventive Maintenance Technician.

SB0007 Sen Colburn. Maryland Consolidated Capital Bond Loan of 2013 - Talbot County - Oxford Community Center.

SB0008 Sen Colburn. Corporate Income Tax - Rate Reduction.

SB0009 Sen Astle. Sales and Use Tax - Exemption - Veterans Organizations That Sell Marine Corps Uniforms.

SB0010 Sens Young and Brinkley. Frederick County - Slot Machines for Nonprofit Organizations.

SB0011 Sen Young. Food Processing Plants - License Fees - Civic and Nonprofit Organizations.

SB0012 Sen Shank. Criminal Law - Contraband - Telecommunication Devices - Penalty.

SB0013 Chr FIN (Dept). Long-Term Care Ombudsman Program Advisory Committee.

SB0014 Sen Reilly. Task Force to Study Starting Times for Maryland Public Schools.

SB0015 Sens Jacobs and Ferguson. Election Law - Voter Registration List - Reports of Deceased Voters.

SB0016 Sen Klausmeier, et al. Chesapeake Employers' Insurance Company - Issuance, Renewal, and Cancellation of Policies - Authority.

SB0017 Sen Montgomery, et al. Family Law - Performance of Marriage Ceremonies.

SB0018 Sens Jacobs and Astle. Higher Education - Military Dependents - In-State Tuition.

SB0019 Sen Peters. Creation of a State Debt - Prince George's County - Green Branch Athletic Complex Lacrosse Field Dome.

SB0020 Sens Forehand and Montgomery. Office of the Deaf and Hard of Hearing - Name Change.

SB0021 Sen Colburn. Family Investment Program - Eligibility - Drug Testing.

SB0022 Sen DeGrange. Creation of a State Debt - Anne Arundel County - Calvary Food Bank.

SB0023 Sen Young. Estates - Closing - Statement of Compensation and Reporting of Income (Mike Cady Act).

SB0024 Sen Jacobs. Higher Education - Military Dependents - Nonresident Tuition Exemption.

SB0025 Sen Reilly. State Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors - Membership.

SB0026 Chr JPR (Dept). Motor Vehicles - Commercial Instructional Permit Holders - Administrative Penalties and Procedures.

SB0027 Sen Mathias. Nutrient Management - Phosphorus Risk Assessment Tool or Index - Economic Impact Analysis.

SB0028 Sen Frosh. Peace Orders and Protective Orders - Burden of Proof.

SB0029 Sens Colburn and Miller. State Designations - State Sandwich - Soft-Shell Crab Sandwich.

SB0030 Sen Young. Educational Institutions - Personal Electronic Account - Privacy Protection.

- SB0031** Sens Colburn and Hershey (By Request). Chesapeake College - Authorization of Debt for Capital Projects - Simple Majority Plus One Requirement.
- SB0032** Chr JPR (Md Jud Conf). Circuit Court Real Property Records Improvement Fund - Funding.
- SB0033** Chr JPR (Dept). Vehicle Laws - Rules of the Road - Use of High Occupancy Vehicle (HOV) Lanes.
- SB0034** Sen Reilly. Pain-Capable Unborn Child Protection Act.
- SB0035** Sen Shank. Family Law - Domestic Violence Incident Report - Dissemination.
- SB0036** Sen Mathias. State Government - Display of the POW/MIA Flag on State Building Grounds.
- SB0037** Carroll County Senators. Carroll County - Gaming.
- SB0038** Sens Colburn and Hershey (By Request). Chesapeake College - Board of Trustees - Appointment of Members.
- SB0039** Sen Young. Back Taxes - No Penalty, No Interest.
- SB0040** Carroll County Senators. Courts and Judicial Proceedings - Circuit Court for Carroll County - Fees for Appearance of Counsel.
- SB0041** Sen Shank. Domestic Violence - Persons Eligible for Relief.
- SB0042** Sen Klausmeier. Financial Education and Capability Commission - Membership and Duties.
- SB0043** Sen Benson. Crimes - Sale of Drug Paraphernalia to a Minor - Local Law Authorizing Business License Revocation for a Second or Subsequent Violation.
- SB0044** Sen Colburn. Agriculture - Noxious Weeds - Reed Grass.
- SB0045** Chr EHE (Dept). Architects, Landscape Architects, and Professional Land Surveyors - Firm Permits.
- SB0046** Chr EHE (Dept). State Board of Individual Tax Preparers - Prohibited Acts - Civil Penalty.
- SB0047** Sen Klausmeier, et al. Income Tax - Expensing of Business Property and Bonus Depreciation.
- SB0048** Sen Benson. Election Law - Polling Places - Accommodations for Disabled Voters.
- SB0049** Sen Hershey. Kent County - Alcoholic Beverages Act of 2014.
- SB0050** Sen Frosh. Crimes - Use of Personal Identifying Information or the Identity of Another - Sexual Crimes.
- SB0051** Sen Colburn. Creation of a State Debt - Dorchester County - Choptank River Lighthouse Museum Artifact Acquisition Project.
- SB0052** Sen Benson. Task Force to Study Services and Resources Provided by the Department of Veterans Affairs.
- SB0053** Sen Middleton, et al. Maryland Automobile Insurance Fund - Installment Payment Plan - Clarification.
- SB0054** Chr FIN (Dept). Labor and Employment - Maryland Apprenticeship and Training Council.
- SB0055** Sen Benson. Creation of a State Debt - Prince George's County - City of Seat Pleasant Public Works Facility.
- SB0056** Sen Middleton. Environment - Solid Waste Management Practices - Maryland Recycling and Landfill Diversion Task Force.
- SB0057** Sen Colburn. Office of the State's Attorney - Dorchester County - Authority to Appoint Criminal Investigators.
- SB0058** Sen Pugh. Education - School Vehicles - Authorized Riders.
- SB0059** Sen Mathias. Income Tax - Subtraction Modification - Payroll Taxes on Employee Tips.
- SB0060** Sen Colburn. Dorchester County - Class B Beer and Light Wine Licenses - Sunday Sales.
- SB0061** Chr JPR (Md Jud Conf). Court of Special Appeals - Writs of Actual Innocence, Illegal Sentences, and Coram Nobis Petitions - Review by Application for Leave to Appeal.
- SB0062** Sen Astle. Chesapeake Bay Trust - Powers and Duties - Member Terms.
- SB0063** Sen Getty (Task Force to Study Laws Rltg). Task Force to Study the Laws Relating to Representation of Indigent Criminal Defendants by the Office of the Public Defender - Extension.
- SB0064** Chr JPR (Md Jud Conf). Children in Need of Assistance - Educational Stability.
- SB0065** Sen Benson. Business Regulation - Retail Service Stations - Video Cameras Required.
- SB0066** Sen Simonaire. State Government - Commemorative Day - Young Heroes Day.
- SB0067** Sen Middleton. Mental Hygiene - Standards for Emergency Evaluation and Involuntary Admission - Modification.
- SB0068** Chr JPR (Md Jud Conf). Courts - Juveniles - Expungement of Records.
- SB0069** Chr JPR (Md Jud Conf). Maryland Register - Publication of Court Documents - Exception.
- SB0070** Chr EHE (Dept). Agriculture - Fertilizer - Labeling and Restrictions on Use and Sale.
- SB0071** Chr EHE (Dept). Maryland Agricultural Land Preservation Foundation - Value of Easement.
- SB0072** Chr JPR (Dept). Motor Vehicles - Weight and Axle Load Limits.
- SB0073** Sen Colburn. Talbot County - Chesapeake Bay Critical Area - Prosecution or Civil Suit for Certain Violations.
- SB0074** Sens Klausmeier and Ferguson. Institutions of Higher Education - Student Notification - Financial Information.
- SB0075** Sen Madaleno. Alcoholic Beverages - Maximum Alcohol Content.
- SB0076** Sen Colburn. Dorchester County Sanitary Commission - Enforcement of Liens - Tax Sale Authorization.
- SB0077** Chr JPR (Dept). Vehicle Laws - Commercial and Farm Vehicles - Safety Inspections and Utility Emergencies.
- SB0078** Sen Forehand. Criminal Law - Human Trafficking - Victims Under Age 21.
- SB0079** Sen Middleton. Limited Lines - Travel Insurance.
- SB0080** Sen Benson. All-Terrain Vehicles - Protective Equipment.
- SB0081** Sen DeGrange. Creation of a State Debt - Anne Arundel County - Chesapeake Arts Center.
- SB0082** Sens Forehand and Zirkin. Vehicle Laws - Prohibition Against Smoking in Vehicle Containing Young Child.
- SB0083** Sens Colburn and Hershey. Caroline County - Annual Financial Report - Filing Date.
- SB0084** Sen Benson. Joint Committee on Access to Mental Health Services - Name Change.
- SB0085** Sen Simonaire. Health - Medical Procedures - Ultrasound Options.
- SB0086** Chr JPR (Dept). Vehicle Laws - Size, Weight, and Axle Load Limits.
- SB0087** Chr JPR (Dept). Drunk Driving - Ignition Interlock System Program - Repeat Offenders.
- SB0088** Chr B&T (Dept). Department of Transportation - Special Bonds and Borrowing - Revenue-Backed Bonds.
- SB0089** Chr FIN (Dept). Maryland Health Care Commission - Requirement for Certificate of Need - Exceptions.
- SB0090** Chr EHE (Dept). Public Ethics - Regulated Lobbyists - Certification to Authorize Lobbying and Electronic Filing of Registration.
- SB0091** Chr EHE (Dept). State Ethics Commission - Local Governments and School Boards - Compliance Enforcement.
- SB0092** Chr EHE (Dept). Public Ethics - Regulated Lobbyists - Ethics Training Requirements.
- SB0093** Chr EHE (Dept). Natural Resources - Recreational Incentives Pilot Program.
- SB0094** Chr JPR (Dept). Vessels - Operating While Under the Influence of or Impaired by Alcohol or Drugs.

SB0095 Chr B&T (Dept). Comptroller - Monitoring and Recording of Telephone Calls - Training and Quality Assurance.

SB0096 Chr FIN (Dept). Health Insurance - Conformity With and Implementation of the Federal Patient Protection and Affordable Care Act.

SB0097 Chr FIN (Dept). Insurance - Public Adjusters - Prohibited Inducements.

SB0098 Chr FIN (Dept). Health Insurance - Medicare Marketing Rules.

SB0099 Chr FIN (Dept). Insurance - Fraud Violations - Civil and Criminal Actions.

SB0100 Chr FIN (Dept). Insurance - Premiums and Charges - Review of Administrative Expenses.

SB0101 Chr EHE (Dept). Environment - Drinking Water Revolving Loan Fund - Use of Funds.

SB0102 Chr EHE (Dept). Health - Use of Alternate Care Sites During a State of Emergency - Authorization.

SB0103 Chr FIN (Dept). Public Health Programs for Children - Renaming and Modernization.

SB0104 Chr FIN (Dept). Health Officers and Baltimore City Commissioner of Health - Authority to Retain Collections and Waive Charges.

SB0105 Chr FIN (Dept). Health - Vital Records - Birth Certificates - Preparation and Filing Requirements.

SB0106 Chr B&T (Dept). Recordation and Transfer Taxes - Transfer of Property Between Business Entities - Reorganizations - Exemption.

SB0107 Chr EHE (Dept). State Lottery - Retailer Licenses - Background Investigations.

SB0108 Chr EHE (Dept). State Lottery - Unlawful Representation.

SB0109 Chr EHE (Dept). Public Ethics - Financial Disclosure Statements - Electronic Filing.

SB0110 Chr EHE (Dept). Institutions of Higher Education - Fully Online Distance Education - Registration.

SB0111 Chr EHE (Dept). Maryland Higher Education Commission - Advisory Councils.

SB0112 Chr EHE (Dept). Maryland Higher Education Commission - Innovative Partnerships for Technology Program - Repeal.

SB0113 Chr JPR (Dept). Criminal Law - Contraband - Telecommunication Devices - Penalty.

SB0114 Chr JPR (Dept). Public Safety - Internal Investigative Unit - Name Change and Duties.

SB0115 Chr JPR (Dept). Correctional Services - Minimum Security Inmates - Transfer to Local Correctional Facilities.

SB0116 Chr JPR (Dept). Juvenile Law - Committed Facilities - Repeal of Termination.

SB0117 Chr JPR (Dept). Juvenile Law - Commitment - Placement Visits.

SB0118 Chr EHE (Dept). Juvenile Law - Juvenile Services Education - Facilities.

SB0119 Chr FIN (Dept). Workers' Compensation - Subsequent Injury Fund - Billing Address Notification.

SB0120 Chr EHE (Dept). Education - Children With Disabilities - Parent Surrogates.

SB0121 Sen Benson. Public Safety - Removal of Dead Bodies - Police Presence.

SB0122 Chr JPR (Dept). Juvenile Law - Detention - Community Detention Violation Hearings.

SB0123 Chr B&T (Dept). Major Information Technology Development Project Fund - Revenue Sources and Authorized Expenditures.

SB0124 Chr EHE (Dept). Education Coordinating Committee and Lida Lee Tall Learning Resources Center - Repeal.

SB0125 Chr EHE (Dept). State-Aided Educational Institutions - Qualification Criteria.

SB0126 Chr FIN (Dept). Public Safety - Prohibition of Polygraph Examinations by Employers - Exemption.

SB0127 Chr EHE (Dept). Department of Agriculture - Manure Transportation Project.

SB0128 Chr B&T (Dept). Education - Compensatory Education Grants - Federal Community Eligibility Provision.

SB0129 Chr EHE (Dept). Public Ethics - Officials and Regulated Lobbyists - Late-Filing Penalties.

SB0130 Chr FIN (Dept). Commissioner of Labor and Industry and Workers' Compensation Commission - Reports of Accidental Injury or Disability - Electronic Sharing.

SB0131 Sen McFadden. Maryland Consolidated Capital Bond Loans of 2012 and 2013 - Baltimore City - L.A.M.B. Community Resource Center.

SB0132 Sen McFadden. Maryland Consolidated Capital Bond Loan of 2006 - Baltimore City - Forest Park Senior Center.

SB0133 Sens Miller and Middleton. Creation of a State Debt - Charles County - Rich Hill Farmhouse.

SB0134 The Pres (Admin). Maryland Health Insurance Plan - Access for Bridge Eligible Individuals.

SB0135 Sen Glassman. Watershed Protection and Restoration Program - Enforcement by Department of the Environment - Moratorium.

SB0136 Sens Brochin and Stone. Criminal Law - Second-Degree Murder - Penalty.

SB0137 Sens Conway and Middleton. Rural Maryland Prosperity Investment Fund - Revisions and Extension of Termination Date.

SB0138 Sen Conway. Health Occupations - Board of Physicians - Reinstatement of Licenses.

SB0139 Sen Conway. Criminal Procedure - Expungement - Misdemeanor and Felony Convictions.

SB0140 Sen Conway. Criminal Procedure - Revision of Sentence - Timing of Motion.

SB0141 Sen Conway. Tax Sales - Environmental Violations - Liens on Real Property.

SB0142 Sen Conway. Inspection of Public Records - Internal Investigations Division of the Baltimore Police Department.

SB0143 Sen Peters, et al. Income Tax - Military Retirement Income.

SB0144 Sen Kelley. Family Law - Foster Care - Kinship Parent Age Requirements.

SB0145 Sen Conway. Natural Resources - Fisheries Management - Regulations.

SB0146 Sen Reilly. Business and Economic Development - Foreign Trade Zones - Information.

SB0147 Sen Manno. State Personnel - Employees in Legislative Branch of State Government - Sick Leave Incentive Program.

SB0148 Sens Reilly and Simonaire. Anne Arundel County - Board of Education - Selection of Members.

[14-02-56]

The Judiciary

COURT OF APPEALS OF MARYLAND

NOTICE TO MEMBERS OF THE MARYLAND BAR

The following banks have been approved by the Attorney Grievance Commission of Maryland to receive escrow accounts of attorneys under the Chapter 600 Rules on Attorney Trust Accounts (formerly BU Rules) effective January 1, 1989. If your bank does not appear on this list, we suggest you contact it immediately.

(Revised January 20, 2014)

APPROVED INSTITUTIONS

Access National Bank
 Advance Bank
 American Bank
 Baltimore County Savings Bank
 Bank of America
 Bank of Delmarva
 Bank of Georgetown
 Bank of Glen Burnie
 Bank of Ocean City
 Bay Bank
 Bay-Vanguard Federal Savings Bank
 BB&T
 BlueRidge Bank
 Burke & Herbert Bank & Trust Company
 Business Bank
 Calvin B. Taylor Banking Company, Inc.
 Capital Bank
 Capital One Bank
 Cardinal Bank, N.A.
 Cecil Bank
 Centra Bank
 Centreville National Bank of Maryland
 CFG Community Bank
 Chain Bridge Bank, NA
 Chesapeake Bank & Trust Company
 Chesapeake Bank of Maryland
 Citibank, N.A.
 ColomboBank
 Columbia Bank
 Community Bank of the Chesapeake
 Congressional Bank
 County First Bank
 Damascus Community Bank
 EagleBank
 Eastern Savings Bank
 Easton Bank & Trust
 Essex Bank
 Farmers Bank of Willards
 Farmers & Merchants Bank
 First Citizens Bank
 First Mariner Bank
 First National Bank of Pennsylvania
 First Shore Federal Savings & Loan
 First United Bank & Trust
 First Virginia Community Bank
 Fraternity Federal Savings & Loan Association
 Frederick County Bank
 Hamilton Bank
 Harbor Bank of Maryland
 Harford Bank
 Hebron Savings Bank
 Hopkins Federal Savings Bank
 Howard Bank
 HSBC Bank USA, N.A.
 Industrial Bank
 Jefferson Security Bank
 John Marshall Bank
 Madison Square Federal Savings
 MainStreet Bank
 M & T
 Middletown Valley Bank
 Midstate Community Bank
 Monument Bank
 National Bank of Cambridge
 National Capital Bank of Washington
 National Penn Bank
 NBRS Financial
 New Windsor State Bank
 Northwest Savings Bank
 OBA Bank
 Old Line Bank
 Orrstown Bank
 Patapsco Bank
 Peoples Bank
 Peoples Bank, A Codorus Valley Co.
 PNC Bank
 Premier Bank, Inc.
 Presidential Bank
 Prince George's Federal Savings Bank
 Provident State Bank
 Queenstown Bank of Maryland
 Regal Bank & Trust
 Revere Bank
 Sandy Spring Bank
 Santander Bank, N.A.
 Severn Savings Bank, FSB
 Shore Bank
 Sonabank, N.A.
 Standard Bank
 SunTrust
 Susquehanna Bank
 Sykesville Federal Savings Bank
 Talbot Bank
 TD Bank
 United Bank
 Virginia Commerce Bank
 Virginia Partners Bank
 Washington First Bank
 Wells Fargo Bank, N.A.
 Woodsboro Bank

The following bank has either terminated their agreement, merged with another bank, or had their agreement terminated since the previous list was published.

BankAnnapolis

[14-02-21]

DISCIPLINARY PROCEEDINGS

This is to certify that by an Opinion and Order of the Court dated December 3, 2013, GEORGE JACOB GEESING, 4520 East West Highway, Suite 200, Bethesda, Maryland 20814, has been suspended for ninety (90) days, effective January 2, 2014, from the further practice of law in the State, and his name as an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 16-760 (e)).

[14-02-51]

STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

Notice of Open Meeting

The Standing Committee on Rules of Practice and Procedure will hold an open meeting on Friday, February 14, 2014, in the Judiciary Education and Conference Center, 2011-D Commerce Park Drive, Annapolis, Maryland, commencing at 9:30 A.M., to consider any questions relating to rules changes as may be brought before the meeting.

For further information contact Sandra F. Haines, Reporter, (410) 260-3630.

[14-02-31]

Regulatory Review and Evaluation

Regulations promulgated under the Administrative Procedure Act will undergo a review by the promulgating agency in accordance with the Regulatory Review and Evaluation Act (State Government Article, §§10-130 — 10-139; **COMAR 01.01.2003.20**). This review will be documented in an evaluation report which will be submitted to the General Assembly's Joint Committee on Administrative, Executive, and Legislative Review. The evaluation reports have been spread over an 8-year period (see **COMAR 01.01.2003.20** for the schedule). Notice that an evaluation report is available for public inspection and comment will be published in this section of the Maryland Register.

Title 03 COMPTROLLER OF THE TREASURY

Notice of Availability of Evaluation Report

Pursuant to State Government Article, §10-135(b)(1), Annotated Code of Maryland, Regulatory Review and Evaluation Act, and Executive Order 01.01.2003.20, notice is hereby given that the Evaluation Report regarding COMAR 03.01, 03.02, 03.03, 03.04, 03.05, 03.06, 03.07, 03.08, and 03.09 is available for public inspection and comment for a period of 60 days following the date of this notice.

This report may be reviewed by appointment at the Comptroller of the Treasury, 301 W. Preston Street, Room #203, Baltimore, MD 21201-2383. Information and appointments may be obtained by contacting Debora Gorman, Regulations Coordinator, at 410-767-1557 or by email at dgorman@comp.state.md.us.

[14-02-20]

TITLE 31 MARYLAND INSURANCE ADMINISTRATION

Subtitle 14 LONG-TERM CARE

Opportunity for Public Comment

In accordance with the Regulatory Review and Evaluation Act, State Government Article, §§10-130—10-139, Annotated Code of Maryland, the Maryland Insurance Administration (MIA) is reviewing and evaluating certain regulations codified within Subtitle 14 of Title 31 of the Code of Maryland Regulations, entitled Long-Term Care. The purpose of the review and evaluation is to determine whether existing regulations continue to accomplish the purposes for which they were adopted, clarify ambiguous or unclear language, and repeal obsolete or duplicative provisions.

Chapters being reviewed include:

31.14.02 Long-Term Care Insurance — Premium Rates and Reserves

Interested parties may submit comments to Nancy Egan, Assistant Director of Government Relations, and transmitted by mail to 200 St. Paul Place, Suite 2700, Baltimore, MD 21202; by fax to (410) 468-2020; or by email to InsuranceRegReview.mia@maryland.gov. Comments must be received by January 31, 2014.

[13-26-11]

Emergency Action on Regulations

Symbol Key

- Roman type indicates text existing before emergency status was granted.
- *Italic type* indicates new text.
- [Single brackets] indicate deleted text.

Emergency Regulations

Under State Government Article, §10-111(b), Annotated Code of Maryland, an agency may petition the Joint Committee on Administrative, Executive, and Legislative Review (AELR), asking that the usual procedures for adopting regulations be set aside because emergency conditions exist. If the Committee approves the request, the regulations are given emergency status. Emergency status means that the regulations become effective immediately, or at a later time specified by the Committee. After the Committee has granted emergency status, the regulations are published in the next available issue of the Maryland Register. The approval of emergency status may be subject to one or more conditions, including a time limit. During the time the emergency status is in effect, the agency may adopt the regulations through the usual promulgation process. If the agency chooses not to adopt the regulations, the emergency status expires when the time limit on the emergency regulations ends. When emergency status expires, the text of the regulations reverts to its original language.

Title 08

DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.04 Oysters

Authority: Natural Resources Article, §4-1019.2, Annotated Code of Maryland

Notice of Emergency Action

[13-433-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to amendments to Regulation **.11** under **COMAR 08.02.04 Oysters**.

Emergency status began: January 2, 2014.

Emergency status expires: June 30, 2014.

Editor's Note: The text of this document will not be printed here because it appeared as a Notice of Proposed Action in 40:26 Md. R. 2169—2170 (December 27, 2013), referenced as [13-433-P].

JOSEPH P. GILL
Secretary of Natural Resources

Title 10

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Notice of Emergency Action

[14-012-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to amendments to:

(1) Regulation **.02** under **COMAR 10.01.17 Fees for Community Health Programs**;

(2) Regulations **.02**, **.06**, **.08**, **.09**, and **.25** under **COMAR 10.16.06 Certification for Youth Camps**; and

(3) Regulations **.03**, **.05**, **.06**, **.08**, **.27**, **.28**, and **.53** under **COMAR 10.17.01 Public Swimming Pools and Spas**.

Emergency status began: January 3, 2014.

Emergency status expires: July 1, 2014.

MARYLAND REGISTER, VOLUME 41, ISSUE 2, FRIDAY, JANUARY 24, 2014

Editor's Note: The text of this document will not be printed here because it appeared as a Notice of Proposed Action in 41:1 Md. R. 20—28 (January 10, 2014), referenced as [14-012-P].

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Subtitle 14 CANCER CONTROL

10.14.02 Reimbursement for Breast and Cervical Cancer Diagnosis and Treatment

Authority: Health-General Article, §§2-102, 2-104, and 2-105, Annotated Code of Maryland

Notice of Emergency Action

[14-014-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to amendments to Regulations **.02—****.04**, **.07—****.14**, and **.22** under **COMAR 10.14.02 Reimbursement for Breast and Cervical Cancer Diagnosis and Treatment**.

Emergency status began: January 1, 2014.

Emergency status expires: June 28, 2014.

Editor's Note: The text of this document will not be printed here because it appeared as a Notice of Proposed Action in 41:1 Md. R. 28—32 (January 10, 2014), referenced as [14-014-P].

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Subtitle 14 CANCER CONTROL

10.14.05 Maryland Cancer Fund

Authority: Health-General Article, §20-117, Annotated Code of Maryland

Notice of Emergency Action

[14-013-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to amendments to Regulations **.02**, **.08**, **.14**, and **.16** under **COMAR 10.14.05 Maryland Cancer Fund**.

Emergency status began: January 1, 2014.

Emergency status expires: June 29, 2014.

Editor's Note: The text of this document will not be printed here because it appeared as a Notice of Proposed Action in 41:1 Md. R. 33—34 (January 10, 2014), referenced as [14-013-P].

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Subtitle 37 HEALTH SERVICES COST REVIEW COMMISSION

10.37.01 Uniform Accounting and Reporting System for Hospitals and Related Institutions

Authority: Health-General Article, §§19-207, 19-211, 19-212, 19-215—19-217, 19-218, 19-220, 19-224, and 19-303, Annotated Code of Maryland

Notice of Emergency Action

[14-010-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to amendments to Regulation .03 under **COMAR 10.37.01 Uniform Accounting and Reporting System for Hospitals and Related Institutions**

Emergency status began: January 1, 2014.

Emergency status expires: April 1, 2014.

Editor's Note: The text of this document will not be printed here because it appeared as a Notice of Proposed Action in 41:1 Md. R. 36—37 (January 10, 2014), referenced as [14-010-P].

JOHN M. COLMERS
Chairman
Health Services Cost Review Commission

Subtitle 54 SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

10.54.02 Local Agency

Authority: Health-General Article, §§18-107(a) and 18-108, Annotated Code of Maryland

Notice of Extension of Emergency Status

[13-222-E-1]

The Joint Committee on Administrative, Executive, and Legislative Review has granted an extension of emergency status to amendments to Regulation .18 under **COMAR 10.54.02 Local Agency**.

Emergency status has been extended to: February 3, 2014.

Emergency action was published in: 40:17 Md. R 1418 (August 23, 2013).

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Title 12 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

Notice of Extension of Emergency Status

[13-262-E-1]

The Joint Committee on Administrative, Executive, and Legislative Review has granted an extension of emergency status to:

(1) The repeal of Regulations .01—.08 under **COMAR 12.02.16 Visits to Inmates;**

(2) New Regulations .01—.15 under a new chapter, **COMAR 12.11.11 Visiting Individuals Confined in a Correctional Facility;** and

(3) The repeal of Regulations .01—.08 under **COMAR 12.12.18 Visits to Inmates.**

Emergency status has been extended to: June 30, 2014.

Emergency action was published in: 40:19 Md. R 1542 (September 20, 2013).

GARY D. MAYNARD
Secretary of Public Safety and Correctional Services

Title 36 MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY

Notice of Emergency Action

[14-006-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to amendments to:

(1) Regulation .01 under **COMAR 36.02.05 Specific Game Provisions;**

(2) Regulation .02 under **COMAR 36.05.01 General;** and

(3) Regulation .01 and adopt new Regulations .20 and .21 under **COMAR 36.05.02 Table Game Equipment.**

Emergency status began: January 2, 2014.

Emergency status expires: May 12, 2014.

Editor's Note: The text of this document will not be printed here because it appeared as a Notice of Proposed Action in 41:1 Md. R. 64—66 (January 10, 2014), referenced as [14-006-P].

STEPHEN MARTINO
Director
Maryland State Lottery and Gaming Control Agency

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 07 FORESTS AND PARKS

08.07.03 Forest Management Programs

Authority: Natural Resources Article, §§5-209(a), 5-210, 5-303, 5-408, and 5-410; Tax-Property Article, §8-211(p); Annotated Code of Maryland

Notice of Final Action

[13-360-F]

On January 14, 2014, the Department of Natural Resources adopted amendments to Regulation **.04** under **COMAR 08.07.03 Forest Management Programs**. This action, which was proposed for adoption in 40:23 Md. R. 1938—1939 (November 15, 2013), has been adopted as proposed.

Effective Date: February 3, 2014.

JOSEPH P. GILL
Secretary of Natural Resources

Subtitle 19 FOREST CONSERVATION

08.19.01 General

Authority: Natural Resources Article, §§5-1601—5-1612, Annotated Code of Maryland

Notice of Final Action

[13-346-F]

On January 14, 2014, the Department of Natural Resources adopted amendments to Regulations **.03** and **.04** under **COMAR 08.19.01 General**. This action, which was proposed for adoption in 40:23 Md. R. 1939—1940 (November 15, 2013), has been adopted as proposed.

Effective Date: February 3, 2014.

JOSEPH P. GILL
Secretary of Natural Resources

Subtitle 19 FOREST CONSERVATION

08.19.02 State Review and Approval of a Local Program

Authority: Natural Resources Article, §§5-1601—5-1612, Annotated Code of Maryland

Notice of Final Action

[13-348-F]

On January 14, 2014, the Department of Natural Resources adopted amendments to Regulation **.04** under **COMAR 08.19.02**

State Review and Approval of a Local Program. This action, which was proposed for adoption in 40:23 Md. R. 1940 (November 15, 2013), has been adopted as proposed.

Effective Date: February 3, 2014.

JOSEPH P. GILL
Secretary of Natural Resources

Subtitle 19 FOREST CONSERVATION

08.19.03 Model Forest Conservation Ordinance

Authority: Natural Resources Article, §§5-1601—5-1613, Annotated Code of Maryland

Notice of Final Action

[13-349-F]

On January 14, 2014, the Department of Natural Resources adopted amendments to Regulation **.01** under **COMAR 08.19.03 Model Forest Conservation Ordinance**. This action, which was proposed for adoption in 40:23 Md. R. 1940—1941 (November 15, 2013), has been adopted as proposed.

Effective Date: February 3, 2014.

JOSEPH P. GILL
Secretary of Natural Resources

Title 09

DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 41 OIL AND GAS LAND PROFESSIONALS

Notice of Final Action

[13-373-F]

On December 19, 2013, the Secretary of Labor, Licensing, and Regulation adopted:

(1) New Regulations **.01—06** under a new chapter, **COMAR 09.41.01 General Regulations** under a new subtitle, **Subtitle 41 Oil and Gas Land Professionals**; and

(2) New Regulation **.01** under a new chapter, **COMAR 09.41.02 Fees**, under a new subtitle, **Subtitle 41 Oil and Gas Land Professionals**.

This action, which was proposed for adoption in 40:19 Md. R. 1557 — 1558 (September 20, 2013), has been adopted as proposed.

Effective Date: February 3, 2014.

LEONARD J. HOWIE III
Secretary of Labor, Licensing, and Regulation

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.02 Physicians' Services

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

Notice of Final Action [13-338-F]

On January 14, 2014, the Secretary of Health and Mental Hygiene adopted amendments to Regulation .04 under **COMAR 10.09.02 Physicians' Services**. This action, which was proposed for adoption in 40:22 Md. R. 1881—1882 (November 1, 2013), has been adopted as proposed.

Effective Date: February 3, 2014.

JOSHUA M. SHARFSTEIN, M.D.
Secretary 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 [13-350-F]

On January 14, 2014, the Secretary of Health and Mental Hygiene adopted amendments to Regulation .07-1 under **COMAR 10.09.10 Nursing Facility Services**. This action, which was proposed for adoption in 40:23 Md. R. 1943 (November 15, 2013), has been adopted as proposed.

Effective Date: February 3, 2014.

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.12 Disposable Medical Supplies and Durable Medical Equipment

Authority: Health-General Article, §§2-104(b), 15-103, 15-105, and 15-129,
Annotated Code of Maryland

Notice of Final Action [13-352-F]

On January 14, 2014, the Secretary of Health and Mental Hygiene adopted amendments to Regulation .07 under **COMAR 10.09.12 Disposable Medical Supplies and Durable Medical Equipment**. This action, which was proposed for adoption in 40:23 Md. R. 1943—1944 (November 15, 2013), has been adopted as proposed.

Effective Date: February 3, 2014.

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.18 Oxygen and Related Respiratory Equipment Services

Authority: Health-General Article, §§2-104(b), 15-103, 15-105, and 15-129,
Annotated Code of Maryland

Notice of Final Action [13-351-F]

On January 14, 2014, the Secretary of Health and Mental Hygiene adopted amendments to Regulation .07 under **COMAR 10.09.18 Oxygen and Related Respiratory Equipment Services**. This action, which was proposed for adoption in 40:23 Md. R. 1944—1945 (November 15, 2013), has been adopted as proposed.

Effective Date: February 3, 2014.

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Subtitle 09 MEDICAL CARE PROGRAMS

Notice of Final Action [13-353-F]

On January 14, 2014, the Secretary of Health and Mental Hygiene adopted amendments to:

- (1) Regulation .19 under **COMAR 10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations**; and
- (2) Regulation .14 under **COMAR 10.09.76 Primary Adult Care Program**.

This action, which was proposed for adoption in 40:23 Md. R. 1947-1951 (November 15, 2013), has been adopted as proposed.

Effective Date: February 3, 2014.

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Subtitle 21 MENTAL HYGIENE REGULATIONS

10.21.25 Fee Schedule — Mental Health Services — Community-Based Programs and Individual Practitioners

Authority: Health-General Article, §§2-104, 10-901, 15-103, and 15-105; and
Title 16, Subtitles 1 and 2; Annotated Code of Maryland

Notice of Final Action [13-274-F]

On January 13, 2014, the Secretary of Health and Mental Hygiene adopted amendments to Regulations .03, .03-2, and .05—.11, and new Regulations .12 and .13 under **COMAR 10.21.25 Fee Schedule — Mental Health Services — Community-Based Programs and Individuals Practitioners**. This action, which was proposed for adoption in 40:20 Md. R. 1665—1670 (October 4, 2013), has been adopted as proposed.

Effective Date: February 3, 2014.

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Title 14
INDEPENDENT AGENCIES
Subtitle 26 MARYLAND ENERGY
ADMINISTRATION

Notice of Final Action
 [13-345-F]

On January 6, 2014, the Maryland Energy Administration adopted:

(1) The repeal of existing Regulations .01—.07 under existing **COMAR 14.26.04 Solar Grant Program** and new Regulations .01—.13 under a new chapter, **COMAR 14.26.04 Clean Energy Grant Program**; and

(2) The repeal of existing Regulations .01—.07 under **COMAR 14.26.05 Geothermal Heat Pump Grant Program**.

This action, which was proposed for adoption in 40:23 Md. R. 1976 (November 15, 2013), has been adopted as proposed.

Effective Date: February 3, 2014.

ABIGAIL ROSS HOPPER
 Director
 Maryland Energy Administration

Title 15
DEPARTMENT OF
AGRICULTURE

Subtitle 14 BOARD OF VETERINARY
MEDICAL EXAMINERS

Notice of Final Action
 [13-363-F]

On January 8, 2014, the State Board of Veterinary Medical Examiners adopted:

(1) Amendments to Regulation .03 and new Regulation .10-1 under **COMAR 15.14.01 Standards of Practice and Code of Ethics for the Practice of Veterinary Medicine in the State**; and

(2) Amendments to Regulation .01 under **COMAR 15.14.03 Licensing and Minimum Sanitary Requirements for Veterinary Facilities**.

This action, which was proposed for adoption in 40:23 Md. R. 1976—1978 (November 15, 2013), has been adopted as proposed.

Effective Date: February 3, 2014.

EARL F. HANCE
 Secretary of Agriculture

Title 24
DEPARTMENT OF BUSINESS
AND ECONOMIC
DEVELOPMENT

Subtitle 05 ECONOMIC
DEVELOPMENT

24.05.19 Wineries and Vineyards Capital
Expenses Tax Credit

Authority: Tax-General Article, §§2-103 and 10-735; Economic Development Article, §2-108, Annotated Code of Maryland

Notice of Final Action
 [13-377-F]

On January 2, 2014, the Secretary of Business and Economic Development adopted new Regulations .01—.13 under a new chapter, **COMAR 24.05.19 Wineries and Vineyards Capital Expenses Tax Credit**. This action, which was proposed for adoption in 40:23 Md. R. 1978—1981 (November 15, 2013), has been adopted as proposed.

Effective Date: February 3, 2014.

DOMINICK MURRAY
 Secretary of Business and Economic Development

Title 26
DEPARTMENT OF THE
ENVIRONMENT

Subtitle 03 WATER SUPPLY,
SEWERAGE, SOLID WASTE, AND
POLLUTION CONTROL PLANNING
AND FUNDING

26.03.13 Bay Restoration Fund Implementation

Authority: Environment Article §9-1605.2, Annotated Code of Maryland

Notice of Final Action
 [13-265-F]

On December 23, 2013, the Secretary adopted new Regulations .01—.04 under a new chapter, **COMAR 26.03.13 Bay Restoration Fund Implementation**. This action, which was proposed for adoption in 40:18 Md. R. 1505—1508 (September 6, 2013), has been adopted as proposed.

Effective Date: February 3, 2014.

ROBERT M. SUMMERS, Ph.D.
 Secretary of the Environment

Title 36

MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY

Notice of Final Action

[13-361-F]

On December 30, 2013, the Maryland State Lottery and Gaming Control Agency adopted amendments to:

(1) Regulations **.02**, **.03**, and **.06** under **COMAR 36.01.03 Voluntary Exclusion and Responsible Gaming**; and

(2) Regulations **.01** and **.02** under **COMAR 36.03.06 Enforcement of Voluntary Exclusion Program**.

This action, which was proposed for adoption in 40:23 Md. R. 1988 — 1989 (November 15, 2013), has been adopted as proposed.

Effective Date: February 3, 2014.

STEPHEN L. MARTINO

Director

Maryland State Lottery and Gaming Control Agency

Notice of Final Action

[13-362-F]

On December 30, 2013, the Maryland State Lottery and Gaming Control Agency adopted:

(1) Amendments to Regulation **.29** under **COMAR 36.03.10 Video Lottery Facility Minimum Internal Control Standards**;

(2) Amendments to Regulations **.02**, **.03**, **.06**, and **.13** under **COMAR 36.05.04 Blackjack Rules**; and

(3) Amendments to Regulations **.02**, **.03**, **.04**, and **.05** and new Regulation **.12** under **COMAR 36.05.05 Craps Rules**.

This action, which was proposed for adoption in 40:23 Md. R. 1990 — 1996 (November 15, 2013), has been adopted as proposed.

Effective Date: February 3, 2014.

STEPHEN L. MARTINO

Director

Maryland State Lottery and Gaming Control Agency

Withdrawal of Regulations

Title 09

DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 34 OFFICE OF CEMETARY OVERSIGHT

Notice of Withdrawal

[12-261-W]

Pursuant to State Government Article, §10-116(b), Annotated Code of Maryland, notice is given that the proposal to adopt the following chapters, which was published in 39:20 Md. R. 1315—1323 (October 5, 2012), has been withdrawn by operation of law:

- (1) New Regulations .01 and .02 under a new chapter, **COMAR 09.34.05 Crematories — Definitions;**
- (2) New Regulations .01 — .13 under a new chapter, **COMAR 09.34.06 Crematories — Permit and Registration Process and Fees;**
- (3) New Regulations .01 — .06 under a new chapter, **COMAR 09.34.07 Crematories — Inspections, Complaints, and Discipline;**
- (4) New Regulations .01 — .12 under a new chapter, **COMAR 09.34.08 Crematories — Cremation Procedures;** and
- (5) New Regulations .01 and .02 under a new chapter, **COMAR 09.34.09 Crematories — Code of Ethics.**

BRIAN MORRIS
Acting Administrator
Division of State Documents

Title 10

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 24 MARYLAND HEALTH CARE COMMISSION

10.24.01 Certificate of Need for Health Care Facilities

Authority: Health-General Article, §§19-109(a)(1) and 19-120, Annotated Code of Maryland

Notice of Withdrawal

[12-342-W]

Pursuant to State Government Article, §10-116(b), Annotated Code of Maryland, notice is given that the proposal to amend Regulation .01, which was published in 39:25 Md. R. 1622—1623 (December 14, 2012), has been withdrawn by operation of law.

BRIAN MORRIS
Acting Administrator
Division of State Documents

Proposed Action on Regulations

For information concerning citizen participation in the regulation-making process, see inside front cover.
<p>Symbol Key</p> <ul style="list-style-type: none"> • Roman type indicates existing text of regulation. • <i>Italic type</i> indicates proposed new text. • [Single brackets] indicate text proposed for deletion.
<p style="text-align: center;">Promulgation of Regulations</p> <p>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.</p> <p>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.</p> <p>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.</p>

Title 03 COMPTROLLER OF THE TREASURY

Subtitle 03 MOTOR FUEL TAX

03.03.05 Motor Fuel Inspection

Authority: Tax-General Article, §2-13; Business Regulation Article, §§10-202 and 10-323.1, Annotated Code of Maryland

Notice of Proposed Action
[13-287-P]

The Comptroller of the Treasury proposes to amend Regulation .28 under **COMAR 03.03.05 Motor Fuel Inspection**.

Statement of Purpose

The purpose of this action is to allow for the creation of Ethanol Flex Fuel at a terminal facility.

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 a meaningful economic impact on small business. An analysis of this economic impact follows.

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:		
Suppliers	(+)	High Beneficial Impact
E. On other industries or trade groups:		
Consumers	(+)	Impactful
F. Direct and indirect effects on public:	NONE	
III. Assumptions. (Identified by Impact Letter and Number from Section II.)		
D. More suppliers would be able to offer the product without additional storage thus increasing revenue.		
F. Consumers would be able to access more suppliers with ethanol flex fuel.		

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows.

By allowing the creation of "Ethanol Flex Fuel," more suppliers would be able to offer product at the terminal level without a dedicated storage system. Additionally, it would also provide an alternative to traveling to out of state suppliers, incurring additional costs due to freight charges.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Sukanya Mukherjee, Staff Attorney, Comptroller of Maryland, Field Enforcement Division, 80 N. Calvert St., Annapolis, MD 21404, or call 410-260-7494, or email to smukherjee26@gmail.com, or fax to 410-974-5564. Comments will be accepted through February 24, 2014. A public hearing has not been scheduled.

.28 Blending.

A.—B. (text unchanged)

C. Blending at bulk storage/terminal facilities shall be allowed only when:

(1) In the case of gasoline, the blending is done by the holder of a valid Class A dealer license who:

(a) [Uses] *Except in the case of ethanol flex fuel, uses an "inline blending" system between the bulk storage tanks and loading rack or under short-term emergency conditions and with the prior approval of the Comptroller, directly supervises the loading of blended product[.];*

(b) Registers the resultant blend with the Comptroller before making a sale and on an annual basis after that[.]; *and*

(c) Furnishes the petroleum transporter, at the time of loading, with sufficient documentation for compliance with COMAR 03.03.03.05 [, and].

(d) Transfers only one grade of gasoline through each loading arm at the loading rack.]

(2) (text unchanged)

PETER FRANCHOT
Comptroller of the Treasury

Title 07

**DEPARTMENT OF HUMAN
RESOURCES**

**Subtitle 02 SOCIAL SERVICES
ADMINISTRATION**

07.02.10 Youth Transitional Services

Authority: Family Law Article, §§1-101, 5-501—5-503, 5-524—5-525, 5-527—5-528, and 5-531—5-532; [5-533, and 5-560 et seq.] Courts and Judicial Proceedings Article, §3-801 et seq.; Annotated Code of Maryland Agency Note: Federal [Regulatory] Reference: *Fostering Connection Act of 2008, PL110-35* [42 U.S.C. §620 et seq. and §670et seq. 45 CFR 1355—1357]

Notice of Proposed Action

[14-021-P]

The Secretary of Human Resources proposes to amend Regulations **.02**, **.03**, and **.12**, and repeal existing Regulation **.13** under **COMAR 07.02.10 Youth Transitional Services**.

Statement of Purpose

The purpose of this action is to repeal and amend current regulations that provide details and procedures for enhanced aftercare services and independent living aftercare services. Senate Bill 86, Voluntary Placement for Former Children in Need of Assistance, passed during the 2013 Legislative session, changed the current practice of working with youth receiving enhanced aftercare services. New regulations have been submitted to incorporate the Senate Bill 86 changes and the new regulations will be placed in 07.02.11 Out of Home Placement Program. The new regulations will allow former Maryland foster youth that were in foster care at 18 years old to re-enter foster care through a voluntary placement agreement. In addition, amendments are required to the current independent living aftercare services regulation. The current regulation requires adding the language found in Fostering Connections Act PL 110-351 allowing youth over the age of 18 to receive independent living after care services if the youth exited foster care to guardianship or adoption after the age of 16.

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 Andrea Shuck, Regulations Coordinator, Department of Human Resources, 311 W. Saratoga St., Room 265, Baltimore, MD 21201, or call 410-767-2149, or email to andrea.shuck@maryland.gov, or fax to 410-333-0637. Comments will be accepted through February 24, 2014. A public hearing has not been scheduled.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) "Agency" means an organization licensed to provide [youth] transitional services to youth.

(3)—(8) (text unchanged)

(9) "Independent living aftercare" means services provided to a former foster care youth who was in out-of-home placement on their 18th birthday but has not attained the age of 21 *or who after attaining 16 years of age, left foster care for kinship guardianship or adoption.*

[(10) "Enhanced aftercare" means services including but not limited to placement assistance provided to former Maryland foster youth ages 18 to 21 who were in out-of-home placement on their 18th birthday.]

[(11)] (19) "State Independent Living Coordinator" means the individual who administers the Statewide services.

[(12)] (10)—[(15)] (13) (text unchanged)

[(16)] (14) "Provider agency" means [the] a licensed child placement agency.

[(17)] (15)—[(20)] (18) (text unchanged)

[(21)] (20)—[(23)] (22) (text unchanged)

.03 Eligibility.

A. To be eligible for youth transitional services, a youth shall be[:

(1) *age 14 to 21* years old [or older], committed to a local department or in out-of-home placement pursuant to a voluntary placement agreement[; or].

[(2) Age 18 to 21 years old, and:

(a) Completing secondary education or a program leading to an equivalent credential;

(b) Enrolled in an institution which provides post-secondary or vocational training;

(c) Participating in a program or activity designed to promote or remove barriers to unemployment;

(d) Employed at least 80 hours per month; or

(e) Incapable of doing any of the above described activities due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child.]

B. Youth 14 to 21 years old [committed to a local department] are eligible for age appropriate youth transitional services, regardless of the type of placement or permanency plan.

[C. To be eligible for enhanced aftercare services or independent living aftercare, the former foster youth shall be:

(1) *Age 18 to 21 years old; and*

(2) Discharged from out-of-home placement after attaining the age of at least 18.]

.12 Independent Living Aftercare Services.

A. Independent living aftercare services are available on a voluntary basis to youth 18 to 21 years old who were in out-of-home placement on their 18th birthday *or after attaining the age of 16 exited to kinship guardianship or adoption.*

B. Independent living aftercare goals are designed to complement the efforts of former foster care recipients between 18 to 21 years old [in their effort] to achieve self-sufficiency by providing:

(1) — (7) (text unchanged)

C. Youth are eligible to participate in independent living aftercare services if they:

(1) [Exited out-of-home placement after their 18th birthday, but have not attained the age of 21] *Are 18 to 21 years of age; and*

(a) *Have exited from out-of-home placement after attaining the age of at least 18; or*

(b) *After attaining the age of 16 exited to kinship guardianship or adoption.*

(2) Participate in the development of a service agreement and sign and comply with its terms; and

(3) Need continued help in making the transition to self-sufficiency.

D. (text unchanged)

E. Youth *age 18 to 21 years old* receiving independent living aftercare services may be provided assistance with room and board that may include:

(1) — (2) (text unchanged)

F. All Maryland foster youth *who were in foster care at 18 years old* are eligible to continue to receive medical assistance up to [21] 26 years old in the foster care category [if they were in out-of-home care at 18 years old].

G. Services may be provided for up to 180 days.

(1) (text unchanged).

[(2) Services may be discontinued for youth that fail to comply with the terms of the service agreement.]

[(3)] (2) Youth may reapply for services up to 21 years old.

H. *Services may be discontinued if the youth:*

(1) *Fails to comply with terms of the service agreement; or*

(2) *Marries; or*

(3) *Enters military service.*

TED DALLAS
Secretary of Human Resources

**Subtitle 02 SOCIAL SERVICES
ADMINISTRATION**

07.02.11 Out-of-Home Placement Program

Authority: Family Law Article, §§5-501, [5-504,] 5-524—5-525, 5-527—5-529, 5-531—5-532, and 5-534; [5-701, and 5-709] Courts and Judicial Proceedings Article, §§3-801[,]—3-802, [3-815, 3-816.1, 3-817,] 3-819.1 [3-819.2, 3-820], and 3-823; [Human Services Article, §9-101 et seq. and] Education Article, §§7-101(b), and 15-106.1; Annotated Code of Maryland (Agency Note: Federal Regulatory Reference—[42] 45 CFR §§1355 and 1356)

Notice of Proposed Action

[14-022-P]

The Secretary of Human Resources proposes to amend Regulations .03, .06, and .21 under **COMAR 07.02.11 Out-of-Home Placement Program**.

Statement of Purpose

The purpose of this action is to clarify who may request a voluntary placement; what conditions must be met in order for the local department of social services to sign a voluntary placement agreement; when a voluntary placement cannot be made; when a voluntary placement may be terminated prior to a court hearing; and when a local department can rescind a voluntary placement. Regulation .06 adds a section on enhanced after care giving guidance to the local departments on how former foster youth over the age of 18 can re-enter foster care and receive transitional youth services. In addition, Regulation .21 adds a section on enhanced after care and describes when the local department would need to petition the court to extend the voluntary placement beyond 180 days. Regulation .03 is amended to include the definition of legal guardian.

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, Regulations Coordinator, Department of Human Resources, 311 W. Saratoga Street, Room 265, Baltimore, MD 21201, or call 410-767-2149, or email to andrea.shuck@maryland.gov, or fax to 410-333-0637. Comments will be accepted through February 25, 2014. A public hearing has not been scheduled.

.03 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(29) (text unchanged)

(30) *“Legal guardian” means a person to whom guardianship of a child has been given by order of court, including a court other than the juvenile court.*

[(30)] (31)—[(70)] (71) (text unchanged)

.06 Voluntary Placement.

A. Time-Limited Voluntary Placement.

(1)—(2) (text unchanged)

(3) [Restrictions on a Time-Limited Voluntary Placement.] The local department may accept a time-limited voluntary placement only when all of the following conditions are met:

(a)—(f) (text unchanged)

(4) [Notices to Parents or Legal Guardians.] The local department shall:

(a)—(b) (text unchanged)

(5)—(8) (text unchanged)

B. Children with Disabilities Voluntary Placement.

[(1) If a parent or legal guardian is unable to provide for a child who has a developmental disability as defined in COMAR 10.22.01.01B, or a mental illness, and the purpose of the placement is to obtain treatment or care related to the child’s disability, the local department may approve a request for a voluntary placement if:

(a) The child has a current documented developmental disability or mental illness for which the parent or legal guardian is unable to provide treatment or care;

(b) The local department has made reasonable efforts to prevent an out-of-home placement;

(c) The local department has obtained approval from the Administration before signing a voluntary placement agreement;

(d) Both parents, the parent with sole legal custody, or the legal guardian has signed a binding written agreement which gives the local department the responsibility for placement and care decisions related to the child;

(e) Any parent who is a party to the voluntary agreement has agreed to pay child support in accordance with Regulation .29 of this chapter;

(f) There are no findings or pending investigations that the parent or legal guardian has maltreated the child; and

(g) The placement is made in support of a plan of service to the parent or legal guardian designed to lead to reunification.]

(1) *The following may request a Voluntary Placement Agreement:*

- (a) *A parent;*
- (b) *A legal guardian; or*
- (c) *The Court.*

(2) *A Voluntary Placement Agreement may not be initiated by a third party.*

(3) *The local department shall make reasonable efforts to prevent placement in accordance with Md. Code Ann., Family Law Article, §5-525(e), Annotated Code of Maryland.*

(4) *The local department shall conduct an assessment.*

(5) *In order for the local department to sign a voluntary placement agreement, the following conditions must be met:*

(a) *The child has a documented developmental disability or mental illness;*

(b) *A treatment provider such as a medical doctor, psychiatrist, or psychologist has provided a written recommendation which details the need for out-of-home placement;*

(c) *The child requires an out-of-home placement in order to obtain treatment directly related to the documented disability;*

(d) *The parent is unable to provide treatment or care;*

(e) *The goal is reunification with the family at conclusion of treatment;*

(f) *Local Care Team (LCT) meeting has been held to determine whether any alternative or interim services for the child and family may be provided by any State agency;*

(g) *An appropriate placement and placement date has been determined as follows:*

(i) *The placement must be in the least restrictive setting; and*

(ii) *A psychiatric hospital is not considered a placement;*

(h) *The Administration must approve the voluntary placement by signing the Children with Disabilities Placement Checklist;*

(i) *The parent and the Child Support Enforcement Agency must finalize a binding child support agreement detailing the amount and manner for child support payments;*

(j) *Both parents, a parent with sole legal custody, or a legal guardian has signed a voluntary placement agreement which gives the local department the responsibility for placement and care decisions related to the child; and*

(k) *The local department shall make reasonable efforts to prevent placement.*

(6) *A voluntary placement cannot be made if the parent refuses to pay child support or enter into a written agreement.*

(7) *A voluntary placement agreement cannot be signed prior to a placement date.*

[(2)] (8) *A child may remain in a Children with Disabilities Voluntary Placement beyond 180 calendar days or after the child's 18th birthday if:*

(a) *A [health care professional] treatment provider such as a medical doctor, psychiatrist, or psychologist has submitted written*

documentation supporting the need to continue the voluntary placement [that treatment and care continues to be needed] due to the child's developmental disability or mental illness; and

(b) *Before the 180th calendar day in placement or prior to a child's 18th birthday, a juvenile court determines that continuation of the voluntary placement agreement is in the child's best interest.*

[(3)] (9) *A local department may not seek legal custody as long as:*

(a)—(b) *(text unchanged)*

(c) *There is no [bona fide] allegation of child abuse or neglect as defined in Courts and Judicial Proceedings Article, §3-801(b),(s) and,(x), Annotated Code of Maryland.*

[(4)] (10) *(text unchanged)*

[(5)] (11) *[Subject to §B(7) of this regulation, a] A children with disabilities voluntary placement agreement may be terminated [before court intervention and the child returned to the parent or parents or legal guardian if the:] prior to a voluntary placement hearing and the child returned to the parent or parents or legal guardian within 15 calendar days of notice if the local department receives a written revocation from the parent or legal guardian that signed the voluntary placement agreement.*

[(a)] *Local department receives a written revocation from the parent or parents or legal guardian that signed the voluntary placement agreement and:*

(i) *A voluntary placement hearing has not been held; and*

(ii) *The local department has discussed available placement plans and options with the parent or parents or legal guardian; or*

(b) *Child is discharged from an out-of-home placement with a recommendation to return home and the parent or parents or legal guardian who signed the agreement are in support of the termination.]*

(12) *The local department may rescind the voluntary placement agreement prior to a voluntary placement hearing provided that:*

(a) *The parent or legal guardian who signed the agreement provides the local department with a written revocation of the agreement: or*

(b) *The parent or legal guardian who signed the agreement moves out-of-State: or*

(c) *The parent or legal guardian who signed the agreement fails to fulfill the terms of the agreement including the parent refusing to pay child support in accordance with a child support order: and*

(d) *The local department provides to the parent or legal guardian 15 calendar days written notice which includes details of the reasons for rescission and an explanation of appeal rights and the local department has discussed available placement plans and options with the parent or legal guardian.*

[(6)] (13) *A children with disabilities voluntary placement agreement may be terminated after a voluntary placement hearing has been held and the local department:*

(a) — (b) *(text unchanged)*

(c) *Has requested that the juvenile proceedings be terminated by sending copies of both the request for revocation and an attached revocation notice to the juvenile court, all counsel, the parent [and] or legal guardian informing them that the child is no longer in a voluntary placement, that the local department has closed its out-of-home placement case and is requesting that the juvenile court close its case.*

[(7)] (14) *(text unchanged)*

[(8)] (15) *[Local Department Administrative Responsibilities for Children with Disabilities Voluntary Placement.*

(a) *Each local department shall designate a person to administer requests for voluntary placement agreements who shall be:*

[(i)] (a) — [(ii)] (b) *(text unchanged)*

[(b) Each local department shall report annually to the Administration the:

(i) Number of requests for voluntary placement agreements for children with developmental disabilities or mental illnesses received;

(ii) Outcome of each request received; and

(iii) Reason for each denial of a request.

(c) The local department shall discuss all requests for voluntary placement agreements at the next meeting of the local care team to determine whether any alternative or interim services for the child and family may be provided by any State agency.]

C. Nothing in the preceding sections shall preclude the local departments from taking appropriate action pertaining to child abuse and neglect as defined in Family Law Article, §5-701, Annotated Code of Maryland.

D. Enhanced After Care.

(1) The purpose of Enhanced After Care is to provide former Maryland foster youth an opportunity to re-enter foster care through a voluntary placement agreement so that they can continue learning and practicing independent living skills.

(2) The goal of Enhanced After Care is to ensure that the participants recognize and accept personal responsibility for making the transition into adulthood.

(3) To be eligible for Enhanced After Care, a youth shall be:

(a) A former Maryland foster care youth;

(i) Whose commitment to the local department was rescinded after the age of 18 years; and

(ii) Who was not discharged from foster care due to adoption, reunification, guardianship, marriage, or military duty. and

(iii) Who enters into an Enhanced After Care Voluntary Placement Agreement with the local department in the jurisdiction from which the youth exited foster care or where they are receiving services.

(4) To continue to be eligible for Enhanced After Care, within 30 days of signing an Enhanced After Care Voluntary Placement Agreement, a youth shall be:

(a) Completing secondary education or a program leading to an equivalent;

(b) Enrolled in an institution which provides post secondary or vocational training;

(c) Participating in a program or activity designed to promote or remove barriers to unemployment;

(d) Employed at least 80 hours per month; or

(e) Incapable of doing any of the above described activities due to a medical condition.

(5) Youth who exit out-of-home placement after their 18th birthday shall apply for Enhanced After Care services prior to the age of 20 years and 6 months.

(6) Youth receiving Enhanced After Care may receive all services available to youth under the Out-of-Home Placement Program as set forth in this chapter.

(7) A youth may remain in an Enhanced After Care Voluntary Placement beyond 180 calendar days if before the 180th calendar day in placement, a juvenile court determines that continuation of the voluntary placement agreement is in the youth's best interest.

(8) The local department shall file a petition with the juvenile court to request an extension of the voluntary placement or to request an emergency voluntary placement review hearing if the local department determines termination of the voluntary placement agreements if appropriate.

(9) The local department shall terminate services for the following:

(a) Youth's failure to comply with the service agreement or the voluntary placement agreement;

(b) Youth turns 21;

(c) Youth marries;

(d) Youth enters military duty;

(e) Youth dies; or

(f) Youth voluntarily terminates the voluntary placement agreement.

(10) All cases under an Enhanced After Care Voluntary Placement Agreement shall meet all service and case plan requirements for the out-of-home placement program as set forth in this chapter.

.21 Voluntary Placement [for Children with Disabilities] Hearings.

A. Children with Disabilities Voluntary Placements.

[A.] (1) (text unchanged)

[(1)] (a)—[(2)](b) (text unchanged)

[B.] (2) If a child needs to remain in out-of-home placement over 180 calendar days, the local department that placed a child pursuant to a children with disabilities voluntary placement agreement shall file a petition to request a voluntary placement hearing in a timely manner so as to[:

(1) Obtain] obtain, before the 180th calendar day in voluntary placement or prior to the child's 18th birthday, a judicial determination that continuation of the voluntary placement is in the best interest of the child [;and].

[(2) Allow the court to obtain jurisdiction over the child before the child's 18th birthday.]

[C.] (3) (text unchanged)

[(1)](a)—[(5)] (e) (text unchanged)

B. Enhanced After Care.

(1) If the local department and youth agree that the voluntary placement shall continue after 180 calendar days from the signing of the voluntary placement agreement, the local department shall file a petition with the juvenile court before the 180th day, requesting a review of the voluntary placement.

(2) Before the 180th calendar day, the local department shall obtain a finding from the court that continuation of the placement is in the best interests of the youth.

TED DALLAS
Secretary of Human Resources

Subtitle 03 FAMILY INVESTMENT ADMINISTRATION

07.03.03 Family Investment Program

Authority: Human Services Article, §5-207 and Title 5, Subtitle 3, Annotated Code of Maryland
Ch. 469, Acts of 2009

Notice of Proposed Action

[14-023-P]

The Secretary of Human Resources proposes to amend Regulations .01—, .05, .07-1, and .17—, .19 under **COMAR 07.03.03 Family Investment Program**.

Statement of Purpose

The purpose of this action is to reflect the designation of the Office of Home Energy Programs as a Family Investment Program, provide consistency and clarify requirements related to other Family Investment Programs, update the Temporary Cash Assistance (TCA) schedule and add new requirements as a result of changes to associated programs that affect TCA. In addition, the action revises definitions to reflect a change in name of the Food Stamp Program to the Food Supplement Program.

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, Regulations Coordinator, Department of Human Resources, 311 W. Saratoga St., room 265, Baltimore, MD 21201, or call 410-767-2149, or email to andrea.shuck@maryland.gov, or fax to 410-333-0637. Comments will be accepted through February 25, 2014. A public hearing has not been scheduled.

.01 Purpose and Scope.

A. Family Investment Programs.

(1) The Family Investment [Program] Programs (FIP) [provides] provide assistance to individuals and families with children [while preparing program participants for independence. The FIP assistance consists of services and cash assistance to eligible individuals]. The assistance program components under FIP include Welfare Avoidance Grants, Temporary Cash Assistance, Office of Home Energy Programs and alternative programs.

(2) The scope of the following programs are as follows:

(a) Temporary Cash Assistance provides cash assistance while preparing program participants for independence.

(b) Office of Home Energy Programs includes:

- (i) Maryland Energy Assistance Program (MEAP); and
- (ii) Electric User Service Provider (EUSP).

B. (text unchanged)

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(2) (text unchanged)

(3) "Alternative program" means an optional program which may be implemented upon approval by the Secretary of Human Resources and which is designed and developed by a local department to achieve the goals of the [Family Investment Program (FIP)]Temporary Cash Assistance (TCA)Program, within a local department's allocated cash assistance funds.

(4) "Applicant" means an individual who has submitted an application to the local department for [cash] assistance directly or through an authorized representative or, if incompetent or incapacitated, through someone acting responsibly for the individual, and whose application is pending.

(5)—(25) (text unchanged)

(26) "Intentional program violation (IPV)" means an intentional false or misleading statement or misrepresentation, concealment, or withholding of facts for the purpose of:

(a) Establishing or maintaining the assistance unit's eligibility for [TCA] Family Investment Programs; or

(b) Increasing or preventing a reduction of the amount of [TCA] Family Investment Programs benefits.

(27) (text unchanged)

(28) "Local department" means [a department]:

(a) The department of social services in a county or Baltimore City [and];

(b) In Montgomery County, the Montgomery County Department of Health and Human Services; and

(c) In the instance of Office of Home Energy Programs, the local administering agency.

(29) "Local plans" means the plans developed by local departments of social services to operate the [FIP] TCA program within State guidelines and federal requirements.

(30)—(41) (text unchanged)

(42) "Transitional assistance" means assistance that may be provided to a [FIP] Temporary Cash Assistance recipient whose temporary cash assistance is terminated for noncompliance with work requirements.

(43)—(44) (text unchanged)

[(45)] "Universal Engagement (UE)" means Maryland's work program requiring participation by all adult TCA applicants and recipients in federally or State defined work activities on a continuous basis.]

[(46)] (45)—[(47)] (46) (text unchanged)

.03 Family Investment Program Components.

A. (text unchanged)

B. Welfare Avoidance Grant (WAG).

(1) Individuals may not apply for a WAG.

[(1)] (2)—[(6)] (7) (text unchanged)

C. Temporary Cash Assistance (TCA).

(1)—(2) (text unchanged)

(3) If the assistance unit becomes ineligible because of a member's earnings and the assistance unit received TCA in 3 of the last 6 months, the assistance unit is eligible for:

(a) (text unchanged)

(b) Transitional Medical Assistance for 4 months, without consideration of the assistance unit's income.

(4) After the termination of TCA, the local department shall provide transitional food [stamp] supplement benefits as described in COMAR 07.03.17.49H.

D.—E. (text unchanged)

F. Office of Home Energy Programs.

(1) Customers may apply and have their eligibility determined for the programs of assistance that are within the Office of Home Energy Programs as described in COMAR 07.03.21, and 07.03.22.

(2) The programs within Office of Home Energy Programs are:

(a) Maryland Energy Assistance Program; and

(b) Electric Universal Service Program.

.04 Application Process.

A.—D. (text unchanged)

E. Verification.

(1)—(2) (text unchanged)

(3) Questionable information includes information that contradicts:

(a) Statements made by the customer in writing, verbally or on the application; or

(b) Information available to the Department from other sources.

[(3)] (4)—[(4)] (5) (text unchanged)

F. (text unchanged)

.05 Decision on Application.

A.—E. (text unchanged)

F. The local department shall dispose of an application by a finding of eligibility or ineligibility unless:

(1) (text unchanged)

(2) There is an entry in the case record that the application has been disposed of because the [applicant] head_of_household died or could not be located.

G. (text unchanged)

.07-1 Employment and Education Requirements.

A. Each adult in the assistance unit, and each child age 16 years old or older in the assistance unit who is not enrolled full-time in school or pursuing a diploma or the equivalent, shall participate in a [UE] work activity which is:

(1)—(3) (text unchanged)

B. Failure of an adult to cooperate in a [UE] work requirement without good cause, including failure to accept offered employment or quitting a job, shall result in ineligibility of the entire assistance unit as described in Regulation .19A(1) of this chapter.

C. Failure of a child 16 years of age or older not in school to cooperate in a [UE] work requirement without good cause, including failure to accept employment or quitting a job, shall result in deduction of the child's incremental portion of the grant from the family's TCA grant as described in Regulation .19A(2) of this chapter.

D. The following individuals are exempt from the [UE] work activity requirements:

(1)—(6) (text unchanged)

E.—G. (text unchanged)

H. Voluntary Quit and Reduction in Work Hours.

(1)—(3) (text unchanged)

(4) The local department shall follow the good cause reasons listed in §§I and J of this regulation to determine acceptable good cause for:

(a) Refusing or failing to cooperate with [UE] work requirements;

(b)—(c) (text unchanged)

I. Good cause for refusing or failing to cooperate with [UE] work requirements or for refusing or quitting a job includes one or more of the following:

(1) Illness or incapacity of the individual required to be in a [UE] work activity or job, with documentation specifying the:

(a)—(d) (text unchanged)

(2)—(8) (text unchanged)

J. (text unchanged)

K. Participation in a [UE] work activity includes, but is not limited to:

(1)—(8) (text unchanged)

L. The local department shall follow conciliation and sanction procedures as described in Regulation .19 of this chapter for all individuals who are not in compliance with [UE] work activity requirements.

M. If resources are available, a noncustodial parent or a stepparent may be included in [UE] work activities but are not subject to conciliation and sanction procedures as described in Regulation .19 of this chapter.

.17 [FIP] Temporary Cash Assistance Schedule.

(existing table proposed for repeal)

Monthly Allowable Amounts to be Paid Effective November 1, 2013. Column B is based on household having zero income.

A. Number of Individuals in the Assistance Unit	B. Allowable Amount to be Paid	C. Allowable Amount for Determining Stepparent Eligibility (50 percent of Poverty Level)
1	\$ 282	\$ 478
2	559	646
3	624	813
4	755	981
5	875	1,148
6	962	1,316
7	1,081	1,483

8	1,191	1,651
9	1,285	1,818
10	1,389	1,986
11	1,516	2,153
12	1586	2,321
13	1,683	2,488
14	1,782	2,656
15	1,884	2,823
16	2,006	2,991
Each individual over 16	Add \$118	Add \$167

.18 Reapplication, Changes, Timely and Adequate Notice.

A. (text unchanged)

B. Interim Change.

(1)—(2) (text unchanged)

(3) A recipient shall report:

(a) [any] Any change in circumstance that may affect the amount of payment to the local department within 10 days of the change; and

(b) New employment within 10 days of receipt of the first pay.

(4) The effective date of a grant change shall be made as follows:

(a) [Unless] Except as provided in paragraph (b) of this section, unless TCA is continued pending disposition of an appeal, the effective date of the grant change is:

[(a)] (i)—[(b)] (ii) (text unchanged)

(b) Unless TCA is continued pending disposition of an appeal, if the change in circumstance involves new employment, the effective date of the grant change shall be no later than 10 days following the receipt of the first pay upon the participant obtaining employment.

(5) (text unchanged)

(6) If the assistance unit becomes ineligible because of a parent's earnings and the assistance unit has received TCA in 3 of the last 6 months, the assistance unit is eligible to receive[:

(a) Medical Assistance for an additional 12 months; and

(b) Child] child care for an additional 12 months, based on the caretaker relative's income.

(7) After the termination of TCA the local department shall provide transitional food [stamp] supplement benefits as described in COMAR 07.03.17.49H.

(8)—(9) (text unchanged)

C.—D. (text unchanged)

.19 Conciliation, Sanctions, and Other Penalties.

A.—B. (text unchanged)

C. Sanctions for Fraud and IPV. An assistance unit is ineligible for TCA benefits [for the following periods of time] upon a finding of fraud or an IPV by a court of law, through an administrative disqualification hearing, or through the waiver of an administrative disqualification hearing in accordance with the requirements in COMAR 07.03.10.

[(1) For a period of 6 months after the first finding or until full repayment of any overpayment of TCA benefits;

(2) For a period of 12 months after the second finding or until full repayment of any overpayment of TCA benefits; and

(3) Permanently after the third finding.]

D. Fraudulent Misrepresentation of Residence.

(1)—(2) (text unchanged)

(3) All of the income [and assets] of the convicted individual is counted as available to the remaining assistance unit members.

E. (text unchanged)

TED DALLAS
Secretary of Human Resources

Benefit (+)
Cost (-) Magnitude

Title 08

DEPARTMENT 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, §4-220, 4-701, 4-745, and 4-1201; State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland

Notice of Proposed Action

[14-035-P]

The Secretary of Natural Resources proposes to amend Regulations .02, .03, .05, .07, and .08 under COMAR 08.02.13 Fishing Licenses — Point Assignment, License Revocation and Suspension Schedule and Criteria, and Hearing Procedure.

Statement of Purpose

The purpose of this action is to make changes to the Department’s penalty system for violations committed by commercial, recreational, and charter boat licensees. For the commercial system, this action adds language that will allow the Department to take mitigating circumstances into account when deciding on a penalty, decreases the penalty for failure to seal a haul seine, and adds penalties for menhaden violations, shark fin-to-carcass ratios, transportation of nuisance or prohibited species, possession of 10 or more nuisance or prohibited species, removes an unclear provision regarding pound net stakes, and corrects previous errors with the penalties regarding oystering in oyster sanctuaries and a reference to terrapin rather than snapping turtles. For the recreational and charter systems, this action adds penalties for violations of tagging and reporting requirements for sharks, transportation of nuisance or prohibited species, and possession of 10 or more nuisance or prohibited species. The proposed changes were made after consultation with the Joint Tidal Fisheries Advisory Commission/Sport Fisheries Advisory Commission Penalty Workgroup.

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.

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:		
Licensees	(-)	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 a negative impact on licensees who are suspended or revoked for the actions listed. However, it is not possible to determine the number of individuals who may violate the listed laws, nor is it possible to determine to what extent the suspension or revocation would economically impact the individual.

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 regulation may have a meaningful economic impact on small businesses which violate the law and are therefore suspended or revoked from their commercial fishing activity. It is not possible to predict how many businesses will violate the law and therefore receive suspensions or revocations or to what extent that may economically impact them.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Penalty Regulations, Regulatory Staff, Department of Natural Resources, Fisheries Service B-2, 580 Taylor Avenue, Annapolis, MD 21401, or call 410-260-8300, or email to fisheriespubliccomment@dnr.state.md.us, or fax to 410-260-8310. Comments will be accepted through February 24, 2014. A public hearing has not been scheduled.

.02 Commercial License Suspension and Revocation.

A.—B. (text unchanged)

C. The Department may [agree to] *enter into a Consent Agreement* for a period of suspension or revocation with a person [before proceeding] *who waives their right* to a contested case hearing.

D. Suspension and Revocation.

(1)—(6) (text unchanged)

(7) *A lesser penalty may be imposed at the Department’s discretion, including consideration of the person’s disciplinary record, an agreement to comply with any conditions that the Department may reasonably require, and any other mitigating circumstances.*

E. General Prohibitions.

(1)—(3) (text unchanged)

(4) A person whose license has been suspended may not [apply for a new license through the apprenticeship program or] *receive a tidal fish license in a transfer or purchase a new tidal fish license until after the suspension period has expired.*

(5) *The Department may withhold approval of any change to a tidal fish license under Natural Resources Article, §4-701, Annotated Code of Maryland, until a pending administrative action involving the licensee is resolved.*

.03 Point Assignment Schedule.

A. — B. (text unchanged)

C. Tier I. The following violations are Tier I violations. A person who receives a conviction for a Tier I violation receives 5 points.

	Statute or Regulation	Description
1—44	(text unchanged)	
45	COMAR 08.03.11.04, COMAR 08.03.11.09	Possessing, Destroying, or Disturbing [Snapping] <i>Diamondback</i> Terrapin Eggs
46—48	(text unchanged)	
49	COMAR 08.02.05.07	20%—49% Over Menhaden Daily Limit
[49] 50—[67] 68	(text unchanged)	
69	4-713(b)	Failure to Have Haul Seine Inspected and Sealed

D. Tier II. The following violations are Tier II violations. A person who receives a conviction for a Tier II violation receives 10 points.

	Statute or Regulation	Description
1—6	(text unchanged)	
[7]	4-1105, 4-1009.1, 4-1014, 4-1014.1, 4-1014.2, 4-1014.3, COMAR 08.02.04.13, COMAR 08.02.04.14, COMAR 08.02.04.15	Harvesting Oysters on Closed Areas, Reserved Areas, or Sanctuaries: 50-149 feet within an area]
[8] 7— [16] 15	(text unchanged)	
[17] 16	COMAR 08.02.15.05A, 4-2A-03, 4-215	More Than One [Gear] <i>Fishery</i> Type of Striped Bass Tags or Permit on Board a Vessel
[18] 17	COMAR 08.02.15.05	Tagging Striped Bass with an Incorrect [Gear] <i>Fishery</i> Tag
[19] 18	(text unchanged)	
[20]	COMAR 08.02.15.07	Harvesting or Attempting to Harvest Striped Bass with an Illegal Gill Net]
[21] 19	(text unchanged)	
20	COMAR 08.02.05.07	50%—99% Over Menhaden Daily Limit
[22] 21—[26] 25	(text unchanged)	
[27]	4-711(h)	Allowing Stakes to Remain in Water After Notice
28	4-713(b)	Failure to Have Haul Seine Inspected and Sealed]
[29] 26	(text unchanged)	

E. Tier III. The following violations are Tier III violations. A person who receives a conviction for a Tier III violation receives 15 points.

	Statute or Regulation	Description
1—7	(text unchanged)	
8	4-1105, 4-1009.1, 4-1014, 4-1014.1, 4-1014.2, 4-1014.3, COMAR 08.02.04.13, COMAR 08.02.04.14, COMAR 08.02.04.15	Harvesting Oysters on Closed Areas, Reserved Areas, or Sanctuaries: [51-150] 50—149 feet within an area
9—21	(text unchanged)	
22	COMAR 08.02.05.07	100% or More Over Menhaden Daily Catch Limit
[22] 23 — [28] 29	(text unchanged)	

F. (text unchanged)

G. Tier V. The following violations are Tier V violations. A person who receives a conviction for a Tier V violation receives 25 points.

	Statute or Regulation	Description
1—6	(text unchanged)	
7	COMAR 08.02.05, 08.02.22	Sharks—Violation of Required Fin/Carcass Ratio

H. Tier VI. The following violations are Tier VI violations. A person who receives a conviction for a Tier VI violation receives 30 points.

	Statute or Regulation	Description
1—5	(text unchanged)	
6	4-1105, 4-1009.1, 4-1014, 4-1014.1, 4-1014.2, 4-1014.3, COMAR 08.02.04.13, COMAR 08.02.04.14, COMAR 08.02.04.15	Harvesting Oysters on Closed Areas, Reserved Areas, or Sanctuaries: [151-250] 150—249 feet within an area
7—9	(text unchanged)	
10	4-205.1, COMAR 08.02.19	Transportation of a Nuisance or Prohibited Species
11	4-205.1, COMAR 08.02.19	Possession of Nuisance or Prohibited Species — 10 or more

PROPOSED ACTION ON REGULATIONS

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I. Tier VII. The following violations are Tier VII violations. A person who receives a conviction for a Tier [VI] VII violation receives 35 points.

	<i>Statute or Regulation</i>	<i>Description</i>
1	4-1105, 4-1009.1, 4-1014, 4-1014.1, 4-1014.2, 4-1014.3, COMAR 08.02.04.13, COMAR 08.02.04.14, COMAR 08.02.04.15	Harvesting Oysters on Closed Areas, Reserved Areas, or Sanctuaries: [251] 250 feet or more within an area
2	(text unchanged)	

J. (text unchanged)

.05 Recreational Fishing Suspension and Revocation.

A.—F. (text unchanged)

G. A person who receives one of the following violations may be suspended for up to 365 days.

	STATUTE OR REGULATION	DESCRIPTION
(1)	4-205.1(h)	Interferences With the Abatement of a State of Nuisance
(2)	4-205.1, COMAR 08.02.19	Transport of a Nuisance or Prohibited Species
(3)	4-205.1, COMAR 08.02.19	Possession of a Nuisance or Prohibited Species — 10 or More
[(2)] (4)— [(103)] (105)	(text unchanged)	
(106)	COMAR 08.02.05, 08.02.22	Violating Any Tagging or Reporting Requirement Regarding Sharks

H.—K. (text unchanged)

L. A lesser penalty may be imposed at the Department's discretion if the circumstances warrant it, to include consideration of the person's disciplinary record, an [and] agreement to comply with any conditions that the Department may reasonably require, and any other mitigating circumstances.

.07 Commercial Charter Boat and Fishing Guide License Suspension Schedule.

A.—B. (text unchanged)

C. The Department may enter into a Consent Agreement for a period of suspension or revocation with a person who waives their right to a contested case hearing.

D. A lesser penalty may be imposed at the Department's discretion including consideration of the person's disciplinary record, an agreement to comply with any conditions that the Department may reasonably require, and any other mitigating circumstances.

[C.—D.] E.—F. (text unchanged)

G. The Department may withhold approval of any change to a tidal fish license under Natural Resources Article, §4-701, Annotated Code of Maryland until a pending administrative action involving that person is resolved.

.08 Charter Boat/Fishing Guide Point Assignment Schedule.

A.—H. (text unchanged)

I. Tier VI. The following violations are Tier VI violations. A fishing guide who receives a conviction for a Tier VI violation receives 30 points.

	STATUTE OR REGULATION	DESCRIPTION
(1)	4-205.1, COMAR 08.02.19	Transport of a Nuisance or Prohibited Species
(2)	4-205.1, COMAR 08.02.19	Possession of a Nuisance or Prohibited Species — 10 or More
[(1)] (3)—[(36)] (38)	(text unchanged)	
(39)	COMAR 08.02.05, 08.02.22	Violating Any Tagging or Reporting Requirement Regarding Sharks
[(37)] (40)— [(45)] (48)	(text unchanged)	

JOSEPH P. GILL
Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.26 Shell Recycling Tax Credit

Authority: Tax-General Article, §10-724.1, Annotated Code of Maryland

Notice of Proposed Action

[14-033-P]

The Secretary of Natural Resources proposes to adopt Regulations .01 — .06 under a new chapter, **COMAR 08.02.26 Shell Recycling Tax Credit**.

Statement of Purpose

The purpose of this action is to promulgate regulations to implement H.B. 184 of 2013, which established the creation of an oyster shell recycling credit. This action establishes eligibility criteria and provides for the certification of businesses, landfills, and nonprofit organizations to verify the amount of oyster shells recycled by each individual or corporation. For each bushel of oyster shell that is recycled, the shell recycler will receive a nonrefundable tax credit against the State income tax equal to \$1, not to exceed \$750 per tax return.

The intent of establishing a tax credit for recycling oyster shells is to provide a greater incentive for people and corporations to recycle their shells and increase the amount of shell available for replanting purposes. Recycled oyster shells are used as setting material for new spat (baby oysters) to be planted back into the Chesapeake and Coastal Bays. Each recycled shell can become home to 10 new oysters as new oysters prefer to attach and grow onto other oyster shells. A healthy oyster reef filters the Chesapeake Bay’s waters and provides habitat for an underwater community that furnishes life support for blue crabs and fish. This action aims to incentivize recycling oyster shells by individuals and businesses in order to increase the availability of oyster shell for restoration purposes.

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 has an economic impact to those recycling oyster shells.

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

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

E. Qualifying small businesses that recycle oyster shells through the program, most are restaurants, will be positively impacted through lower income taxes. It is unknown at this time how many restaurants will take advantage of the tax credit and how many bushels those taking advantage of the tax credit will recycle. The Oyster Recovery Partnership (ORP) currently collects shell from restaurants to be recycled absent the tax credit. ORP reports recycling 8,924 bushels in 2012 and 12,360 bushels in 2013 (average of 10,642 bushels per year). Each bushel of shell recycled will result in a \$1 credit on the business's tax return. It is assumed that the economic impact will be higher than the average reported by ORP due to the tax credit incentive.

F. The tax credit is also available for individuals. Those individuals who recycle oyster shells will realize a tax savings of \$1/bushel of recycled shell.

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 Shell Recycling Tax Credit, Regulations Staff, Department of Natural Resources, Fisheries Service B-2, 580 Taylor Avenue, Annapolis, MD 21401, or call 410-260-8300, or email to fisheriespubliccomment@dnr.state.md.us, or fax to 410-260-8310. Comments will be accepted through February 24, 2014. A public hearing has not been scheduled.

.01 Definitions.

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

B. Terms Defined.

(1) “Aggregation site” means a location where shell donated for recycling is stored or aged prior to being replanted in State waters.

(2) “Bushel” means an amount of oyster shells that will fill a 10-gallon container, or about 500 shells.

(3) Business Entity.

(a) “Business entity” means:

(i) A person conducting or operating a trade or business in Maryland; or

(ii) An organization operating in Maryland that is exempt from taxation under §501(c)(3) or (4) of the Internal Revenue Code.

(b) “Business entity” includes a person operating a landfill or solid waste acceptance facility permitted under COMAR 26.04.07.

(4) “Certified recycled shell collector” means:

(a) A business entity certified by the Department under Regulation .06 of this chapter to verify amounts of recycled oyster shell; or

(b) The Department.

(5) “Comptroller” means the Maryland Comptroller of the Treasury, or the Comptroller’s designee.

(6) “Corporation” includes an association or joint-stock company.

(7) “Department” means the Maryland Department of Natural Resources.

(8) “Person” includes the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or private corporation, or any other entity.

(9) *Shell Recycler.*

(a) "Shell recycler" means a person that donates shell for replanting in Maryland tidal waters.

(b) "Shell recycler" does not include a person that receives compensation for the shell donation.

(10) "Taxable year" means the period for which Maryland taxable income is computed under Tax-General Article, Title 10, Annotated Code of Maryland.

.02 Eligibility.

A. To be eligible for a State income tax credit under this chapter, a shell recycler shall:

(1) Prior to donating shell, complete an online registration as specified by the Department that includes the shell recycler's Tax Identification Number;

(2) Donate shell for recycling to a certified recycled shell collector; and

(3) Receive and maintain electronic invoice records from the Department, indicating for each shell donation:

(a) The name of the certified recycled shell collector;

(b) The date and location of the shell donation; and

(c) The number of bushels of shell donated.

B. *Eligibility of Business Entities.*

(1) Only an individual or a corporation may receive a credit against the State income tax for oyster shell recycling.

(2) If a business entity other than a corporation recycles oyster shell in accordance with the eligibility requirements established in §A of this regulation, the amount of credits computed for the pass-through entity shall be allocated among the owners as agreed to in writing by the owners in accordance with Internal Revenue Service rules.

.03 Credit Allowances.

A. *Allowable Credit.*

(1) A shell recycler may claim a tax credit against the State income tax in an amount equal to \$1 for each bushel of oyster shells recycled during the taxable year.

(2) A shell recycler may not claim a tax credit for bushels of shell that:

(a) Are collected by the shell recycler as a certified recycled shell collector; or

(b) Are replanted in an area leased by the shell recycler for commercial shellfish aquaculture.

B. *Amount Allowed Per Taxable Year.* For any taxable year, the maximum credit a person may claim may not exceed the lesser of:

(1) \$750; or

(2) The State income tax calculated before application of the credit allowed under this regulation and Tax-General Article, §§10-701 and 10-701.1, Annotated Code of Maryland.

C. If the credit exceeds the person's liability for the taxable year, the unused amount of the credit may not be carried forward to any other taxable year.

.04 Certification of Credit.

The Department shall certify to an eligible shell recycler the amount of the allowed tax credit approved by the Department for the shell recycler. The Department shall issue the certification by January 30 of the calendar year following the end of the taxable year in which the shells were recycled.

.05 Claiming the Credit.

To claim the credits approved by the Department, an individual or corporation shall:

A. File with the Comptroller an income tax return for the taxable year in which the costs were incurred; and

B. Attach a copy of the Department's certification of the approved credit amount to the tax return.

.06 Certified Recycled Shell Collector.

A. *Certification of a Collector.*

(1) A business entity may apply to the Department to be a certified recycled shell collector.

(2) An application shall:

(a) Be submitted on a form provided by the Department; and

(b) Include the applicant's:

(i) Name, address, and contact information;

(ii) Planned shell aggregation site; and

(iii) Planned method of storing and aging the shell.

(3) Upon receipt and review of an application for certification under this regulation, the Department may:

(a) Approve the application and issue the applicant a certificate designating the applicant a certified recycled shell collector; or

(b) Deny an application for reasonable cause.

(4) A certification issued to a recycled shell collector:

(a) Shall be valid for 1 year beginning on the day of issuance; and

(b) May be renewed for a new term upon the Department's receipt of a renewal application submitted as specified by the Department.

B. *A certified recycled shell collector shall:*

(1) Collect and process oyster shell from shell recyclers in accordance with the terms and conditions set out in the certification issued under §A of this regulation, and all applicable federal, State and local laws and regulations;

(2) For each shell donation collected, submit an electronic report as specified by the Department verifying the location, date, and amount of the shell donation within 48 hours of collecting the donation;

(3) Allow the Department, or the Department's designee, to inspect at reasonable hours the certified recycled shell collector's shell aggregation site and collected recycled shell; and

(4) Notify the Department immediately of any changes to the certified recycled shell collector's aggregation site or contact information.

C. *Penalties.*

(1) The Department may suspend or revoke a certification issued to a recycled shell collector for failure to comply with this chapter or the terms and conditions of the certification.

(2) Within 15 days of receipt of the Department's notice of a denial, suspension, or revocation of a certification issued under §A of this regulation, the recycled shell collector may appeal the decision in writing to the Director of the Maryland Fisheries Service.

JOSEPH P. GILL
Secretary of Natural Resources

Title 09
DEPARTMENT OF LABOR,
LICENSING, AND
REGULATION

Subtitle 12 DIVISION OF LABOR AND
INDUSTRY

09.12.39 Lien for Unpaid Wages

Authority: Labor and Employment Article, §3-1110, Annotated Code of Maryland

Notice of Proposed Action

[14-032-P]

The Commissioner of Labor and Industry proposes to adopt new Regulations **.01— .03** under a new chapter, **COMAR 09.12.39 Lien for Unpaid Wages**.

Statement of Purpose

The purpose of this action is to implement the Lien for Unpaid Wages, Ch. 541, Acts of 2013. The Maryland Lien for Unpaid Wages provides that employees who have not been paid that are due and owing to them may, under certain circumstances, establish a lien against the real or personal property of the employer who has failed to pay the wages. The law provides that the Commissioner shall adopt regulations to implement the provisions of the law.

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 Debbie Stone, Regulations Coordinator, Department of Labor, Licensing, and Regulation, Division of Labor and Industry, 1100 N. Eutaw Street, Room 606, Baltimore, Maryland 21201, or call 410-767-2225, or email to dstone@dllr.state.md.us, or fax to 410-767-2986. Comments will be accepted through February 24, 2014. A public hearing has not been scheduled.

.01 Definitions.

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

B. Terms Defined.

(1) *“Employer Complaint to Dispute Lien for Unpaid Wages” means the complaint filed by an employer in circuit court to dispute a Notice of Intent to Claim a Lien for Unpaid Wages.*

(2) *“Notice to Employer of Intent to Claim Lien for Unpaid Wages” means the written form or comparable notice that an employee serves on an employer stating the employee’s intent to claim a lien for unpaid wages.*

(3) *“Statement of Wage Lien” means the form that may be recorded by an employee after a lien for unpaid wages has been established pursuant to Labor and Employment Article, §3-1104, Annotated Code of Maryland.*

.02 Notice of Claim for Unpaid Wages.

A. An employee shall serve his or her employer with the Notice to Employer of Intent to Claim Lien for Unpaid Wages of the employee’s intent to claim a lien for unpaid wages on the form provided by the Commissioner of Labor and Industry at www.dllr.state.md.us or on a comparable form that contains the information specified in §B of this regulation.

B. The form shall include the following:

- (1) *The name and address of the individual seeking a lien;*
- (2) *The name of the business or individual for whom the employee performed work;*
- (3) *The dates of employment;*
- (4) *The dates for which wages are due but were not paid;*
- (5) *The basis for the claim that wages were due but were not paid;*
- (6) *The monetary amount of the lien sought;*
- (7) *The real or personal property, or both, against which the lien is sought along with a description adequate to identify the property, name of owner, and location; and*
- (8) *Notice to the employer of their right to dispute the lien by filing a complaint within 30 days of receipt of the notice.*

C. An employee shall serve the employer by:

- (1) *Delivering personally a copy of the Notice to Employer of Intent to Claim Lien for Unpaid Wages to the employer;*
- (2) *Leaving a copy of the Notice to Employer of Intent to Claim Lien for Unpaid Wages at the employer’s home or place of dwelling with a resident of suitable age and discretion; or*
- (3) *Mailing a copy of the Notice to Employer of Intent to Claim Lien for Unpaid Wages to the employer by certified mail requesting, “Restricted Delivery—Show to whom, date, and address of delivery”.*

.03 Recording Lien.

If an employer does not dispute a notice of a wage lien, an employee may record the lien for unpaid wages together with proof of service.

J. RONALD DEJULIIS
 Commissioner of Labor and Industry

Subtitle 19 COMMISSION OF REAL
ESTATE APPRAISERS, APPRAISAL
MANAGEMENT COMPANIES, AND
HOME INSPECTORS — REAL
ESTATE APPRAISERS

09.19.05 Code of Ethics

Authority: Business Occupations and Professions Article, §§16-208, 16-216, 16-220, 16-302(d) and (g), and 16-503(b) and (f), Annotated Code of Maryland

Notice of Proposed Action

[14-027-P-I]

The Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors proposes to amend Regulation **.01** under **COMAR 09.19.05 Code of Ethics**. This action was considered at a public meeting of the Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors held on December 16, 2013, notice of which was published in the Daily Record on December 11, 2013, pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to incorporate by reference the 2014-2015 Edition of the Uniform Standards of Professional Appraisal Practice (USPAP), which were enacted by the Appraisal Standards Board of The Appraisal Foundation, effective January 1, 2014, and with which licensed and certified real estate appraisers are required, by federal mandate, to comply.

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 Patricia Schott, Administrator, Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors, 500 N. Calvert Street, Baltimore, MD 21202, or call 410-230-6165, or email to pschott@dllr.state.md.us, or fax to 410-333-6314. Comments will be accepted through March 7, 2014. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors during a public meeting to be held on April 8, 2014, at 500 N. Calvert Street, Baltimore, MD 21202.

Editor's Note on Incorporation by Reference

Pursuant to State Government Article, §7-207, Annotated Code of Maryland, the Uniform Standards of Professional Appraisal Practice 2014-2015 Edition (The Appraisal Foundation) has been declared a document generally available to the public and appropriate for incorporation by reference. For this reason, it will not be printed in the Maryland Register or the Code of Maryland Regulations (COMAR). Copies of this document are filed in special public depositories located throughout the State. A list of these depositories was published in 41:1 Md. R. 9 (January 10, 2014), and is available online at www.dsd.state.md.us. The document may also be inspected at the office of the Division of State Documents, 16 Francis Street, Annapolis, Maryland 21401.

.01 Incorporation by Reference.

A. (text unchanged)

B. Document Incorporated. Uniform Standards of Professional Appraisal Practice [2012-2013] 2014-2015 Edition (The Appraisal Foundation), including Preamble, Ethics Rule, Competency Rule, Scope of Work Rule, Jurisdictional Exception, Supplemental Standards, Definitions and Standards 1, 2, and 3 with all related Standard Rules[,] and Statements on Appraisal Standards, [Advisory Opinions, Frequently Asked Questions, and index,] is incorporated by reference.

GEORGE FAIR
Chairman

Commission of Real Estate Appraisers, Appraisal Management Companies and Home Inspectors

Subtitle 34 OFFICE OF CEMETERY OVERSIGHT

Notice of Proposed Action

[14-039-P]

The Director of the Office of Cemetery Oversight proposes to adopt:

- (1) New Regulations .01 and .02 under a new chapter, **COMAR 09.34.05 Crematories — Definitions;**
- (2) New Regulations .01 — .13 under a new chapter, **COMAR 09.34.06 Crematories — Permit and Registration Process and Fees;**
- (3) New Regulations .01 — .06 under a new chapter, **COMAR 09.34.07 Crematories — Inspections, Complaints, and Discipline;**
- (4) New Regulations .01 — .12 under a new chapter, **COMAR 09.34.08 Crematories — Cremation Procedures;** and
- (5) New Regulations .01 and .02 under a new chapter, **COMAR 09.34.09 Crematories — Code of Ethics.**

Statement of Purpose

The purpose of this action is to implement the provisions of Ch. 450, Acts of 2010, requiring the Office of Cemetery Oversight and the State Board of Morticians and Funeral Directors to establish a specified process and adopt specific regulations for regulating crematories. The regulations specifically include regulations governing registration or licensing and renewal; applications, including identification of individuals who will perform cremation; registration or licensing fees; cremation containers; holding facilities; authorization forms; waiting period before cremation; delegation of authority to cremate; liability of authorizing agent and crematory; receipts and records of cremation; prohibitions against requiring caskets and embalming; identification of human remains before and after cremation; storage of human remains before cremation; hazardous implants; prohibition against simultaneous cremation of more than one person without authorization; inspection and copying of records by regulating authority; approved containers for cremated remains; disposition of unclaimed cremated remains; facility inspections; providing identification of and updates on individuals performing cremation to the regulating authority; and any other issue determined to be necessary to carry out the provisions of Ch. 450, Acts of 2010.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The Office of Cemetery Oversight will incur a modest increase in workload as a result of establishing a regulatory program governing crematories. This will include reviewing applications, responding to inquiries, maintaining files and a data system, handling disciplinary actions, etc. A moderate fee will be imposed on crematories and operators, generating a limited amount of additional revenue. Existing staff will absorb the additional workload. Crematories will bear the additional cost of the licensing fee, which may be passed through to consumers. Consumers will have the benefit of the standards established for the operation of a crematory and the conduct of cremations, as well as specific recourse to a state regulator for complaints.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	(R+)	Less than \$5,000 in new revenue from biennial fees
B. On other State agencies:	NONE	
C. On local governments:	NONE	
<hr/>		
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(+)	Less than \$5,000 in new fees for all crematories.
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.)

- A. It is estimated that the Office will license fewer than 10 crematories.
- D. Crematories will bear the cost of any pertinent fees imposed by the Office.
- F. Consumers will benefit from a regulatory program designed to protect the public through the administration of standards. State regulators will provide recourse for consumer aggrieved by actions in violation of pertinent laws and regulations.

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 Marilyn Harris-Davis, Executive Director, Office of Cemetery Oversight, 500 N. Calvert Street, 3rd Floor, Baltimore, MD 21202, or call 410-230-6228, or email to mharrisdavis@dllr.state.md.us, or fax to 410-333-6314. Comments will be accepted through February 28, 2014. A public hearing has not been scheduled.

09.34.05 Crematories — Definitions

Authority: Business Regulation Article, §5-204, Annotated Code of Maryland

.01 Scope.

This chapter governs the definition of terms used in COMAR 09.34.06, COMAR 09.34.07, COMAR 09.34.08 and COMAR 09.34.09.

.02 Definitions.

A. In COMAR 09.34.06, COMAR 09.34.07, COMAR 09.34.08, and COMAR 09.34.09, the following terms have the meanings indicated.

B. Terms Defined.

- (1) "Advertisement" means the publication, dissemination, or circulation of any oral or written matter, including labeling, which directly or indirectly calls to the attention of the public the goods or services one has to offer.
- (2) "Authorizing agent" means an individual legally entitled to order the cremation of human remains or legally authorized to control the final disposition of human remains.
- (3) "Board" means the Board of Morticians and Funeral Directors.
- (4) Consumer.
 - (a) "Consumer" means an actual or prospective purchaser of consumer services, consumer goods, or consumer credit.
 - (b) "Consumer" includes an individual directed by the consumer, or properly acting on behalf of a deceased consumer, to inquire about the cost or purchase of cremation services or cremation related goods, or to act on behalf of the consumer.
- (5) "Cremated human remains" means all human remains recovered after completion of cremation and the use of pulverizing equipment.
- (6) "Cremation" means the process of reducing human remains to bone fragments through intense heat and evaporation, including any mechanical or thermal process and may include pulverization.
- (7) "Cremation container" means a readily combustible, rigid container in which human remains are sent to the crematory and then placed in the cremation chamber for cremation.
- (8) "Cremator" means the machinery within which the process of cremation of human remains begins.
- (9) "Crematory" means a building, portion or a building, or structure that houses the necessary appliances and facilities for cremation.
- (10) "Crematory authority" means a legal entity or sole proprietor that has been issued a permit by the Office of Cemetery Oversight to operate as a crematory and perform cremations.
- (11) "Embalming" means the disinfection or preserving of human remains by arterial or cavity injection or any other type of preservation.
- (12) "Engage in the operation of a crematory" means controlling or managing a crematory.
- (13) "Holding facility" means an area, within or adjacent to a crematory, designed for the retention of human remains before cremation.
- (14) "Human remains" means the body of a deceased person, or part of a body or limb that has been removed from a living person.
- (15) "Office" means the Office of Cemetery Oversight.
- (16) "Permit" means a permit issued by the Office to allow a person to operate a business which engages in the operation of a crematory or to act as a registered crematory operator.
- (17) "Permit holder" means the holder of a permit under Business Regulation Article, Title 5, Annotated Code of Maryland, to engage in the operation of a crematory or to act as a registered crematory operator.
- (18) "Person" means an individual, receiver, trustee, corporation, limited liability company, or partnership.
- (19) "Processed human remains" means the end result of pulverization of cremated human remains, where the residue from the cremation process is cleaned leaving only bone fragments reduced to 5 millimeters or less.
- (20) "Registered crematory operator" means an individual registered to operate a crematory as a sole proprietor or on behalf of a sole proprietor or permit holder.
- (21) "Responsible party" means a sole proprietor or the individual designated by a corporation, limited liability company, or

partnership, which holds a permit to engage in the operation of a crematory, to be responsible for the operations of the crematory.

(22) "Sealable container" means any container in which processed human remains can be placed and sealed so as to prevent leakage of the processed human remains or the entry of any foreign material.

09.34.06 Crematories — Permit and Registration Process and Fees

Authority: Business Regulation Article, §§5-102, 5-204, 5-205, 5-301—5-310, 5-312, 5-401—5-403, and 5-901—5-905, Annotated Code of Maryland

.01 Scope.

This chapter governs the permit process for persons, regulated under Business Regulation Article, Title 5, Annotated Code of Maryland, who operate a crematory in the State and the fees for crematory and registered crematory operator permits.

.02 Permit Issuing Agency.

A. A person who holds a permit or registration under Business Regulation Article, Title 5, Annotated Code of Maryland, and owns a greater interest in a crematory than a licensee under Health Occupations Article, Title 7, Annotated Code of Maryland, shall obtain a permit to engage in the operation of a crematory from the Office.

B. A person whose ownership interest in a crematory is equal to the ownership interest in the crematory of a licensee under Health Occupations Article, Title 7, Annotated Code of Maryland, shall obtain a permit to engage in the operation of a crematory from the Office.

C. A person who owns a crematory and is neither a licensee under Health Occupations Article, Title 7, Annotated Code of Maryland, nor a registrant or permit holder under Business Occupations Article, Title 5, Annotated Code of Maryland, shall obtain a permit to engage in the operation of a crematory from the Office.

D. A person who is a licensee or holder of a corporation license under Health Occupations Article, Title 7, Annotated Code of Maryland, and owns a greater interest in a crematory than a person who holds a permit or registration under Business Regulation Article, Title 7, Annotated Code of Maryland, shall obtain a permit to engage in the operation of a crematory from the Board.

E. An individual, who is designated as the registered crematory operator by a person required to obtain a permit to operate a crematory from the Office, shall obtain a registered crematory operator permit from the Office.

F. All operating crematories and individuals designated as the registered crematory operator required to obtain a permit from the Office shall apply to the Office for a permit within 90 days from the effective date of this chapter.

.03 Permit—Requirements for Permit for a Crematory Owned by a Corporation, Limited Liability Company, or Partnership.

A. A corporation, limited liability company, or partnership shall receive a permit to operate a crematory in this State if the corporation, limited liability company, or partnership meets the permit requirements of this regulation.

B. A corporation, limited liability company, or partnership shall receive a permit if the entity:

- (1) Completes an application form;
- (2) Pays the nonrefundable application fee and any other fees due under this chapter;
- (3) Provides the name, address, and phone number of each affiliated crematory;
- (4) Designates a registered crematory operator as the responsible party for each affiliated crematory provided that the

registered crematory operator may not be designated as the responsible party for more than a total of two crematories;

(5) Provides a list of the officers, directors, members, partners, agents, and employees of the entity applying for the permit;

(6) Provides a certificate of status, issued by the Maryland Department of Assessments and Taxation, indicating that the entity is in good standing, or its equivalent as determined by the Office, and dated not earlier than 30 days before the date of the application; and

(7) Provides an affidavit stating that:

(a) No federal or State taxes or fees are delinquent; and

(b) The corporation, limited liability company or partnership is financially stable.

.04 Permit—Requirements for Permit for a Crematory Owned by a Sole Proprietor.

A. A sole proprietor applicant for a crematory permit shall receive a permit to operate a crematory in this State if the sole proprietor applicant meets the permit requirements of this regulation.

B. A sole proprietor shall receive a permit if the sole proprietor:

- (1) Completes an application form;
- (2) Pays the nonrefundable application fee and any other fees due under this chapter;
- (3) Provides the name, address, and phone number of each affiliated crematory;

(4) Designates a registered crematory operator as the responsible party for each affiliated crematory provided that the registered crematory operator may not be designated as the responsible party for more than a total of two crematories;

(5) Provides an affidavit stating that:

(a) No federal or State taxes or fees are delinquent; and

(b) The crematory business is financially stable; and

(6) Provides evidence to the Office of the sole proprietor's ability to read and write.

.05 Permit—Requirements for Registration for a Registered Crematory Operator.

A. An individual shall register with and receive a permit from the Office as a registered crematory operator if the individual meets the registration requirements of this regulation.

B. An individual shall be registered with the Office as a registered crematory operator if the individual:

- (1) Completes an application form;
- (2) Pays the nonrefundable application fee and any other fees due under this chapter;
- (3) Is 18 years old or older;
- (4) Is of good character and reputation and lists the applicant's previous three employers;
- (5) Has achieved certification as a crematory operator by the Cremation Association of North America (CANA), International Cemetery, Cremation and Funeral Association (ICCF), or other equivalent certification recognized by the Office and the Board;
- (6) Has successfully completed the operator training course of the manufacturer of the cremator located in the crematory with which the applicant is affiliated;

(7) States the name and mailing address of the crematory with which the applicant is affiliated;

(8) States whether the crematory with which the applicant is affiliated is owned or controlled by:

- (a) A corporation;
- (b) A partnership;
- (c) A limited liability company; or
- (d) A sole proprietorship;

(9) States whether the applicant is the responsible party for the affiliated crematory; and

(10) Provides evidence to the Office of the individual's ability to read and write.

C. Additional Requirements.

(1) An individual applying for a permit as a registered crematory operator shall provide the Office with a detailed description of activities including, but not limited to, whether the applicant has:

(a) Had a license, certification, registration, or permit of the type for which the application is being made ever denied, suspended, or revoked by any jurisdiction;

(b) Been convicted of a felony in any State or federal court;

(c) Been convicted in any State or federal court of a misdemeanor directly related to the ownership or operation of a crematory;

(d) Had any civil judgments or settlements within the 5 years before applying for a permit which directly related to the ownership or operation of a crematory; or

(e) Been convicted by a court in this State of violating a usury provision under Commercial Law Article, Title 12, Annotated Code of Maryland, or an unfair and deceptive trade practices provision under Commercial Law Article, Title 13, Annotated Code of Maryland.

(2) An applicant shall submit copies of all:

(a) Charging documents which were issued and docket entries for convictions, which occurred before applying for a permit, for a misdemeanor or felony referred to in §C(1)(b),(c), or (e) of this regulation;

(b) Disciplinary actions, judgments, and final orders which occurred or were issued before applying for a permit for any regulatory probation, suspension, or revocation referred to in §C(1)(a) of this regulation; and

(c) Civil judgments or settlements against the applicant within the past 5 years which directly relate to the ownership or operation of a crematory.

(3) An individual applying for a permit, who is designated by the crematory authority as the responsible party, shall state the name and residential address of each employee who sells goods or services to the public while engaging in the operation of a crematory.

D. A registered crematory operator may not be designated as the responsible party for more than two crematories.

E. An individual may be issued permits for affiliations with more than one crematory if each affiliated crematory is owned by the same individual or entity.

F. An individual who will become the registered crematory operator for a crematory which was in operation prior to the effective date of this chapter or for a crematory which has filed an application for a permit pursuant to this chapter shall obtain the certification and training required by §B(5) and (6) of this regulation within 90 days from the effective date of this chapter or be subject to action by the Office.

.06 Permit—Requirements for Permit for a New Crematory Owned by a Corporation, Limited Liability Company, or Partnership.

A. A corporation, limited liability company, or partnership shall receive a permit to operate a new crematory in this State if the corporation, limited liability company, or partnership meets the permit requirements of this regulation.

B. A corporation, limited liability company, or partnership shall receive a permit from the Office if, at least 30 days prior to the opening of the new crematory, the entity:

(1) Completes an application form;

(2) Pays the nonrefundable application fee and any other fees due under this chapter;

(3) Provides the name, address, and phone number of each affiliated crematory;

(4) Designates a registered crematory operator as the responsible party for each affiliated crematory provided that the registered crematory operator may not be designated as the responsible party for more than a total of two crematories;

(5) Provides a list of the officers, members, partners, agents, and employees of the entity applying for the permit; and

(6) Provides an affidavit stating that the corporation, limited liability company, or partnership:

(a) Is financially stable; and

(b) Has the ability to continue to operate the crematory business for a 2-year period after issuance of a permit.

C. Crematories not in operation prior to the effective date of this chapter shall be certified by:

(1) The Cremation Association of North America (CANA);

(2) The International Cemetery, Cremation and Funeral Association (ICCFA); or

(3) Another equivalent body recognized by the Office and the Board.

.07 Permit—Requirements for a New Crematory Owned by a Sole Proprietor.

A. A sole proprietor applicant for a new crematory shall receive a permit to operate if the sole proprietor applicant meets the permit requirements of this regulation.

B. A sole proprietor shall receive a permit from the Office if, at least 30 days prior to the opening of the new crematory, the sole proprietor applicant:

(1) Completes an application form;

(2) Pays the nonrefundable application fee and any other fees due under this chapter;

(3) Provides the name, address, and phone number of each affiliated crematory;

(4) Designates a registered crematory operator as the responsible party for each affiliated crematory provided that the registered crematory operator may not be designated as the responsible party for more than a total of two crematories;

(5) Provides an affidavit stating that the new crematory business:

(a) Is financially stable; and

(b) Has the ability to continue to operate the crematory business for a 2-year period after issuance of a permit; and

(6) Provides evidence to the Office of the individual's ability to read and write.

C. Before applying to the Office for a permit, any crematory not in operation before the effective date of this chapter, shall have in its employ an individual who holds a certification from:

(1) The Cremation Association of North America (CANA);

(2) The International Cemetery, Cremation and Funeral Association (ICCFA); or

(3) Another equivalent body recognized by the Office and the Board.

.08 Change of Information.

The responsible party shall notify the Office of any change in the information provided in the application for permit for a crematory or for a permit as a registered crematory operator, either before or after the issuance of a permit, within 1 week of the date of the change.

.09 Renewal.

A. Before the expiration date of a permit, a permit holder shall complete and return the renewal form, pay the renewal fee, and submit any required documentation.

B. A person who has a permit to engage in the operation of a crematory or a permit as a registered crematory operator may renew the permit every 2 years, beginning on a date specified by the Office, in the following manner:

- (1) Complete the renewal application form;
- (2) Pay the nonrefundable renewal fee set forth in Regulation .13 of this chapter;
- (3) Meet the permit requirements under Regulation .03, .04, or .05 of this chapter; and
- (4) Submit the documentation required by Regulation .03, .04, or .05 of this chapter.

C. After the expiration date of a permit, if a permit holder has not yet applied for renewal, the permit holder is no longer authorized to engage in the operation of a crematory or to act as a registered crematory operator.

D. If a permit holder completes the renewal application process set forth in Regulation .09B of this chapter before the expiration date of the permit and the Office does not renew the permit before its expiration date, the permit holder is considered to be actively permitted until receipt from the Office of either a renewed permit or a notice of denial of a permit.

E. If a permit holder applies for renewal of a permit after the expiration date of the permit, the permit holder shall pay the renewal fee plus the late renewal fee under Regulation .12 of this chapter.

.10 Lapsed Permit.

A person who has been issued a permit and who has allowed the permit to lapse for at least 6 months may apply for a permit in the following manner:

- A. Complete a permit application form;
- B. Pay the permit fee and the late renewal fee under Regulation .12 of this chapter;
- C. Meet the permit requirements under Regulation .03, .04, or .05 of this chapter;
- D. Submit the documentation required by Regulation .03, .04, or .05 of this chapter;
- E. Provide a full written explanation to the Office detailing the reasons why the permit was allowed to expire and why a permit is now sought; and
- F. Submit to the Office an affidavit stating that the person did not engage in the operation of a crematory or act as a registered crematory operator in this State while the permit was lapsed.

.11 Hearings—Permit Denial.

A. Permit Denial. An applicant or permit holder applying for an initial or renewal permit to the Office may be denied the issuance of a permit, subject to the hearing provisions of Business Regulation Article, §5-312, Annotated Code of Maryland.

B. Hearing Before Director of Office.

(1) Except as otherwise provided in §B(2)—(6) of this regulation, all contested cases before the Director of the Office shall be governed by COMAR 09.01.02.

(2) An applicant who has been notified that a new or renewal permit has been or may be denied and who requests a hearing before the Director of the Office must file the request for a hearing not later than 30 days after the notice of proposed action was mailed.

(3) The Director of the Office shall send the hearing notice described in COMAR 09.01.02.07B at least 10 days before the hearing or, if the parties have agreed to a date for which 10 days notice cannot be given, at the earliest time possible.

(4) The notice to an applicant that a new or renewal permit has been or may be denied shall state that the proposed action of the Director of the Office shall be affirmed if:

- (a) A hearing is not requested within 30 days after the date the notice of proposed action was mailed; or

(b) The applicant fails to appear for the hearing after requesting a hearing.

(5) If, after a hearing, the proposed action of the Director of the Office is upheld, the appellant shall pay the hearing costs described in Regulation .12 of this chapter.

C. Hearings Delegated by the Office to the Office of Administrative Hearings. All contested case hearings delegated to the Office of Administrative Hearings shall be governed by COMAR 09.01.03.

.12 Fees.

A. Permit fees:

- (1) Crematory permit — \$350;
- (2) Registered Crematory Operator permit — \$300;
- (3) Crematory permit renewal — \$350;
- (4) Registered Crematory Operator permit renewal — \$300;

and

- (5) Late renewal fee — \$200.

B. Miscellaneous fees:

- (1) Replacement of permit — \$50;
- (2) Returned check fee — \$50;
- (3) Additional copy of permit — \$50;
- (4) Business name change — \$50;
- (5) Personal name change — \$50;
- (6) Business address change — \$50; and
- (7) Annual preneed sales trust report — \$25.

C. Hearing costs described in Business Regulation Article, §5-312(h), Annotated Code of Maryland, shall be determined to be the cost of a court reporter and the transcripts ordered by the Office, or by the Office of the Attorney General, for the purpose of presenting a case alleging violation of Business Regulation Article, Title 5, Annotated Code of Maryland, before the Office or before the Office of Administrative Hearings,

.13 Display of Permit.

A permit holder shall display the permit conspicuously, in a public area at each business address of the permit holder.

09.34.07 Crematories — Inspections, Complaints, and Discipline

Authority: Business Regulation Article, §§5-204, 5-310, and 5-311, Annotated Code of Maryland

.01 Scope.

This chapter governs crematory inspections, the complaint process, investigations, grounds for discipline, and penalties.

.02 Inspection by the Office.

A. A crematory shall be available for inspection by a representative of the Office at any time during operating hours.

B. Each crematory shall be inspected:

- (1) On at least a biennial basis;
- (2) In furtherance of an investigation; or
- (3) Upon the sale or change of ownership of the crematory.

C. A crematory shall maintain the following minimum standards:

(1) The premises shall be maintained in a sanitary manner to comply with Centers for Disease Control’s guidelines on universal precautions;

(2) Except by express, written consent of the authorizing agents to perform simultaneous, multiple cremations, there shall be no more than one human body cremated in a single cremator at a time;

(3) A cremator shall be cleaned completely after each cremation;

(4) There may not be co-mingling of human remains and pet remains in refrigeration units or cremation machinery;

(5) *Separate cremators shall be dedicated for the cremation of human remains and the cremation of pets;*

(6) *There may not be:*

(a) *Co-mingling of cremated human remains with other cremated human remains or pet remains;*

(b) *Scooping of cremated human remains from a bucket containing commingled cremated human remains; or*

(c) *Any form of misrepresentation in the return of cremated human remains;*

(7) *Excluding a deceased person with a known communicable infection, human remains shall be properly identified before cremation by verifying that the documentation accompanying the human remains is consistent with a visual observation of the human remains;*

(8) *A burial transit permit shall be an original document pertaining to the deceased;*

(9) *Each crematory shall have:*

(a) *A sink with hot and cold water in the room in which the cremator is housed; and*

(b) *The equipment necessary to thoroughly clean the floor within the room housing the cremator with water and an appropriate sanitizing agent;*

(10) *The name of the deceased shall be visible on the outside of the cremation container;*

(11) *Human remains shall be properly stored prior to cremation;*

(12) *Crematories shall:*

(a) *Use only mechanical pulverizing equipment meeting industry standards that has been thoroughly brushed as clean as possible between each use; and*

(b) *Pulverize the cremated human remains with a mortar and pestle when the cremated human remains are not sufficient in amount for pulverizing in mechanical equipment;*

(13) *Separate pulverizing drums shall be dedicated for cremated human remains and cremated pet remains;*

(14) *Before pulverizing, the mechanical pulverizer shall be clamped;*

(15) *A crematory may not refuse to release cremated human remains pending payment of outstanding fees;*

(16) *Within 6 months of the effective date of this regulation, cremators without safety devices that prevent the automatic door from dropping prematurely shall be retrofitted with such safety devices;*

(17) *Portable fans may not be used in the area of the cremator or pulverizing equipment;*

(18) *There shall be a minimum of 6 inches between a cremator smoke stack and the roof of the crematory;*

(19) *A cremator shall have, visible on its front, a warning sign stating "No leaning past the door of the cremator.";*

(20) *The permit holder or registered crematory operator shall be present at the crematory during regular business hours; and*

(21) *All individuals who operate the cremator in a crematory shall be certified by the Cremation Association of North America (CANA), International Cemetery, Cremation and Funeral Association (ICCF), or other equivalent certification recognized by the Office and the Board. Individuals receiving training toward certification to operate a cremator shall be allowed to work under the supervision of a registered crematory operator who has the required certification for a period not to exceed 6 months.*

D. *The following completed forms shall be available at all times for inspection and copying and are subject to be pulled at random by the inspector:*

(1) *Cremation authorization form;*

(2) *Burial transit permit;*

(3) *Delegation of authority form;*

(4) *Receipt for human remains;*

(5) *Record of cremation;*

(6) *Certificate of cremation; and*

(7) *Return of human cremated remains certificate.*

E. *Inspection results shall be written on forms approved by the Office.*

F. *The representative of the Office performing the inspection shall, upon completion of the inspection:*

(1) *Apprise the permit holder of the findings of the inspection; and*

(2) *Provide the permit holder or a representative of the permit holder with a copy of the inspection report.*

G. *The permit holder or representative of the permit holder shall sign and verify receipt of the inspection report.*

H. *At the time of the Office's inspection, the permit holder shall provide written documentation to the Office's inspector that:*

(1) *The cremator has been inspected in accordance with manufacturer specifications;*

(2) *In accordance with manufacturer specifications, it is not time for a manufacturer's inspection; or*

(3) *The permit holder has requested that the manufacturer conduct an inspection of the cremator.*

.03 Crematory Inspection Report, Deficiencies, Violations, and Penalties.

A. *The Director of the Office shall review the inspection report and make a determination as to whether a deficiency exists.*

B. *The Office shall notify the permit holder of the results of the inspection by providing a copy of the inspection report to the permit holder.*

C. *If a permit holder passes an inspection, the permit holder shall prominently display, in public view on the premises, a statement issued by the Office that the crematory has successfully passed an inspection.*

D. *If the Director of the Office finds a deficiency, the Director of the Office shall:*

(1) *Within 7 days notify the permit holder of the deficiency or failure to pass the inspection; and*

(2) *Provide a copy of the inspection report, notice of the deficiency, or failure to pass the inspection to the crematory permit holder within 30 days of completion of the inspection.*

E. *Correction of Deficiency.*

(1) *Except as provided in this section, a crematory permit holder shall correct a deficiency within 30 days after receipt of notification or sooner as determined by the Office.*

(2) *The Office may require immediate correction of a deficiency if the Office considers the correction necessary in the interest of public health.*

(3) *The crematory permit holder may request an extension of time within which to correct a deficiency.*

(4) *The Office may approve an extension of time for correction of a deficiency.*

(5) *Upon completion of the correction of all deficiencies, the crematory permit holder shall notify the Office.*

(6) *Upon notification by the crematory permit holder, a representative of the Office shall re-inspect the crematory.*

(7) *The Office shall notify the crematory permit holder, in writing, of the results of the re-inspection report by providing a copy of a new inspection report to the crematory permit holder.*

(8) *If re-inspection reveals additional deficiencies not cited in the first report, the crematory permit holder shall correct those deficiencies in the time period specified by the Office unless an extension of time for correction of the additional deficiencies is requested by the crematory permit holder and approved by the Office.*

F. *Penalties.* In the event that a crematory permit holder fails to allow an inspection of the crematory or fails to comply with a notice to correct deficiencies or violations within the time specified, the Office shall:

- (1) Deem the failure to be a threat to the public health, safety, or welfare requiring immediate action;
- (2) Summarily suspend the crematory permit as provided under State Government Article, §10-226(c)(2), Annotated Code of Maryland;
- (3) Provide notice of the Office's action to the crematory permit holder; and
- (4) Provide the crematory permit holder a subsequent opportunity for a hearing pursuant to Business Regulation Article, §5-312, Annotated Code of Maryland.

.04 Complaints.

A. A complaint regarding a crematory authority or a registered crematory operator under the jurisdiction of the Office shall be:

- (1) Filed by the complainant, on a form devised by the Office in compliance with the provisions of Business Regulation Article, §5-311(b), Annotated Code of Maryland; and
- (2) Processed in accordance with the provisions of Business Regulation Article, §5-311(c)—(h), Annotated Code of Maryland.

B. The Office may initiate a complaint or investigation.

.05 Investigations.

The Office and the Board may share investigative information and conduct joint investigations.

.06 Grounds for Discipline and Penalties.

A. Subject to the hearing provisions of Business Regulations Article, §5-312, Annotated Code of Maryland, the Director of the Office of Cemetery Oversight may deny a crematory permit or registered crematory operator permit to an applicant, reprimand any person required to obtain a crematory permit or registered crematory operator permit, or suspend or revoke a crematory permit or registered crematory operator permit of an applicant or permit holder, or an agent, employee, officer, director, or partner of the applicant or permit holder for the reasons set forth in Business Regulation Article, §5-310, Annotated Code of Maryland.

B. The Director of the Office may seek the remedies and may impose the penalties set forth in Business Regulation Article, Title 5, Annotated Code of Maryland, for violations of that title.

09.34.08 Crematories — Cremation Procedures

Authority: Business Regulation Article, §5-204, Annotated Code of Maryland

.01 Scope.

This chapter governs the procedures to be followed by a permit holder in performing a cremation in this State.

.02 Removal, Identification, and Transportation of Human Remains.

A. Upon receipt of human remains, a permit holder, in the presence of the authorizing agent or representative of the funeral establishment engaging crematory services, shall:

- (1) Verify that the information on the wrist tag of the human remains is consistent with the documentation accompanying the human remains and consistent with the visual observation of the human remains;
- (2) Use a metal detector wand to inspect for the presence of any battery operated, implanted devices including pacemakers, defibrillators, or pain relief devices;
- (3) Refuse to accept human remains for cremation if an inspection of the human remains indicates the presence of any battery operated, implanted device;

(4) Remove and properly dispose of any hazardous object or any other materials that the permitted designee of the crematory authority deems should be removed from the human remains or cremation container in order to prevent harm to the public health or damage to the cremator;

(5) Remove any jewelry on the human remains or in the cremation container;

(6) Return any removed jewelry to the authorizing agent or representative of the funeral establishment engaging cremation services; and

(7) Obtain a signed, itemized receipt from the authorizing agent or representative of the funeral establishment engaging cremation services for the removed jewelry and retain the receipt as a permanent record.

B. Foreign objects removed from the human remains:

(1) Shall be treated as medical waste and disposed of accordingly; and

(2) May not be donated until a sterilization process through a third party, recognized by the Office, to dispose properly of medical waste has been performed.

C. Materials identifying the human remains placed in the custody of a crematory authority shall contain the following information:

- (1) Name;
- (2) Date of birth;
- (3) Date of death;
- (4) Name of funeral establishment or authorizing agent;
- (5) Gender; and
- (6) Name and relationship of authorizing agent to the decedent.

D. A crematory authority shall not accept unidentified human remains for cremation.

.03 Cremation Container.

A. A cremation container:

- (1) Shall be a readily combustible, rigid container suitable for cremation;
- (2) Shall provide a completely enclosed covering for the human remains;
- (3) Shall be resistant to leakage or spillage;
- (4) Shall be of sufficient strength and rigidity for ease of handling;
- (5) Shall provide protection to the health and safety of crematory establishment personnel;
- (6) Shall comply with all local, State, and federal governmental emissions regulations; and
- (7) May not be composed of metal or polyethylene material.

B. A cremation container which appears to be heavily coated with varnish, lacquer, or any other highly combustible substance shall be:

- (1) Placed in a cold cremator within which no cremation has occurred in the prior 4 hours; or
- (2) Coated completely with water before being placed in the cremator.

.04 Holding Facilities.

A holding facility shall:

- A. Comply with applicable public health laws;
- B. Preserve the dignity of human remains;
- C. Recognize the integrity, health, and safety of crematory establishment personnel; and
- D. Be secure from access by unauthorized persons.

.05 Holding Remains.

A. Unless prevented by emergency circumstances, human remains that have been designated for cremation shall be cremated by a crematory authority within 48 hours after receipt.

B. A crematory authority may not hold human remains for cremation unless the human remains are contained within an individual, rigid, stackable, closed cremation container.

C. A crematory authority may not accept a cremation container from which there is any evidence of leakage of the body fluids from the human remains therein.

D. Whenever a crematory authority is unable to cremate human remains within 48 hours of taking custody thereof due to emergency circumstances, the crematory authority shall maintain the human remains in a refrigerated holding facility, either on or off site, at 40° F or less, unless the remains have been embalmed.

.06 Identification of Human Remains Immediately Prior to Cremation.

A. Immediately prior to being placed within the cremator, a designee of the crematory authority shall:

- (1) Verify the identification of the human remains; and
- (2) Place in the cremator the circular, hard metal identification disc of the human remains being cremated where it shall remain in place until the cremation process is complete.

B. The designee of the crematory authority who is operating the cremator may not leave the immediate area of the cremator during the cremation process.

.07 Cremation Authorization.

A. Except as otherwise provided in this regulation, a crematory authority may not cremate human remains until:

- (1) The body has been identified as required by Health Occupations Article, §7-411, Annotated Code of Maryland;
- (2) The crematory has received:
 - (a) A cremation authorization on a form approved by the Office and signed by an authorizing agent;
 - (b) If applicable, a written delegation document or facsimile; and
 - (c) Any other documentation required by federal, State, or local law; and
- (3) The crematory authority has documented that at least 12 hours have elapsed from the time of death of the individual whose remains are to be cremated.

B. The cremation authorization form shall:

- (1) Be provided by the crematory authority to the authorizing agent, and signed by the authorizing agent;
- (2) Contain the following information:
 - (a) The identity of the human remains;
 - (b) Date of death;
 - (c) The name and address of the crematory where the cremation will occur;
 - (d) The name and address of the authorizing agent and the relationship between the authorizing agent and the deceased;
 - (e) Authorization for the crematory authority to cremate the human remains;
 - (f) Authorization to verify that the following have been removed prior to cremation:
 - (i) Implanted pacemaker or defibrillator; or
 - (ii) Any other materials that the crematory authority deems should be removed to prevent harm to the public health or damage to equipment;
 - (g) A representation by the authorizing agent that radiological implant treatment has not occurred to the human remains within 5 days before cremation;
 - (h) A representation that the authorizing agent is aware of no objection to the human remains being cremated by any person who has a right to control the disposition of the human remains; and
 - (i) The name and address of the person authorized to claim the cremated remains from the crematory authority or accept the cremated remains via registered mail; and

(3) Be signed by the authorizing agent.

C. If an authorizing agent is not available to execute the cremation authorization form, the authorizing agent may delegate that authority to another individual:

- (1) In writing; or
- (2) If located outside the area, by transmitting to the crematory authority:

(a) A signed, notarized statement, electronically or by facsimile device, that contains the name, address, and relationship of the sender to the deceased and the name and address of the individual to whom authority is delegated; and

(b) Once the authorizing agent is located in the area, a notarized statement, through the United States Postal Service attesting to the delegation of authority.

D. Upon receipt of the written delegation document or a copy of the delegation statement transmitted electronically or by facsimile device, the crematory authority shall allow the named individual to serve as the authorizing agent. The documents shall be signed by the authorizing agent in the presence of a notary.

E. A person signing a cremation authorization form is deemed to warrant the truthfulness of any facts set forth in the cremation authorization form, including the identity of the deceased whose remains are sought to be cremated and the authority of that person to order such a cremation.

F. A crematory authority shall notify and obtain the written consent of the authorizing agent before the cremation of human remains at a location other than the location named on the cremation authorization form.

G. A crematory authority shall maintain a copy of every cremation authorization form required under this regulation as permanent records.

H. Cremation authorization records are subject to inspection and copying by the Office.

.08 Record of Receipt of Remains.

A. A crematory authority shall provide to an individual who delivers human remains for cremation a receipt signed by both the crematory authority and the person who delivered the human remains, that includes the:

- (1) Name of the individual from whom the human remains were received and the name of the individual's employer, if any;
- (2) Name and address of the crematory authority;
- (3) Name and address of the deceased;
- (4) Gender of the deceased;
- (5) Date of death of deceased; and
- (6) Verification of authorized burial transit permit.

B. The crematory authority shall maintain a record of each cremation which shall include the:

- (1) Name of the deceased;
- (2) Date of birth of the deceased;
- (3) Date of death of the deceased;
- (4) Gender of the deceased;
- (5) Name and address of the authorizing agent;
- (6) Date, time, and location of cremation; and
- (7) Name of the individual who performed the cremation.

C. The crematory authority shall provide a certificate of disposition of cremated human remains to the authorizing agent or funeral establishment that arranged for the cremation that contains the:

- (1) Name of the deceased;
- (2) Name of the authorizing agent;
- (3) Date, time, and location where cremation occurred;
- (4) Name of the individual who performed the cremation;
- (5) Name and address of the person who received the cremated human remains from the crematory authority; and

(6) If ascertainable, the location, including the name of the cemetery and plot location if the remains are interred, the manner, and the date of the disposition of the cremated human remains.

D. The crematory authority shall maintain a copy of every record and receipt required by this regulation as permanent records.

E. All records required to be maintained by a crematory authority by this chapter are subject to inspection and copying by the Office.

.09 Use of a Casket; Embalming.

A. Except as provided in §B of this regulation, a crematory authority may not:

(1) Require that human remains be placed in a casket before cremation or that human remains be cremated in a casket;

(2) Refuse to accept human remains for cremation because the remains are not in a casket; or

(3) Refuse to accept human remains for cremation because the remains are in a suitable, combustible wooden casket, but may request the authorizing agent or funeral establishment engaging the services of the crematory authority to remove the metal mattress holder in the casket.

B. Human remains delivered to a crematory authority may not be removed from the cremation container and the cremation container shall be cremated with the human remains unless the authorizing agent for the deceased requests that the human remains be placed in the cremator without enclosure in a cremation container.

C. The cremation container shall be cremated with the human remains unless the authorizing agent for the deceased requests a more natural environment for the deceased. A crematory authority is not required to accept this manner of disposition.

D. A crematory authority may not require that human remains be subjected to embalming before cremation.

.10 Disposition of Cremated Human Remains.

A. Upon completion of the cremation, insofar as is possible:

(1) All of the recoverable residue of the cremation process shall be:

(a) Removed from the cremator;

(b) Except for medical devices remaining after cremation, processed; and

(c) Placed in a container; and

(2) The identification disc required by Health Occupations Article, §7-411, Annotated Code of Maryland, shall be:

(a) Removed from the cremator; and

(b) Placed in the container with the cremated human remains.

B. Medical devices which remain after the completion of the cremation process shall be treated as medical waste and disposed of accordingly.

C. After pulverization, all of the processed human remains, together with the identification disc, shall be placed in a sealable container.

D. If the cremation container opening is not of adequate dimensions to accommodate an identification disc, it shall be affixed to the container and a record of the cremation number shall be placed in the container.

E. If all of the processed human remains and the identification tag will not fit within the dimensions of a sealable container, the remainder of the processed human remains shall be returned to the authorizing agent, or the agent's representative, in a separate, sealable container. Container seams shall be taped.

F. If the processed human remains and identification tag do not adequately fill the container's interior dimensions, the extra space may be filled with packing material that will not become intermingled with the processed human remains and then securely closed.

G. If a sealable container containing processed human remains is to be shipped, the sealable container shall:

(1) Be placed within a separate sturdy box with all box seams securely taped closed; and

(2) Have the name of the deceased person whose processed human remains are contained therein legibly written on the outside of the container.

H. If processed human remains have been in the possession of a crematory authority, as originally authorized by the authorizing agent, without instructions for disposition, for a period of 10 days or more from the date of cremation, the crematory authority may send the processed human remains, using the current mailing standard approved by the U.S. Postal Service, to the authorizing agent.

.11 Tools.

A crematory shall maintain, at its own expense, the following tool inventory:

A. Safety placement tool measuring a minimum of 49 inches in length;

B. Wire brushes for cleaning cremators;

C. Brush with fine bristles for cleaning pulverizers;

D. Mortar and pestle;

E. Funnel;

F. High temperature protective gloves and heat resistant leather gloves;

G. Hand magnet and metal detector wand to detect and remove metal from cremated human remains;

H. Tweezers to remove nonmetal objects from cremated human remains; and

I. Dust masks.

.12 Visitors.

A. The crematory permit holder or registered crematory operator shall:

(1) Submit to the Office the number of persons not affiliated with the operation of the crematory who can safely be within the same room and within 10 feet of the cremator door; and

(2) Verify to the Office that the crematory permit holder has submitted the information required in §A(1) of this regulation to their liability insurance carrier.

B. Crematories that begin operation after July 1, 2014, shall construct a viewing room the area of the cremator if the crematory authority intends to permit more than two visitors present in the area of the cremator during a cremation.

09.34.09 Crematories — Code of Ethics

Authority: Business Regulation Article, §§5-204 and 5-310, Annotated Code of Maryland

.01 Scope.

This chapter governs any person who holds a permit, pursuant to Business Regulation Article, Title 5, Annotated Code of Maryland, to engage in the operation of a crematory or to act as a registered crematory operator.

.02 General Professional Practices.

A. A permit holder shall:

(1) Act in a manner that respects and protects the dignity of a decedent and the decedent's family;

(2) Conduct business in a reasonable, usual, and customary manner;

(3) Comply with the State public health laws as set forth in Health General Article, §§4-215 and 5-501 et seq., Annotated Code of Maryland;

(4) Comply with Business Regulation Article, Title 5, Annotated Code of Maryland;

- (5) *Comply with the Commercial Law Article, Titles 12 and 13, Annotated Code of Maryland;*
- (6) *Implement and follow through on all arrangements agreed upon between a consumer and the crematory;*
- (7) *Provide appropriate services for and respect the rights of individuals without regard to age, race, creed, national origin, gender, disability, marital status, political belief, religious affiliation, social or economic status, or social preferences;*
- (8) *Comply with all local, State, and federal laws for regarding the disposition of human remains;*
- (9) *Be sensitive and responsive to the bereavement needs of a decedent's family;*
- (10) *Provide a general price list in effect at that time, in accordance with the requirements of the Federal Trade Commission's funeral rule found at 16 CFR part 453; and*
- (11) *Provide accurate information from the general price list to any person who requests information, by telephone, regarding cremation related goods or services.*

B. In advertising, a permit holder may not include statements:

- (1) *That are misrepresentations of facts;*
- (2) *That are likely to mislead or deceive because, in context, the statement makes only a partial disclosure of relevant facts;*
- (3) *Relating to fees without reasonable disclosure of all relevant variables so that the statement would not be misunderstood or be deceptive to a consumer; or*
- (4) *Containing representations or implications that in reasonable probability can be expected to cause an ordinarily prudent person to misunderstand or be deceived.*

C. A permit holder or registered crematory operator may not:

- (1) *Use, or participate in the use of, any form of communication to consumers containing a false, fraudulent, misleading, deceptive, or unfair statement or claim; or*
- (2) *Operate a crematory or perform a cremation while under the influence of alcohol, an illegal drug, or a controlled dangerous substance which has not been prescribed by a physician.*

MARILYN HARRIS-DAVIS
 Director
 Office of Cemetery Oversight

**Subtitle 37 WORKFORCE
 DEVELOPMENT AND ADULT
 LEARNING**

09.37.01 Alternate Ways to Earn a High School Diploma

Authority: Labor and Employment Article, §§11-807 and 11-808, Annotated Code of Maryland

Notice of Proposed Action
 [14-026-P]

The Secretary of Labor, Licensing, and Regulation proposes to amend Regulations .01 — .20 under **COMAR 09.37.01 Alternate Ways to Earn a High School Diploma**.

Statement of Purpose

The purpose of this action is to bring the current regulations in line with recent changes to the governing statute, Labor and Employment Article, Title 11, Subtitle 8, Annotated Code of Maryland, as well as changes to the provision of the high school equivalency examination program, the GED. The GED tests will be available only in a computer-based format effective January 1, 2014.

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 Patricia Tyler, Director of Adult Learning, Department of Labor, Licensing, and Regulation, 1100 N. Eutaw Street, Baltimore, MD 21201, or call 410-767-1008, or email to ptyler@dllr.state.md.us, or fax to 410-225-7208. Comments will be accepted through February 28, 2014. A public hearing has not been scheduled.

.01 Definitions.

- A. (text unchanged)
- B. Terms Defined.

(1) *“Applicant” means the individual who is seeking to take the GED® Tests.*

(2) *“Candidate” means an individual who is deemed eligible to take the GED® Tests, is scheduled to sit for the GED® Tests, or has taken the GED® Tests.*

[(1)] (3) (text unchanged)

(4) *“GED®” means the nationally recognized high school equivalency test program.*

(5) *“Module” means a single subject area being measured by the GED® Tests.*

[(2)] (6) — [(3)] (7) (text unchanged)

.02 [General Educational Development] GED® Testing Program Description.

A. The [General Educational Development (GED)] *GED® Tests* offer an alternate and acceptable way for an individual [16 years old or older] *who is older than the age required for compulsory school attendance set by Education Article, §7-301, Annotated Code of Maryland*, to earn a *Maryland* high school diploma.

B. Candidates who successfully complete the *GED® Tests* are awarded a *Maryland* high school diploma by the State Board *and the Department*.

C. A *successful GED® [graduate] candidate* may not be awarded any other *Maryland* high school diploma either by the State Board or by a local school system.

.03 The GED® Tests — Scope and Content.

A. The *GED® Tests* [include writing skills, social studies, science, interpreting literature and the arts, and mathematics. Each test measures the major subject area skills considered to be the outcomes of a high school education] *will measure the major subject area skills required of a high school education as determined by the national testing service issuing the GED® instrument.*

B. *The GED® Tests will be offered in modules of each of the major subject areas and each module may be scheduled separately.*

C. *The GED® Tests are given on computer at an approved test center.*

[B.] D. The State Board shall review and approve the State [license] agreement with the Department and the [American Council on Education] *national testing service issuing the GED® instrument.*

.04 Applicant Eligibility.

An applicant is eligible to take the GED® Tests if the applicant:

A. [Has been a Maryland resident for at least 3 months] *Resides in the State of Maryland* at the time of testing[, unless the Secretary has waived this requirement in accordance with the procedures set out in Regulation .18 of this chapter];

B. [Is at least 16 years old] *Is older than the age requirement for compulsory school attendance set by Education Article, §7-301, Annotated Code of Maryland*; and

C. (text unchanged)

.05 Date, Time, and Place of Testing.

A. Various GED® test centers shall be operated throughout Maryland. [The GED testing application form lists locations of test centers.]

B. [Test dates, times, and locations] *Scheduling of the GED® Tests shall be done by the applicant via the internet. A link to the national testing service issuing the GED® instrument, locations of test centers and other pertinent information shall be posted on the Department's website and be available from the GED® Testing Office at the Department.*

.06 Requirements for Applying to Take the GED® Tests.

A. [At the time application is made to the Maryland GED Testing Office, an] *An applicant shall be required to demonstrate identity, age, and residency by [attaching a copy of one of the following to the application] providing one of the following at the test center:*

(1) — (2) (text unchanged)

(3) A current official photo ID issued to an incarcerated individual, with name, current address, date of birth, and signature, by the Department of Juvenile Services, the Department of Public Safety and Correctional Services, or other residential facility accepted by the State GED® Administrator;

(4) A current official photo ID issued to an individual, with name, current address, date of birth, signature, and current address issued by a residential facility accepted by the State GED® Administrator; or

(5) (text unchanged)

B. If none of the forms of identification and residency identified in §A of this regulation are attainable, prior to [making application to the Maryland GED Testing Office] *scheduling a GED® test*, the applicant may apply to the Secretary for a waiver in accordance with the procedures set out in Regulation .18 of this chapter. The applicant shall provide *to the GED® Testing Office* one or more forms of identification which collectively show name, address, date of birth, signature, and photograph. If the Secretary *or the Secretary's designee* is satisfied that the documentation of identification is authentic and valid, and the individual meets age and residency requirements, the Secretary may issue a waiver. The applicant shall [attach the Secretary's waiver to the application along with copies of] *present* the documentation submitted to the Secretary in support of the waiver [and shall present the waiver and supporting documentation at] *to the test center.*

C. In addition to the documentation required in §A or B of this regulation, [as part of the application,] the applicant shall:

(1) Provide the applicant's signature verifying his or her identity and residency in Maryland *at the test center at the time of testing*;

(2) Remit the appropriate fee along with the completed application *at the time of registration*; and

(3) For an applicant 18 years old or younger, present *to the GED® Testing Office prior to the scheduling of a GED® test*:

(a) — (c) (text unchanged)

.07 Fee Schedule.

A. The Department shall establish a reasonable fee schedule for the scheduling of tests, issuance of diplomas and transcripts, and related costs associated with the administration of the GED® Program.

B. (text unchanged)

.08 Admission to the GED® Test Center.

A. Confirmation of test date and location shall be [mailed or] transmitted electronically to GED® candidates before the assigned test date.

B. To be admitted to the test center, each candidate shall present documentation verifying identity, age, and Maryland residency as described in Regulation .06A of this chapter.

.09 Minimum Score Requirements for Award of Maryland High School Diploma.

A. To qualify for a Maryland high school diploma, a candidate shall earn[:] *the minimum passing score for each test module and the overall passing score for the entire battery of GED® Tests established by the national testing service issuing the GED® instrument.*

[(1) A standard score of at least 410 on each of the five tests; and

(2) An average standard score of at least 450 on all five tests.]

B. [Only tests taken within the past 5 years receive credit toward the diploma.] *Once a candidate receives a passing score on an individual module, that score is valid for up to 60 months from the date taken or until a new series of tests has been issued by the national testing service issuing the GED® instrument, whichever comes first.*

.10 Requirements for Retesting.

A. Candidates who have failed one or more [parts] *modules* of the GED® Tests and candidates who fail to report to the test center on the assigned date [shall wait 2 months before retesting] *may register for a retest and will be charged the applicable testing fee.*

B. Candidates who are retested shall be administered a different form of the GED® Tests from that previously administered.

C. [Three test forms are] *There is a maximum number of test forms* available from the [GED Testing Service of the American Council on Education] *national testing service issuing the GED® instrument* in any 1-year period.

D. A candidate who has taken all [three] forms of the Tests in a 1-year period is not eligible to retest until new forms of the GED® Tests are available from the GED® Testing Service.

E. A candidate seeking to retest shall [return the admission card or retest request form to the Maryland GED Testing Office along with the appropriate rescheduling fee] *register as proscribed in Regulation .05 of this chapter.*

.11 Permanent Record Changes.

A. Changes may not be made to a candidate's record after the diploma has been awarded unless the changes are a result of an error on behalf of the GED® Office and can be verified as such.

B. The State GED® Administrator shall make changes when the Maryland GED® Testing Office is known to be in error.

.12 Retention of Scores.

A. Passing scores that result in the issuance of a Maryland high school diploma shall be retained in perpetuity by the Maryland GED® Testing Office.

B. Passing, failing, and incomplete scores that do not result in the issuance of a Maryland high school diploma shall be retained by the Maryland GED® Testing Office for a period of *up to 60 months. All scores will be retained by the Maryland GED® Testing Office for up to 60 months or until a new series of tests has been issued by the*

national testing service issuing the GED® instrument, whichever comes first. Upon the expiration of 60 months or with the issuance of a new test series, all scores attained on the previous series that did not result in the issuance of a diploma will expire.

.13 Foreign Language GED Tests.

A. [The] *Each module of the GED® Tests may be taken in [Spanish or French] foreign languages as available from the national testing service issuing the GED® instrument, except as indicated in §D of this regulation.*

B. *If a candidate chooses to take a module in a foreign language, the entire module must be taken in the same language.*

C. *Separate modules may be taken in different languages if available from the national testing service issuing the GED® instrument.*

[B.] D. [In addition to the Spanish or French version of the GED Tests, a candidate shall take the writing skills test] *A candidate who chooses to take one or more modules in a foreign language must take the Reasoning Through Language Arts (RTLA) test module in English to demonstrate English proficiency.*

[C.] E. *A candidate who obtains passing scores on the [Spanish or French] foreign language tests and on the [writing skills] RTLA test in English, and who obtains the required overall passing score, shall be awarded a Maryland high school diploma.*

.14 Special Testing for Individuals with Disabilities.

A. [Special editions of the GED Tests are available for individuals with disabilities. These include an audiocassette tape version, a large-print version, and a Braille version.] *Accommodations for candidates with disabilities shall be made available. Individuals who request GED® testing accommodations shall provide appropriate documentation of their disability and the need for the requested testing accommodations, prior to scheduling.*

[B. Other special accommodations for candidates with disabilities shall be made available. Individuals who request GED testing accommodations shall provide appropriate documentation of their disability and the need for the requested testing accommodations, prior to scheduling.]

[C.] B. *An individualized assessment of each request for testing accommodations shall be made based on the documentation provided and in accordance with the documentation policies of the [GED Testing Service of the American Council on Education] national testing service issuing the GED® instrument.*

.15 GED® Tests Taken Out of State.

[A.] *Results of GED® Tests taken within the past 5 years at official GED® testing centers outside Maryland may be used for credit toward a Maryland high school diploma, if a GED® credential has not been issued and if the test results are from the same series as issued by the national testing service issuing the GED® instrument.*

[B. An official copy of test scores shall be sent directly to the Maryland GED Testing Office from the test center where the credit was earned.]

.16 Testing for Individuals Whose High School Records Are Unobtainable.

A. *An applicant, high school graduate, or nongraduate whose records are unobtainable may take the GED® Tests and be awarded a diploma without verification of school withdrawal required in Regulation [.06D].06C(3) of this chapter by:*

(1) *Making a written request to the State GED® Administrator;* and

(2) *(text unchanged)*

B. *Based on the facts and extenuating circumstances of each case, the State GED® Administrator has discretion to grant or deny*

requests to take the GED® Tests without official verification of school withdrawal.

.17 Test Security.

A. *To protect the security of the tests, the integrity of the testing procedure, and the validity of test scores, the State GED® Administrator has authority to invalidate test scores and to require the candidate to retest.*

B. *Misrepresentation of information on the GED® Tests application form may result in the revocation of the diploma.*

C. [The chief examiner at each test center has authority to request that a thumbprint of the candidate be taken at the time of testing if, in the chief examiner's judgment, additional verification of the candidate's identity is necessary] *Any violation of test center policy may result in ejection from the test center and invalidation of test scores.*

.18 Waivers.

A. *Waivers to the requirements of Regulations [.04(A),] .06(A)[,] and .07 of this chapter are granted only by the Secretary or the Secretary's designee in exceptional circumstances if it is in the candidate's best interest and in accordance with [this regulation] GED® testing standards.*

B. [Waiver of Withdrawal Prior to Application for Students with Disabilities.] *If the candidate is a student with a disability who receives special education and related services from a public or nonpublic program, [the following additional requirements may apply] the candidate must request a waiver of withdrawal from the Secretary prior to registration which requires that:*

(1) *The waiver application to the Secretary or the Secretary's designee shall include a copy of the student's current individualized education program indicating:*

(a) *That preparation for and taking of the GED® Tests is part of the student's transition plan pursuant to COMAR 13A.05.01.09A(3); and*

(b) *Any accommodations that the student may need for the GED® Tests;*

(2) *If it is necessary for the student to continue to attend school after the date of the filing of the waiver request in order to receive a free appropriate public education, the request shall indicate:*

(a) *That the student will withdraw from school before the GED® testing date; and*

(b) *(text unchanged)*

(3) *The request shall be appended with a release that:*

(a) *States that the parent has approved the waiver request and understands that receipt of a GED® diploma will conclude the student's eligibility for special education and related services;*

(b) — (c) *(text unchanged)*

(4) *Upon receipt of notice from the Department that the candidate has failed to pass the GED® Tests, the local school system shall convene an individualized education program team meeting pursuant to COMAR 13A.05.01.07—.08 to plan for:*

(a) *The student's resumption of special education and related services within 90 days of the GED® Tests date; and*

(b) *(text unchanged)*

C. *The [Secretary's] decision of the Secretary or the Secretary's designee on a waiver request is final.*

.19 Diplomas.

A. *A Maryland high school diploma shall be awarded to all candidates who successfully complete the GED® Tests. Diplomas shall be awarded [monthly] within a month of successful completion.*

B. *The diplomas shall be awarded by the State Board and the Department and shall bear the signatures of the Board President and the Secretary.*

.20 Maryland Adult External High School Program.

A. (text unchanged)

B. Procedures for Administering the Maryland Adult External High School Program and the Issuance of a Diploma.

(1) (text unchanged)

(2) Local [school systems] *grantees* receiving Department funding to implement the Maryland Adult External High School Program shall operate the program according to NEDP standards and requirements in addition to provisions identified in annual requests for proposals and requirements determined by the Department.

(3) Requirements for the program are described in manuals available at the Department of Labor, Licensing, and Regulation, 1100 North Eutaw Street, Baltimore, Maryland 21201. These manuals describe all diagnostic and assessment instruments, administrative procedures, evaluation criteria, eligibility of applicants, [time and place of testing,] *and* requirements for a diploma[, and reports of results to candidates].

(4) [Eligibility.] Residents of Maryland 18 years old or older who are not currently enrolled in a high school, who are not high school graduates, and who pass a screening test are eligible to register for the program.

(5) [Fees for Program Participation.] A registration fee shall be charged of each individual at the time of entering the program. If a student leaves the program before completion and subsequently elects to register at a later time, a new registration fee [shall] *may* be charged.

(6) [Revision.] The required assessment instruments shall comply with the most current standards and materials of the NEDP program to assure that they are valid.

(7) [Diplomas.] A Maryland high school diploma shall be awarded to each graduate upon certification by the External Diploma Regional Center Director that the program requirements have been satisfactorily met. Diplomas shall be awarded monthly. The diplomas shall be awarded by the State Board *and the Department* and shall bear the signatures of the Board President and the Secretary.

LEONARD J. HOWIE III
Secretary of Labor, Licensing, and Regulation

**Title 10
DEPARTMENT OF HEALTH
AND MENTAL HYGIENE**

**Subtitle 09 MEDICAL CARE
PROGRAMS**

Notice of Proposed Action

[14-030-P]

The Secretary of Health and Mental Hygiene proposes to:

(1) Repeal existing Regulations **.01— .37** and adopt new Regulations **.01— .27** under **COMAR 10.09.54 Home and Community-Based Options Waiver**; and

(2) Repeal in their entirety existing Regulations **.01— .34** under **COMAR 10.09.55 Living at Home Waiver Program**.

Statement of Purpose

The purpose of this action is to remove services that will be covered under a new State Plan program, COMAR 10.09.84 Community First Choice, and to implement the Home and Community-Based Options Waiver to include all remaining services and cover all participants previously eligible for services under the Home/Community Based Services Waiver for Older Adults and the

Living at Home Waiver Program under a single program. The proposed action is to be effective January 6, 2014.

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 an impact on individuals with disabilities as follows:

The proposed action will help to ensure that individuals with disabilities continue to receive waiver services from qualified providers.

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 W. Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 24, 2014. A public hearing has not been scheduled.

10.09.54 [Home/Community Based Services Waiver for Older Adults] Home and Community-Based Options Waiver

Authority: Health-General Article, §§2-104(b), 15-103, 15-105, and 15-132, Annotated Code of Maryland

.01 Definitions.

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

B. *Terms Defined.*

(1) *"Activities of daily living" means tasks or activities that include, but are not limited to:*

(a) *Bathing and completing personal hygiene routines;*

(b) *Dressing and changing clothes;*

(c) *Eating;*

(d) *Toileting, including:*

(i) *Bladder and bowel requirements;*

(ii) *Routines associated with the achievement or maintenance of continence; and*

(iii) *Incontinence care;*

(e) *Mobility, including:*

(i) *Transferring from a bed, chair, or other structure;*

(ii) *Moving, turning, and positioning the body while in bed or in a wheelchair; and*

(iii) *Moving about indoors or outdoors.*

(2) *"Area agency" has the meaning stated in Human Services Article, §10-101(b), Annotated Code of Maryland.*

(3) *"Assisted living services provider" means a provider licensed by the Department in accordance with COMAR 10.07.14.*

(4) *"Case management" means services which assist an applicant or a participant in gaining access to the waiver services covered under this chapter, as well as to other services under the Medical Assistance Program.*

(5) *"Case manager" means an individual performing case management services under a waiver program.*

(6) *Community Setting.*

(a) "Community setting" means the area, district, locality, neighborhood, or vicinity where a group of people live which provides participants with opportunities to:

(i) Seek employment and work in competitive integrated settings;

- (ii) Engage in community life;
- (iii) Control personal resources; and
- (iv) Receive services.

(b) "Community setting" does not mean:

- (i) Hospitals;
- (ii) Nursing facilities;
- (iii) Institutions for mental diseases;
- (iv) Intermediate care facilities for individuals with intellectual disabilities;

(v) Community-based residential facilities for individuals with intellectual or developmental disabilities licensed under COMAR 10.22.02;

- (vi) Prisons;
- (vii) Residential treatment centers; or

(viii) Any establishment that furnishes food, shelter, and some treatment or services to four or more persons unrelated to the proprietor.

(7) "Department" means the Maryland Department of Health and Mental Hygiene, or its authorized agent acting on behalf of the Department.

(8) "Family member" means an adult who:

- (a) Lives with or provides care to the participant; and
- (b) Is not paid to provide the care.

(9) "Home" means the participant's place of residence in a community setting.

(10) "Home and Community-Based Options Waiver" means the program implemented under this chapter in accordance with the document for this waiver and any amendments to it submitted by the Department and approved by the Secretary of Health and Human Services, which authorizes the waiver of certain specified statutory requirements limiting coverage for home and community-based services under the Maryland Medical Assistance Program.

(11) "Instrumental activities of daily living" means tasks or activities that include, but are not limited to:

- (a) Preparing meals;
- (b) Performing light chores that are incidental to the personal assistance services provided to the participant;
- (c) Shopping for groceries;
- (d) Nutritional planning;
- (e) Traveling as needed;
- (f) Managing finances and handling money;
- (g) Using the telephone or other appropriate means of communication;
- (h) Reading; and
- (i) Planning and making decisions.

(12) "Maryland Department of Aging" has the meaning stated in Human Services Article, Title 10, Annotated Code of Maryland.

(13) "Medicaid" means the Medical Assistance Program.

(14) "Medical Assistance Program" means the Program administered by Maryland under Title XIX of the Social Security Act, which provides comprehensive medical and other health-related care for categorically eligible and medically needy recipients.

(15) "Medical day care" means a program of medically supervised, health-related services provided in an ambulatory setting to medically handicapped adults who, due to their degree of impairment, need health maintenance and restorative services supportive to their community living in accordance with COMAR 10.09.07.

(16) "Medically necessary" means that the service or benefit is:

(a) Directly related to diagnostic, preventative, curative, ameliorative, palliative or rehabilitative treatment of an illness, injury, disability, or health condition;

(b) Consistent with current accepted standards of good medical practice;

(c) The most cost efficient service that can be provided without sacrificing effectiveness or access to care; and

(d) Not primarily for the convenience of the participant, the participant's family, or the provider.

(17) "Nursing facility" means a facility which is participating in the Maryland Medical Assistance Program as a nursing facility pursuant to COMAR 10.09.10.

(18) "Participant" means an individual who:

(a) Has been determined to meet the qualifications for participation in the waiver as specified in Regulation .03 of this chapter; and

(b) Is enrolled with the Department to receive Medicaid services.

(19) "Person-centered" means that the plan reflects what is important to the individual, what is important for his or her health and welfare, and is developed with input from the individual and the individual's representative when applicable.

(20) "Plan of service" means the written, person-centered support plan developed by the applicant or participant with support from the case manager and the individual's representative, when applicable.

(21) "Principal" means a person who:

(a) Has a direct or indirect ownership or control interest of 5 percent or more in the provider;

(b) Is an officer, director, agent, or managing employee of the entity; or

(c) Was described in §B(20)(a) of this regulation, but is no longer so described because of a transfer of ownership or control interest to an immediate family member or a member of the household of the person who continues to maintain an interest described in §B(20)(a) of this regulation.

(22) "Program" means the Medical Assistance Program.

(23) "Provider" has the same meaning stated in COMAR 10.09.36.

(24) "Provider agreement" means a contract between the Department and the provider for rendering the services under this chapter.

(25) "Recipient" means an individual who is certified by the Department as eligible for, and is receiving, Medical Assistance benefits.

(26) "Reportable event" means an allegation of, or an actual occurrence of, an incident that may pose an immediate or serious risk, or has potential to adversely affect the physical or mental health, safety, or well-being of a waiver applicant or participant, or complaints regarding administrative service or quality of care issues.

(27) "Room and board" means rent or mortgage, utilities, maintenance, furnishings, and food, which are provided in or associated with an individual's place of residence.

(28) "State Plan" means a comprehensive, written commitment by a State Medicaid agency, submitted under §1902(a) of the Social Security Act, to administer or supervise the administration of the Medical Assistance Program in accordance with federal requirements.

(29) "Waiver applicant" means an individual who is applying for participation in the waiver, to receive the services covered under this chapter.

(30) "Waiver" means the Home and Community-Based Options Waiver as implemented through this chapter.

.02 Licensing and Certification Requirements.

A. Assisted living services providers shall be licensed by the Department in accordance with COMAR 10.07.14.

B. The following health professionals providing services under this chapter shall be licensed to practice in the jurisdiction in which services are rendered:

- (1) Physicians;
- (2) Registered nurses;
- (3) Licensed practical nurses;
- (4) Occupational therapists;
- (5) Physical therapists;
- (6) Dietitians;
- (7) Nutritionists;
- (8) Social workers; and
- (9) Psychologists.

C. The following shall be appropriately licensed, certified, or approved by the Department to provide services under this chapter:

- (1) Licensed home health agency under COMAR 10.09.04;
- (2) Certified residential services agency under COMAR 10.07.05;
- (3) Nursing facility under COMAR 10.07.02; and
- (4) Medical day care center under COMAR 10.09.07.

.03 Participant Eligibility.

A. General Requirements.

(1) To be eligible for participation, an individual shall be determined by the Department to meet the conditions of §§B—E of this regulation.

(2) Eligibility for waiver services shall be reevaluated every 12 months or more frequently if needed due to a significant change in the participant's condition, needs, or financial status.

B. Technical Eligibility. To be eligible for services covered under this chapter, an applicant or participant shall be determined by the Department to meet the technical eligibility criteria if the individual:

- (1) Has been determined by the Department to need a nursing facility level of care;
- (2) Is at least 18 years old;
- (3) Is not simultaneously enrolled for services covered under:
 - (a) Another Medicaid waiver program under the authority of §1915(c) of the Social Security Act; or
 - (b) The Program of All-Inclusive Care for the Elderly (PACE);
- (4) Has an active plan of service that:
 - (a) Is based on:
 - (i) The assessment and recommended plan of care; and
 - (ii) Consultation with the applicant or participant;
 - (b) Addresses the applicant's or participant's needs;
 - (c) Specifies the names of service providers;
 - (d) Is cost neutral, which is determined by adding annualized costs of services covered under this chapter and any other State Plan services which are not covered for nursing facility residents, and ensuring that the resulting amount is not more than 125 percent of the Program's average per capita-annualized-net payments for nursing facility services. Any assessed participant contributions will not be considered in determining cost neutrality; and
 - (e) Includes the signature of the participant, the individual's representative if applicable, and the case manager listed within the plan of service;
- (5) Is offered the choice between waiver services and nursing facility services;
- (6) Chooses to receive waiver services;
- (7) Resides in a home, as defined under Regulation .02B of this chapter; and
- (8) Uses at least one waiver service within a 12-month period.

C. Medical Assistance Eligibility.

(1) An individual is not eligible to receive waiver services during a penalty period imposed under COMAR 10.09.24.08-1 or 10.09.24.08-2 due to disposal of assets.

(2) All provisions of COMAR 10.09.24 which are applicable to aged, blind, or disabled institutionalized persons are applicable to waiver applicants and participants, with the following exceptions:

- (a) COMAR 10.09.24.04J(1)—(3);
- (b) COMAR 10.09.24.06B(2)(a)(ii);
- (c) COMAR 10.09.24.08G;
- (d) COMAR 10.09.24.10C;
- (e) COMAR 10.09.24.10D(4) — (6);
- (f) COMAR 10.09.24.10-1C(3)(a); and
- (g) COMAR 10.09.24.15A-2(2).

D. Cost of Care.

(1) For a participant whose home is an assisted living facility, the Department shall reduce its monthly payment for assisted living services by the amount remaining after deducting from the individual's total nonexcluded monthly income the following amounts in the following order:

(a) A personal needs allowance, consisting of the amount established in accordance with COMAR 10.09.24.10D(2)(c) and the assisted living provider's charge, not exceeding \$420 per month, for room and board;

(b) A spousal or family maintenance allowance, or both, if applicable, in accordance with COMAR 10.09.24.10-1C(3)(b) and (c); and

(c) Incurred medical expenses in accordance with COMAR 10.09.24.10D(2)(f)—(h).

(2) The Department shall determine the amount of available income to be paid by a participant towards the cost of assisted living services.

(3) The participant shall pay the amount of available income for the participant's cost of care, and the assisted living provider's monthly charge for room and board, directly to the assisted living services provider.

E. Waiver Eligibility. Based on the criteria established in §§A—C of this regulation an applicant's eligibility for services under this chapter shall be established by the Department based on the following policies for the effective date of waiver eligibility:

- (1) No retroactive eligibility; and
- (2) Waiver eligibility may not begin before the latest of the following five dates:
 - (a) Waiver application date;
 - (b) Effective date of medical certification for the waiver's institutional level of care;
 - (c) Date that the applicant's written waiver plan of service is established, which shall include at least one waiver service and may be a provisional plan for not more than the first 60 days of waiver enrollment;
 - (d) Date that the applicant or representative signed a form designated by the Department to indicate the choice of waiver services as an alternative to institutionalization; and
 - (e) Date of the applicant's discharge from institutionalization in a long term care facility, if applicable.

F. Annual Cap and Registry for Waiver Participation.

(1) The Department shall establish an annual cap, approved by the federal Centers for Medicare and Medicaid Services (CMS), for the number of unduplicated individuals who may receive the services covered under this chapter, based on available State and federal funding.

(2) Eligible individuals shall be enrolled in the waiver on a first-come, first-served basis until the annual cap on waiver participation is reached.

(3) Once the annual cap on waiver participation is reached:

(a) A registry list shall be established for individuals interested in applying for waiver services;

(b) Individuals on the registry shall have an opportunity to apply for the waiver in accordance with procedures established by the Department; and

(c) The Department and CMS may authorize increasing the waiver cap if the Department determines that sufficient Program funds are available to reimburse the services recommended in the individual's plan of service and the participant's other Program services for the remainder of the State fiscal year.

(5) Individuals in nursing facilities who are receiving Medicaid services for at least 30 days may apply directly for the waiver without being put on the registry list.

G. Termination of Participation.

(1) A participant shall be terminated from participation in the waiver if the participant:

(a) No longer meets the eligibility requirements specified in §§B—E of this regulation;

(b) Voluntarily chooses, or the participant's authorized representative chooses on the participant's behalf, to disenroll from the waiver program;

(c) Moves to another state;

(d) Is an inpatient for 30 consecutive days or more in a hospital or nursing facility; or

(e) Dies.

(2) If an individual is terminated from the waiver, the same individual may re-enter the waiver during the same waiver year, or within 90 days of termination contingent on waiver capacity, provided that the individual meets all of the eligibility requirements of the waiver.

.04 Conditions for Provider Participation—General Requirements.

A. To participate as a provider of a service covered under this chapter a provider shall:

(1) Meet all of the conditions for participation as a Maryland Medical Assistance Program provider as set forth in COMAR 10.09.36, except as otherwise specified in this chapter;

(2) Verify the qualifications of all individuals who render services on the provider's behalf, and provide a copy of the current license or credentials upon request;

(3) Implement the reporting and follow-up of incidents and complaints in accordance with the Department's established reportable events policy;

(4) Agree to cooperate with required inspections, reviews, and audits by authorized governmental representatives;

(5) Agree to provide services, and to subsequently bill the Department in accordance with the reimbursement methodology specified in this chapter for only those services covered under this chapter which have been:

(a) Pre-approved in the participant's plan of service;

(b) Provided in a manner consistent with the participant's plan of service; and

(c) Identified in the provider agreement as within the scope of the provider's Medicaid participation;

(6) Agree to maintain and have available written documentation of services, including dates and hours of services provided to participants, for a period of 6 years, in a manner approved by the Department;

(7) Agree not to suspend, terminate, increase, or reduce services for an individual without authorization from the Department and with consultation and agreement by the participant or a participant's representative when applicable;

(8) Submit a transition plan to the case manager and participant or participant's representative when applicable when suspending or terminating services;

(9) Verify Medicaid eligibility at the beginning of each month that services will be rendered;

(10) Not be a Medicaid provider or principal of a Medicaid provider that has overpayments that remain due to the Department;

(11) Notify the Department in writing at least 45 days in advance of any:

(a) Voluntary closure;

(b) Change of ownership;

(c) Change of location;

(d) Sale of the business;

(e) Change in the name under which the provider is doing business; or

(f) Change in provider tax identification number;

(12) Include in the notice to the Department regarding any change of status under §A(11) of this regulation, the method for informing waiver participants and representatives of its intent to close, change ownership, change location, or sell its business;

(13) Apply for a new license if applicable, whenever ownership is to be transferred from the person or organization named on the license to another person or organization in time to assure continuity of waiver services; and

(14) Submit a Medicaid provider application to the Department if the new owner chooses to participate in the waiver program.

B. To participate as a provider of a service covered under this chapter, a provider or its principals may not, within the past 24 months, have:

(1) Had a license or certificate suspended or revoked as a health care provider, health care facility, or provider of direct care services;

(2) Undergone the imposition of sanctions under COMAR 10.09.36.08;

(3) Been subject to disciplinary action, including actions by the licensing board, that indicate behavior which is potentially harmful to participants;

(4) Been cited by a State agency for deficiencies which affect participants' health and safety; or

(5) Experienced a termination of a Medicaid provider agreement or been barred from work or participation by a public or private agency due to:

(a) Failure to meet contractual obligations; or

(b) Fraudulent billing practices.

C. A provider who renders health-related services to participants shall agree to:

(1) Periodically indicate the condition of a participant in accordance with the procedures and forms designated by the Department; and

(2) Share and discuss the documented information at the request of the participant.

.05 Specific Conditions for Provider Participation—Assisted Living.

A. To participate in the program as a provider of assisted living services under this chapter a provider shall:

(1) Be licensed by the Department at the time that services are rendered, in accordance with COMAR 10.07.14, to provide assisted living services;

(2) Be or employ a manager who is qualified as:

(a) A licensed physician;

(b) A licensed registered nurse;

(c) A licensed practical nurse; or

(d) An individual with at least 3 years' experience in direct patient care in a private home, certified home, or health-related facility;

(3) Employ an alternate assisted living manager who meets the requirements as specified in §A(2) of this regulation.

(4) Have at least one staff person per eight residents on duty at all times during daytime hours, and have a staff-to-resident ratio at night which is adequate to provide the required services and maintain the facility in a safe and orderly condition, with additional staffing if required by the Department depending on residents' functional levels;

(5) Participate in training on the waiver billing process and other waiver requirements, as specified by the Department;

(6) Have the appropriate insurance coverage to cover the provider and its employees and vehicles if the provider chooses to transport participants to medical, social, recreational, and other services;

(7) Cooperate with other service providers and quality assurance monitors by:

(a) Facilitating on-site visits of authorized quality assurance monitors to review compliance with waiver and regulatory requirements;

(b) Facilitating a case manager's on-site visits to the facility, which shall occur at least quarterly, to review the facility, regulatory compliance, service provision, and participants' status and needs;

(c) Communicating with a participant's case manager concerning the participant's status, needs, and service provision;

(d) Informing the case manager within 1 working day of any significant change in the participant's status and service needs;

(e) Facilitating, as necessary and appropriate, the delivery of authorized waiver and State Plan services in the plan of service; and

(f) Facilitating waiver participant's relocation to comparable housing, if necessary, including transfer of all personal belongings and financial arrangements; and

(8) Submit claims consistent with the provisions of Regulation .22 of this chapter.

B. *Bed Reservations.* If bed reservations are offered to participants who are absent from an assisted living facility, the bed reservations policy shall:

(1) Be provided to all residents and, where appropriate, the resident's representative, at admission;

(2) Be fairly and consistently applied to all residents;

(3) Specify that the bed reservation service is not a Medicaid covered service;

(4) Clearly state that it is the resident's decision whether to reserve the bed; and

(5) Specify that the charges to participants for bed reservation days may not exceed the full Medicaid waiver per diem rate.

C. An assisted living provider may limit waiver participation to a designated unit or units only if approved by Department and the facility resident agreement contains the following provisions:

(1) The facility's participation in the Program is limited to one or more designated units and, in order to access Medicaid waiver benefits, the resident shall reside in a designated unit;

(2) A resident of a designated unit has a right to apply for the waiver at any time and access waiver benefits without restrictions by the provider when the resident is found eligible by the Program; and

(3) A resident not in a designated unit who is otherwise eligible or seeking eligibility for the waiver shall be given first consideration and, with all other factors equal, first priority in admission to a vacant bed in a designated unit.

.06 Specific Conditions for Provider Participation—Behavior Consultation.

To participate in the program as a provider of behavior consultation services under this chapter a provider shall:

A. Be:

(1) A health services agency that:

(a) Employs a qualified individual or individuals to render behavior consultation services; and

(b) Assures supervision of the individual rendering behavior consultation services by a licensed mental health professional or by a bachelor's level nurse with 4 years of experience or with an appropriate graduate degree; or

(2) An individual who is:

(a) Qualified to render behavior consultation services; and

(b) Licensed to practice independently;

B. Assure that the individual who renders behavior consultation services:

(1) Is a licensed:

(a) Registered nurse;

(b) Psychologist; or

(c) Clinical social worker; and

(2) Has:

(a) Direct experience working with adults with behavioral problems; and

(b) Demonstrated ability to perform assessments; and

C. Assure response within 24 hours to a referral from a participant's case manager for behavior consultation services.

.07 Specific Conditions for Provider Participation—Senior Center Plus.

To participate in the program as a provider of Senior Center Plus services under this chapter a provider shall:

A. Be approved and monitored by the Maryland Department of Aging as a nutrition service provider;

B. Meet all local and State requirements to operate as a nutrition site, which include but are not limited to inspection and approval of the facility by the local fire marshal, periodic fire drills, and inspection and approval by the local sanitarian to assure compliance with health department requirements for food service facilities;

C. Assure that the facility provides an accessible environment, in compliance with the Americans with Disabilities Act (ADA), 28 CFR Part 36;

D. Maintain adequate records on participants, including progress notes and outcomes;

E. Provide at least one staff person per eight clients, with additional staffing if required by the Maryland Department of Aging depending on participants' functional levels;

F. Employ as the center's manager or in another staff position an individual who:

(1) Is a licensed health professional or a licensed social worker;

(2) Has at least 3 years' experience in direct patient care at an adult day care center, nursing facility, or health-related facility; and

(3) Participates in training specified and approved by the Maryland Department of Aging;

G. Provide Senior Center Plus services to participants at least 4 hours a day, 1 or more days a week on a regularly scheduled basis, in an out-of-home, outpatient setting;

H. Serve at least one nutritional meal per day that:

(1) Is prepared in a licensed food service establishment;

(2) Meets at least 1/3 of the daily recommended dietary allowance; and

(3) Does not constitute a full nutritional regimen of three meals per day;

I. Serve snacks, as desired by the participants, when the day program exceeds 6 hours; and

J. Have menus reviewed and approved quarterly by a registered dietitian for nutritional adequacy.

.08 Specific Conditions for Provider Participation—Family Training.

To participate in the Program as a provider of family training under this chapter a provider shall:

A. Be a self-employed trainer or an agency that employs qualified trainers in accordance with §§B—D of this regulation;

- B. Have demonstrated experience with the skill being taught;
- C. Be willing to meet at the participant's home to provide services; and

D. Employ licensed registered nurses, occupational therapists, physical therapists, or social workers who are appropriately experienced and licensed to provide the needed training.

.09 Specific Conditions for Provider Participation—Dietitian and Nutritionist Services.

To participate in the program as a provider of dietitian and nutritionist services under this chapter a provider shall be a:

- A. Dietitian or nutritionist who is licensed in accordance with COMAR 10.56.01 and Health Occupations Article, Title 5, Annotated Code of Maryland; or
- B. Professional group or agency which employs an individual who is licensed in accordance with §A of this regulation.

.10 Specific Conditions for Provider Participation—Medical Day Care Services.

To participate in the program as a provider of medical day care services under this chapter a provider shall:

- A. Meet the licensure requirements as provided in COMAR 10.12.04; and
- B. Meet the requirements of COMAR 10.09.07.

.11 Specific Conditions for Provider Participation—Case Management Services.

To participate in the program as a provider of case management services under this chapter a provider shall:

- A. Be an area agency or other entity designated by the Department through a process approved by the Centers for Medicare and Medicaid Services in accordance with §1915(b)(4) of the Social Security Act; and
- B. Agree to be monitored by the Department.

.12 Covered Services—General.

The Program shall reimburse for the services specified in Regulations .13—.19 of this chapter when, pursuant to the requirements of this chapter, these services have been pre-approved by the Department in the participant's plan of service, and billed in accordance with the payment procedures in Regulation .22 of this chapter.

.13 Covered Services—Assisted Living Services.

A. Definition. "Unit of service" means a day of service.

B. Assisted living services shall include the provision of:

- (1) A structured, supportive environment in a home-like setting;
- (2) Personal assistance and chore services including:
 - (a) Assisting the participant, as necessary, with performing activities of daily living and instrumental activities of daily living, including cuing the participant to perform these activities;
 - (b) Routine housekeeping, laundry, household care, and chore services needed to maintain the facility as a clean, sanitary, and safe environment; and
 - (c) Menu planning, food shopping, and meal preparation and serving;
- (3) Basic personal hygiene supplies, including but not limited to:
 - (a) Soap;
 - (b) Bathroom tissue;
 - (c) Paper towels;
 - (d) Toothpaste;
 - (e) Toothbrush; and
 - (f) Shampoo;
- (4) 24-hour supervision of participants to assure health and safety;

(5) Assistance with medication administration, in accordance with COMAR 10.27.11 and COMAR 10.07.14;

(6) Recreational and social activities of a nontherapeutic and nonhabilitative nature which are confined to the assisted living facility and are for the purpose of socialization;

(7) Reminding the participant of medical appointments;

(8) Assistance with transportation arrangements to needed services;

(9) Conferring with the participant's case manager about the participant's status and service needs, as necessary;

(10) Assisting the participant in accessing needed medical or mental health services in emergency situations; and

(11) Other services specified for assisted living programs in COMAR 10.07.14.

C. The living environment and service provision shall reflect participants' individualized needs and preferences.

D. Assisted living services reimbursed under this chapter may not include room and board.

.14 Covered Services—Behavior Consultation Services.

A. Definition. "Unit of service" means an hour of service that is approved in the plan of service and rendered to a participant by a qualified provider, not including:

- (1) The time spent on related activities before or after the home visit; or
- (2) The provider's time spent on any supervisory or consultative services provided to the renderer of services.

B. A provider may bill for the length of a home visit to a participant, upon completion of the services specified in §D of this regulation.

C. Behavior consultation services may be preauthorized by a participant's plan of service when:

- (1) A participant or the participant's representative request the service due to an identified behavioral issue; or
- (2) The participant's behavior is:
 - (a) Potentially dangerous to the participant's or another person's health and functioning; or
 - (b) Placing the participant at risk of institutionalization due to health and safety concerns.

D. Behavior consultation services include a:

- (1) Home visit by an individual qualified to render services to:
 - (a) Evaluate a participant's behavior;
 - (b) Assess the situation;
 - (c) Determine the contributing factors; and
 - (d) Recommend interventions and treatments;
- (2) Written report with the results of the provider's assessment and recommendations to be reviewed by the participant, the participant's representative and family when applicable, and the participant's case manager and caregivers, which may include an assisted living provider; and
- (3) Verbal review of the report with the participant, the participant's representative and family when applicable, and the participant's case manager and caregivers, which may include an assisted living provider, to discuss:
 - (a) The report's findings and recommendations; and
 - (b) A course of action, including any related needed medical interventions.

.15 Covered Services—Senior Center Plus.

A. Definition. "Unit of service" means a day of attendance by a participant for at least 4 hours, not including transportation to and from the center.

B. Senior Center Plus services include a program of structured group recreational activities, supervised care, assistance with activities of daily living and instrumental activities of daily living, and enhanced socialization provided in an out-of-home, outpatient

setting. Social and recreational activities designed for elderly, disabled individuals, as well as one nutritious meal shall be available at the center.

C. This program is designed to promote the participants' optimal functioning and to have a positive impact on the participants' orientation and cognitive ability.

D. A provider may choose to provide transportation to and from the site of the Senior Center Plus services. These transportation services may:

(1) Not be included in the provider's daily rate negotiated with the Maryland Department of Aging; and

(2) Be reimbursed through some other funding source for transportation services.

E. This service does not cover:

(1) Transportation;

(2) Direct health care; or

(3) A full regimen of three meals per day.

.16 Covered Services—Family Training.

A. Definition. "Unit of service" means an hour of service that is approved in the plan of service and rendered to a family member by a qualified provider, not including the time spent planning, preparing, setting up or following up after the training.

B. The training and counseling services may not include services rendered:

(1) On a group basis or in a classroom setting; or

(2) To a family member of a participant residing in a licensed assisted living facility.

C. The topics covered by the training and counseling services shall be:

(1) Targeted to the individualized needs of the family member receiving the training, as related to the participant's needs;

(2) Sensitive to the educational background, culture, and general environment of the participant or family member receiving the training; and

(3) Specified in the plan of service as necessary to:

(a) Ensure the participant's health and safety; and

(b) Prevent the participant's institutionalization.

D. The training and counseling services may include:

(1) Instruction on treatment regimens and dementia;

(2) Use of equipment specified in the plan of service;

(3) Other issues; or

(4) Follow-up training as authorized.

.17 Covered Services—Dietitian and Nutritionist Services.

A. Definition. "Unit of service" means an hour of service that is approved in the plan of service and rendered to a participant by a qualified provider.

B. Dietitian and nutritionist services shall include:

(1) The provision of nutrition care plan outcomes and approaches;

(2) Nutrition care planning, nutrition assessment, and dietetic instruction; and

(3) Services within the scope of practice of the nutritionist's or dietitian's license, as defined by:

(a) Health Occupations Article, Title V, Annotated Code of Maryland; and

(b) Regulations under COMAR 10.56 for the Board of Dietetic Practice.

C. Dietitian and nutritionist services may not include services rendered:

(1) On a group basis or in a classroom setting; or

(2) To participants residing in a licensed assisted living facility.

D. The services shall be:

(1) Covered if the participant's medical condition requires the judgment, knowledge, and skills of a licensed nutritionist or licensed dietitian;

(2) Targeted to the individualized needs of the participant, rather than being of general interest;

(3) Sensitive to the educational background, culture, religion, eating habits and preferences, and general environment of the participant; and

(4) Specified in the participant's plan of service as necessary to:

(a) Ensure the participant's health and safety; and

(b) Prevent the participant's institutionalization or hospitalization.

.18 Covered Services—Medical Day Care Services.

A. Definition. "Unit of service" means a day of care in which the participant is certified present at the medical day care center a minimum of 4 hours.

B. Medical day care services shall be provided in accordance with COMAR 10.09.07.

.19 Covered Services—Case Management Services.

A. Definition. "Unit of service" means a 15-minute increment of service that is approved by the Department and rendered to a participant by a qualified provider.

B. Case management services shall be targeted to address the individualized needs of the participant and be sensitive to the educational background, culture, and general environment of the participant.

C. Case management services include time spent by a qualified provider conducting any of the following activities:

(1) Assisting with the initial or annual waiver eligibility process;

(2) Assisting with the application and supporting the individual in maintaining all public and private benefits, resources, and entitlements;

(3) Conducting an assessment of needs, and developing a person-centered plan of service, to include all services needed to live safely in the community;

(4) Assisting the participant with referrals, access, and coordination of services, both Medicaid and non-Medicaid, to address the participant's needs including, but not limited to:

(a) Behavioral health;

(b) Educational services;

(c) Disposable medical supplies and durable medical equipment;

(d) Housing;

(e) Medical services; and

(f) Social services;

(5) Monitoring the provision of services to determine if services are received in accordance with the plan of services;

(6) Facilitating referrals to other programs if the individual is denied waiver services; and

(7) Using information technology systems developed by the Department.

.20 Conditions for Reimbursement.

The Program shall reimburse for the services specified in Regulations .13—.19 of this chapter, if provided in accordance with the requirements of this chapter and if the service:

A. Is recommended on the participant's plan of service as necessary in order to:

(1) Prevent the applicant's or participant's admission to an institution; or

(2) Assure the health and safety of an applicant or participant in the community;

B. Has been pre-approved by the Department in the participant's plan of service;

C. Is provided to an enrolled participant;

D. Is medically necessary;

E. Is provided by a Medicaid provider who meets the conditions for participation under this chapter; and

F. Is cost-neutral for the Program, which is determined by adding annualized costs of services covered under this chapter and any other State Plan services which are not covered for nursing facility residents, and ensuring that the resulting amount is not more than:

(1) 125 percent of the Program's average per capita-annualized-net payments for nursing facility services for a waiver participant in accordance with the provisions of Regulation .03B(4)(d) of this chapter; and

(2) In the aggregate for all waiver participants, 100 percent of the Program's average per capita-annualized-net payments for nursing facility services.

.21 Limitations.

A. Reimbursement may be made by the Program only when the requirements of this chapter are met.

B. The Program may not reimburse the following combinations of services for a participant for the same date of service:

(1) Senior Center Plus and Medical Day Care under this chapter; or

(2) Assisted living services under this chapter and personal assistance services under COMAR 10.09.20 or COMAR 10.09.84.

.22 Payment Procedures.

A. Request for Payment. To receive payment as a provider of services covered under Regulations .13—.19 of this chapter, a provider shall submit claims in accordance with procedures outlined in the Department's billing manual.

B. Billing time limitations for the services covered under this chapter are set forth in COMAR 10.09.36.06.

C. Payments.

(1) Payments shall be made directly to a qualified provider.

(2) Providers shall be paid the lesser of:

(a) Their usual and customary charge to the general public;

or

(b) The rate established according to the fee schedule published by the Department.

D. Rates.

(1) The Department shall publish a fee schedule for services covered under this chapter which shall be publicly available and updated at least annually or upon any changes made by the Department.

(2) The Program's rates as specified in the Department's fee schedule shall increase on July 1 of each year, subject to the limitations of the State budget, by the lesser of:

(a) 2.5 percent; or

(b) The percentage of the annual increase in the March Consumer Price Index for All Urban Consumers, all items component, Washington-Baltimore, from U.S. Department of Labor, Bureau of Labor Statistics.

.23 Recovery and Reimbursement.

Recovery and reimbursement are as set forth in COMAR 10.09.36.07.

.24 Cause for Suspension or Removal and Imposition of Sanctions.

Cause for suspension or removal and imposition of sanctions is as set forth in COMAR 10.09.36.08.

.25 Appeal Procedures.

Appeal procedures are those set forth in COMAR 10.09.36.09.

.26 Interpretive Regulation.

State regulations are interpreted as set forth in COMAR 10.09.36.10.

.27 Implementation Date.

This chapter shall be implemented January 6, 2014.

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Subtitle 09 MEDICAL CARE PROGRAM

Notice of Proposed Action

[14-029-P]

The Secretary of Health and Mental Hygiene proposes to:

(1) Amend Regulation .01 under COMAR 10.09.62 Maryland Managed Care Program: Definitions;

(2) Amend Regulations .01—, .03, .05, and .06 under COMAR 10.09.63 Maryland Managed Care Program: Eligibility and Enrollment;

(3) Amend Regulations .02, .08, .20, and .23 and adopt new Regulation .19-3 under COMAR 10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations;

(4) Amend Regulation .06 under COMAR 10.09.66 Maryland Medicaid Managed Care Program: Access;

(5) Amend Regulations .04, .20, and .29 and adopt new Regulation .31 under COMAR 10.09.67 Maryland Medicaid Managed Care Program: Benefits;

(6) Amend Regulation .06 under COMAR 10.09.70 Maryland Medicaid Managed Care Program: Specialty Mental Health System; and

(7) Adopt new Regulation .03-1 under COMAR 10.09.71 Maryland Medicaid Managed Care Program: MCO Dispute Resolution Procedures.

Statement of Purpose

The purpose of this action is to:

(1) Remove references to the Primary Adult Care (PAC) Program that is ending effective January 1, 2014;

(2) Clarify that both the MCO and the Department must approve a recipient's enrollment in an MCO that does not service the recipient's area of residence;

(3) Correct the name of the Health Service Needs Information form;

(4) To coincide with current policy, clarify that the Department not the MCOs notifies enrollees who can change MCOs when their PCP is terminated;

(5) Remove obsolete language requiring a Managed Care Organization (MCO) to include the words MCO in its name;

(6) Require MCOs who voluntarily freeze enrollments in a county to remain frozen for the current and next calendar years;

(7) Remove obsolete language regarding referral to the Healthy Start Case Management Program;

(8) Add language to pay an incentive to MCOs who participate in rural counties;

(9) Add payments for services at a birth center to the payment for self-referred service list;

(10) Clarify the definitions of rural, urban and suburban and remove the drive time requirements under the provider geographical access standards;

(11) Clarify that all FDA contraceptives are covered;

(12) Require MCOs to cover emergency contraceptives without the need for a prescription;

(13) Require MCOs to cover smoking cessation aides;

(14) Remove reference to an out dated Audiology Fee Schedule;

(15) Remove incorrect reference to communication devices from the EPDT regulations as the devices were carved out for adults and children in January of 2010;

(16) Add language to restrict changes to MCO optional benefits to once per calendar year and require MCOs to notify the Department by September 15 for the next calendar year;

(17) Add telemedicine as an MCO covered benefit; and

(18) Require MCOs to participate in the Independent Review Organization process.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The total cost for the rural access incentive is \$12,000,000. This includes \$6,000,000 for the June payment and \$6,000,000 for the December payment to the MCOs.

II. Types of Economic Impact.	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(E+)	\$12,000,000
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+)	Magnitude
	Cost (-)	
D. On regulated industries or trade groups:	(+)	\$12,000,000
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. and D. The total incentive paid by the Department in order to increase access to enrollees in rural counties \$12,000,000. This will result in a positive impact on the MCOs servicing rural counties.

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 A. Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 24, 2014. A public hearing has not been scheduled.

10.09.62 Maryland Medicaid Managed Care Program: Definitions

Authority: Health-General Article, §15-101, Annotated Code of Maryland

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(139-1) (text unchanged)

(139-2) "Potential enrollee" means a Medicaid recipient who is determined eligible for the HealthChoice [or PAC] program but is not yet an enrollee of a specific MCO.

(140)—(202) (text unchanged)

10.09.63 Maryland Medicaid Managed Care Program: Eligibility and Enrollment

Authority: Health-General Article, Annotated Code of Maryland Regulations Sections 01.15-103(b)(3) (4) and (6) 02—04.15-103(b)(16) 05.15-103(b)(23) 06.

.01 Eligibility.

A. (text unchanged)

B. A recipient is not eligible for the Maryland Medicaid Managed Care Program if the recipient:

(1)—(2) (text unchanged)

(3) Is enrolled in:

(a) (text unchanged)

(b) The Family Planning Waiver Program pursuant to COMAR 10.09.58; or

(c) The Employed Individuals with Disabilities Program pursuant to COMAR 10.09.41; or

(d) The Primary Adult Care (PAC) Program pursuant to COMAR 10.09.76;]

(4)—(7) (text unchanged)

.02 Enrollment.

A.—E. (text unchanged)

F. Recipient Selection of an MCO.

(1)—(2) (text unchanged)

(3) A recipient may select an MCO that does not serve the recipient's local access area, upon the approval of the Department and the MCO.

(4) (text unchanged)

G.—L. (text unchanged)

.03 Health [Services] Service Needs Information.

A. The Department shall:

(1) Attempt to complete the health [services] service needs information at the time of enrollment; or

(2) If the health [services] service needs information is not completed at the time of enrollment complete it within 5 days, unless the recipient cannot be reached or is uncooperative.

B. The Department shall transmit any information obtained from health [services] service needs information to the recipient's MCO within 5 business days.

C. Upon its receipt and review of the health [services] service needs information, an MCO shall take appropriate action to ensure that a new enrollee, who needs special or immediate health care services, as identified by the health [services] service needs information, receives them in a timely manner.

D. If the Department cannot reach the recipient or the recipient is uncooperative, the Department shall notify the MCO of its failure to complete the health [services] service needs information, and remove all obligations on the MCO to provide expedited service pursuant to the health [services] service needs information for the recipient.

E. The Department shall inform a recipient identified in connection with the health [services] *service* needs information as having a mental health problem that the individual may self-refer to the specialty mental health system pursuant to COMAR 10.09.70.

.05 Reassignment.

A.—F. (text unchanged)

[G. For a PAC enrollee who gains eligibility for the HealthChoice Program, the Department shall reassign the enrollee to the same MCO.

H. An enrollee who is automatically assigned under §G of this regulation shall have 90 days to change MCOs.]

.06 Disenrollment.

A.—F. (text unchanged)

G. An MCO shall make a good faith effort to give written notice to the *Department* when enrollees [who may] change MCOs under §A(1)(e) of this regulation within 15 days after receipt or issuance of the PCP's termination notice.

H. *The Department shall notify enrollees who may change MCOs under §A(1)(e) of this regulation.*

10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations

Authority: Insurance Article, §15-112, 15-605, and 15-1008; Health-General Article, §2-104, 15-102.3, and 15-103; Annotated Code of Maryland

.02 Conditions for Participation.

A.—C. (text unchanged)

[D. An MCO that is not a health maintenance organization shall include in its name the words "Managed Care Organization"]

[E.] D.—[J.] I. (text unchanged)

[K.] J. MCO Local Access Area Participation.

(1)—(4) (text unchanged)

[(5) For an MCO that is voluntarily frozen for new enrollments in any local access area in a calendar year 2013, the MCO's enrollments shall remain frozen in those areas through calendar year 2014.

(6) For an MCO that is voluntarily frozen for new enrollments in any county in calendar year 2014, the MCO's enrollments shall remain frozen in those counties through calendar year 2015.]

(5) *An MCO that voluntarily freezes for new enrollments in a county shall remain frozen in that county for the remainder of the calendar year and the following calendar year.*

[(7)] (6)—[(8)] (7) (text unchanged)

[L.] K. In counties where the MCO decides to stop accepting new enrollees, the MCO shall:

(1) (text unchanged)

(2) Accept newborns if the mother is an MCO member at the time of birth; *and*

(3) Accept the family members of enrollees enrolled with the MCO before the effective date that the MCO stopped accepting new enrollees; *and*

[(4) Accept enrollees who were enrolled in the MCO under the Primary Adult Care Program].

[M.] L.—[FF.] EE. (text unchanged)

.08 Special Needs Populations — Pregnant and Postpartum Women.

A.—D. (text unchanged)

[E. Women identified by the MCO as high risk according to the prenatal high risk screening assessment shall be referred, within 10 days of the completion of the assessment, to the Healthy Start Case Management Program operated by the local health department in the jurisdiction in which the pregnant enrollee lives.]

[F.] E.—[L.] K. (text unchanged)

.19-3 [Repealed.] MCO Rural Access Incentive.

A. *Eligibility for Rural Access Incentive. During the months specified in §§B(1) and (2) of this regulation, the Department shall make an incentive payment to an MCO for any rural county in which the MCO is accepting new members, provided the MCO has a current MCO provider agreement.*

B. *Payment of Rural Access Incentive.*

(1) *June Payment. The June payments to MCOs meeting the requirements specified in §A of this regulation from January 1 through June 30 shall be paid prospectively in May based on June enrollment.*

(2) *December Payment. The December payments to MCOs meeting the requirements specified in §A of this regulation from July 1 through December 31 shall be paid prospectively in November based on December enrollment.*

C. *Amount of Rural Access Incentive.*

(1) *The Department shall allocate a maximum of \$6,000,000, for each of the payments in §B(1) and (2) of this regulation, among each of the rural counties specified in §D of this regulation, based on the total MCO enrollment in each county.*

(2) *An eligible MCO shall receive a portion of the funds allocated to the rural county based on the ratio of the eligible MCO's enrollment to the total enrollment for all eligible MCOs in the county.*

(3) *Any outstanding funds not awarded in §C(2) of this regulation shall be distributed to all MCOs in accordance with each MCO's statewide enrollment, regardless of participation in a rural area or whether an MCO is accepting new members.*

D. *Rural Enrollment Counties. For purposes of this regulation, the following are rural counties:*

- (1) Allegany;
- (2) Calvert;
- (3) Caroline;
- (4) Cecil;
- (5) Charles;
- (6) Dorchester;
- (7) Frederick;
- (8) Garrett;
- (9) Kent;
- (10) Queen Anne's;
- (11) Saint Mary's;
- (12) Somerset;
- (13) Talbot;
- (14) Washington;
- (15) Wicomico; and
- (16) Worcester.

E. *Funds Distribution. A percentage of the funds allocated will be distributed based on the number of MCOs accepting new enrollments in each rural county as follows:*

- (1) *Two MCOs, 50 percent of funds;*
- (2) *Three MCOs, 75 percent of funds; and*
- (3) *Four or more MCOs, 100 percent of funds.*

.20 MCO Payment for Self-Referred, Emergency, and Physician Services.

A. *MCO Payment for Self-Referred Services.*

(1)—(10) (text unchanged)

(11) *An MCO shall reimburse out-of-plan providers at the Medicaid fee-for-service rate for services performed in a free-standing birth center as described in COMAR 10.09.67.28.*

B.—C. (text unchanged)

D. *MCO Payment for Provider Services.*

(1) (text unchanged)

(2) [Effective July 1, 2008, for] *For inpatient services performed in hospitals, an MCO shall pay all providers, regardless of*

the provider's contracting status, at least the Medicaid fee-for-service rate.

(3) (text unchanged)

.23 Marketing.

A.—C. (text unchanged)

D. Standards for Departmental Approval of MCO Advertising.

(1) MCO advertising shall:

(a)—(b) (text unchanged)

(c) Include the statement, "HealthChoice [or PAC] is a program of the Maryland Department of Health and Mental Hygiene"; and

(d) (text unchanged)

(2) (text unchanged)

10.09.66 Maryland Medicaid Managed Care Program: Access

Authority: Health-General Article, §15-102.1(b)(10) and 15-103(b), Annotated Code of Maryland

.06 Geographical Access.

A. An MCO shall develop and maintain a provider network that ensures that enrollees have [reasonable travel times] *access* to the sites at which they receive the following services:

(1)—(4) (text unchanged)

B. Except as provided in [§D] §C of this regulation, to meet the geographical access standard established by this regulation, an MCO shall provide the services listed in [§A(1) and (3)—(4)] §A(1)—(4) of this regulation:

(1) In urban areas, within [30 minutes travel time or within a] 10[-mile radius] *miles* of each enrollee's residence; [and]

(2) In rural areas, [within 30 minutes travel time or] within 30 miles of each enrollee's residence; *and*

(3) *In suburban areas, within 20 miles of each enrollee's residence.*

[C. Except as provided in §D of this regulation, to meet the geographical access standard established by this regulation, an MCO shall provide pharmacy services in:

(1) Urban areas, within 10 minutes travel time or within a 5-mile radius of each enrollee's residence; and

(2) Rural areas, within 30 minutes travel time or within 30 miles of each enrollee's residence]

[D.] C. If an MCO can otherwise demonstrate to the Department's satisfaction the adequacy of its provider network notwithstanding its inability to meet the requirements of [§§B and C] §B of this regulation, the Department may, in its discretion, approve the network if special circumstances exist which, considered along with the overall strength of the MCO's network, establish that the Department's approval of the network will enhance recipients' overall access to quality health care services in the area to be served.

[E.] D. (text unchanged)

E. *For purposes of this regulation:*

(1) *Urban enrollment area includes Baltimore City;*

(2) *Rural enrollment counties include:*

- (a) *Allegany;*
- (b) *Calvert;*
- (c) *Caroline;*
- (d) *Cecil;*
- (e) *Charles;*
- (f) *Dorchester;*
- (g) *Frederick;*
- (h) *Garrett;*
- (i) *Kent;*
- (j) *Queen Anne's*
- (k) *Saint Mary's;*

(l) *Somerset;*

(m) *Talbot;*

(n) *Washington;*

(o) *Wicomico; and*

(p) *Worcester; and*

(3) *Suburban enrollment counties include:*

(a) *Baltimore County*

(b) *Anne Arundel;*

(c) *Carroll;*

(d) *Harford;*

(e) *Howard;*

(f) *Montgomery; and*

(g) *Prince George's.*

10.09.67 Maryland Medicaid Managed Care Program: Benefits

Authority: Health-General Article, Title 15, Subtitle 1, Annotated Code of Maryland

.04 Benefits — Pharmacy Services.

A. An MCO shall provide to its enrollees all medically necessary pharmaceutical services and pharmaceutical counseling, including but not limited to:

(1)—(2) (text unchanged)

(3) [Contraceptives] *All FDA approved contraceptives;*

(4)—(11) (text unchanged)

(12) *Nonlegend ergocalciferol liquid (Vitamin D); [and]*

(13) *Emergency contraceptives for female recipients; and*

(14) *All dosage forms of tobacco cessation products including, but not limited to, patches, chewing gum, lozenges, inhalers and nasal sprays.*

B. (text unchanged)

C. An MCO shall provide *emergency contraceptives and latex condoms* to enrollees without requiring an order from an authorized prescriber.

D.—H. (text unchanged)

.20 Benefits — EPSDT Services.

A. (text unchanged)

B. The health care services described in §A(3) of this regulation shall include, at a minimum, all services described in this chapter, and the following:

(1)—(2) (text unchanged)

(3) *Audiology services as listed in the Maryland Medical Assistance Audiology Procedure Code and Fee Schedule: [Revision 2005] contained in the Medical Assistance Provider Fee Manual, [dated October 1986] all the provisions of which, unless specifically excepted are incorporated by reference in COMAR 10.09.51.04A(4);*

(4) (text unchanged)

(5) *Durable medical equipment[, including assistive communication devices]; and*

(6) (text unchanged)

C. (text unchanged)

.29 Optional Services.

A.—D. (text unchanged)

E. *Effective January 1, 2015, any changes to the health care services being offered by the MCO under §A of this regulation, including reducing or waiving pharmacy co-pays, shall be effective for an entire calendar year.*

F. *An MCO shall notify the Department of any changes to their optional services by September 15 for the following calendar year.*

G. *The Department may waive the requirement under §E of this regulation if the Department determines that the circumstance*

warrant, including but not limited to a reduction in rates outside the normal rate setting process.

.31 Benefits — Telemedicine Services.

An MCO shall provide to its enrollees medically necessary telemedicine services as described in COMAR 10.09.49.

10.09.70 Maryland Medicaid Managed Care Program: Specialty Mental Health System

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

.06 Eligibility and Referral.

A. (text unchanged)

B. Eligibility. A waiver-eligible individual is eligible for referral to the SMHS system by:

(1)—(2) (text unchanged)

(3) The REM case manager or the MCO, if the individual's REM program primary care provider or MCO:

(a) According to a current diagnostic and statistical manual of the American Psychiatric Association that is recognized by the Secretary, establishes a probable diagnosis of a mental disorder, other than a sole diagnosis of substance abuse or dependence, dementia, or an [intellectually] intellectual disability; and

(b) (text unchanged)

C.—D. (text unchanged)

10.09.71 Maryland Medicaid Managed Care Program: MCO Dispute Resolution Procedures

Authority: Health-General Article, §15-103(b)(i)4 Annotated Code of Maryland

.03-1 Independent Review Organization (IRO).

For provider disputes involving medical necessity, an MCO shall participate in the IRO process as specified in COMAR 10.09.86.

JOSHUA M. SHARFSTEIN, MD
Secretary of Health and Mental Hygiene

Subtitle 14 CANCER CONTROL

10.14.07 Cord Blood Transplant Center Support Fund

Authority: Health-General Article, §§13-3001—13-3004, Annotated Code of Maryland

Notice of Proposed Action

[14-037-P]

The Secretary of Health and Mental Hygiene proposes to adopt new Regulations .01—.10 under a new chapter, **COMAR 10.14.07 Cord Blood Transplant Center Support Fund.**

Statement of Purpose

The purpose of this action is to establish operational procedures for the Maryland Cord Blood Transplant Center Support Fund.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The FY 2014 budget appropriates \$100,000 in general funds for initial capitalization of the Cord Blood Transplant Program. These funds will be transferred to the Cord Blood Transplant Center Support Fund as required by the

enabling legislation. The Department intends to consider awarding the entire amount of \$100,000 to at least one qualified medical institution.

II. Types of Economic Impact.

Revenue (R+/R-)

Expenditure (E+/E-) Magnitude

A. On issuing agency:

(1) General funds	(E-)	\$100,000
(2) Special funds	(R+)	\$100,000
(3) Special funds	(E-)	\$100,000

B. On other State agencies: NONE

C. On local governments: NONE

Benefit (+)

Cost (-)

Magnitude

D. On regulated industries or trade groups:

(+)	\$100,000
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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. General funds in the amount of \$100,000 are appropriated in FY 2014 to provide initial capitalization of the Cord Blood Transplant Program. These general funds will be transferred to the Cord Blood Transplant Center Support Fund as required by the enabling legislation. The Department anticipates that general funds in this amount will be appropriated annually.

D. The Department intends to consider awarding the entire amount of \$100,000 to at least one qualified medical institution.

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 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 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 24, 2014. A public hearing has not been scheduled.

.01 Purpose and Scope.

This chapter:

A. Defines the Cord Blood Transplant Program and Cord Blood Transplant Center Support Fund;

B. Describes how funds may be allocated to the Cord Blood Transplant Center Support Fund;

C. Sets forth the responsibilities of the Department of Health and Mental Hygiene and the Comptroller with respect to the Cord Blood Transplant Program and Cord Blood Transplant Center Support Fund;

D. Outlines the grant application process for the Cord Blood Transplant Center Support Fund; and

E. Outlines grantee reporting requirements.

.02 Definitions.

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

B. Terms Defined.

(1) "Comptroller" means the Comptroller of the Treasury.

(2) "Cord Blood Transplant Center" means a medical facility that:

(a) Uses cells obtained from a human umbilical cord or placenta to treat pediatric or adult patients afflicted with a disease or injury; and

(b) Is a member of the National Marrow Donor Program.

(3) "Department" means the Department of Health and Mental Hygiene.

(4) "Fund" means the Cord Blood Transplant Center Support Fund.

(5) Grant.

(a) "Grant" means financial assistance from the State to support an applicant's activities related to cord blood transplantation.

(b) "Grant" does not mean a contract.

(6) "Program" means the Cord Blood Transplant Program.

(7) "Qualified medical institution" means a medical institution that:

(a) Is accredited by the Joint Commission on Accreditation of Health Care Organizations;

(b) Is located in the State;

(c) Has an established hematologic malignancies research program; and

(d) Meets all requirements established in the request for proposals issued by the Cord Blood Transplant Program.

(8) "Secretary" means the Secretary of Health and Mental Hygiene.

.03 Cord Blood Transplant Program.

A. There is a Cord Blood Transplant Program in the Department.

B. The purpose of the Program is to provide funding to qualified medical institutions to establish or maintain a cord blood transplant center.

C. The Program administers the Fund to provide grants, subject to the limitations of the State budget, to qualified medical institutions to establish or maintain a cord blood transplant center.

.04 Cord Blood Transplant Center Support Fund.

A. The purpose of the Fund is to promote economic development by supporting cord blood transplant centers at qualified medical institutions with a goal of being recognized as a regional center of excellence in the area of cord blood transplantation.

B. The Fund is:

(1) A nonlapsing, special fund pursuant to Health-General Article, §13-3001, Annotated Code of Maryland; and

(2) Not subject to the State Finance and Procurement Article, §7-302, Annotated Code of Maryland.

C. The Fund consists of any:

(1) Money appropriated in the State budget to the Fund; and

(2) Other money from any other source accepted for the benefit of the Fund.

D. The Department may only expend funds in accordance with an appropriation approved by the General Assembly in the annual State budget.

E. The Department may only make grant awards under the Fund for the establishment of or support for a cord blood transplant center at a qualified medical institution.

F. Any unspent portions of the Fund shall remain in the Fund and may not revert or be credited to the general fund of the State, nor any other special fund of the State.

.05 Responsibilities of the Department.

The Department shall:

A. Administer the Program and perform related administration activities, including:

(1) Develop and release an annual request for proposals;

(2) Convene an expert panel to review applications and select grantees; and

(3) Ensure that grantees remain in compliance with request for proposals requirements;

B. Administer the Fund;

C. Provide a grant or grants in each fiscal year, in accordance with the State budget, to qualified medical institutions; and

D. Maintain records of grantee activities supported by the Fund.

.06 Allowable Use of the Fund.

A grantee may use awarded funds to establish or maintain a cord blood transplant center, which includes support of:

A. Individuals engaged in the establishment or maintenance of a cord blood transplant center;

and

B. Equipment necessary for the establishment or maintenance of a cord blood transplant center.

.07 Unallowable Use of the Fund.

A grantee may not use awarded funds to pay for activities not provided for in the approved grant application.

.08 Application Process for Cord Blood Transplant Center Grants.

An applicant for a cord blood transplant center grant shall:

A. Submit a completed application to the Department by the due date listed in the annual request for proposals; and

B. Include in the application packet the following information as specified in the annual request for proposals:

(1) Executive summary;

(2) Statement of the need for funding;

(3) Proposed work plan for the grant period;

(4) Brief professional resume or curriculum vitae of key staff involved in the grant activities;

(5) Description of how the requested funding will further the institution's goal of being recognized as a cord blood transplantation regional center of excellence;

(6) Timeline detailing the expected start and completion dates for each activity to be conducted under the grant;

(7) Organizational chart indicating where the work under the grant will be located within the institution;

(8) Statement that the grant money will not be used to supplant any existing funding;

(9) Line item budget for the grant; and

(10) Written budget justification.

.09 Grant Application Review, Selection of Grantees, and Grant Extensions.

A. The Department shall determine the amount of money available for grants under the Cord Blood Transplant Center Support Fund annually.

B. Each year the Program shall consider awarding a grant to at least one qualified medical institution.

C. The Program shall convene a grant evaluation committee to review the grant applications.

D. Members of the evaluation committee may include one or more external individuals with expertise in cord blood transplantation.

E. The evaluation committee shall review grant applications based on criteria stated in the Request for Proposals.

F. The Program shall recommend a grant application to the Secretary for approval based on:

(1) The evaluation committee's recommendations for awarding the grants; and

(2) The availability of funds.

G. The Secretary shall:

(1) Consider the grant award recommendations of the Program; and

(2) Make the final determination on which grant applications to approve.

H. A grant period expires 1 year from the date of award of the grant.

.10 Payments, Terms and Conditions of Grant Awards, and Terminations.

A. Payments Under the Grant.

(1) The Department may not make more than quarterly payments during the grant period to a grantee awarded a grant under this chapter.

(2) Before the first payment under the grant, at the request of the grantee in their submitted grant application, the Department may approve an advanced payment for the grant based on financial need.

(3) If a financial or progress report required in §B or C of this regulation is overdue, the Department may withhold payment until the report is submitted.

B. Financial Reports and Records.

(1) A grantee shall:

(a) Establish a separate account to track expenditures under the grant;

(b) Maintain accurate records, including documentation of each transaction pertaining to the grant; and

(c) Submit to the Department quarterly invoices for payment and an annual financial expenditure report containing the signature of the financial officer of the entity affiliated with the grant award.

(2) The Department may audit the accounts referenced in §B(1) of this regulation at any time.

(3) Within 90 days after the date the grant period ends, a grantee shall submit to the Department:

(a) A final financial expenditure report; and

(b) A refund of any unexpended funds.

(4) A grantee shall retain all records pertaining to a grant award for 3 years from the date the final financial expenditure report is submitted under §B(3) of this regulation.

(5) In the case of an audit or litigation, the Department may extend the time period under §B(3) or (4) of this regulation until the completion of the audit or litigation.

C. Progress Reports.

(1) A grantee shall submit to the Program one electronic copy of:

(a) An interim report describing the progress of the grant:

(i) 6 months after the date of award of the grant; and

(ii) Every 6 months until the end of the grant; and

(b) Not later than 60 days after the date the grant period ends, a comprehensive final report, that provides a summary of all of the activity conducted under the grant.

(2) The Department shall keep research results confidential as required by Health-General Article, §§4-101—4-103, Annotated Code of Maryland.

D. Publications.

(1) A grantee who publishes results from activities supported by a grant approved by the Secretary under this chapter shall include in the publication the following acknowledgement: "Supported in part with funds from the Cord Blood Transplant Center Support Fund of the Maryland Department of Health and Mental Hygiene."

(2) A grantee shall provide the Department with one electronic copy of any published article pertaining to the activities conducted under the grant.

E. Ownership of Equipment. A grantee:

(1) Shall ensure that equipment purchased under a grant under this chapter is used for the sole purpose of the grant;

(2) Shall keep an inventory of all equipment purchased; and

(3) May not transfer the equipment to another entity without the written permission of the Department.

F. Termination.

(1) The Secretary may terminate a grant:

(a) If a grantee fails to comply with:

(i) The requirements of this chapter; or

(ii) State, federal, and municipal laws applicable to the performance of research under the grant;

(b) If a grantee fails to carry out the purposes for which the grant was awarded;

(c) In compliance with a court order; or

(d) At the request of the grantee.

(2) The Department and the State are not responsible for any expenses incurred by a grantee after cancellation of a grant.

(3) The grantee shall return all unexpended funds to the Department within 60 days of termination of a grant.

G. Compliance with Existing Laws. A grantee shall ensure that an activity conducted in the performance of the grant is in compliance with all State, federal, and local laws.

H. Liability.

(1) A grantee is solely responsible for the institution's actions relating to the grant-making process or pertaining to activities conducted under a grant award.

(2) The State and the Department are not liable for any claims, losses, liabilities, expenses, or damages arising from activities relating to the grant-making process or conducted under a grant awarded under this chapter.

I. Grant Agreements. A grantee shall enter into a grant agreement with the Department.

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

**Subtitle 18 HUMAN
IMMUNODEFICIENCY VIRUS (HIV)
INFECTION AND ACQUIRED
IMMUNODEFICIENCY SYNDROME
(AIDS)**

Notice of Proposed Action

[14-036-P]

The Secretary of Health and Mental Hygiene proposes to:

(1) Repeal Regulation .07 and amend Regulation .08 under **COMAR10.18.05 Maryland AIDS Drug Assistance Program: Eligibility**;

(2) Amend Regulations .04-2 and .05 under **COMAR 10.18.06 Maryland AIDS Drug Assistance Program: Services**; and

(3) Amend Regulation .04 under **COMAR 10.18.07 Maryland AIDS Drug Assistance Program: Health Insurance (MADAP-PLUS)**.

Statement of Purpose

The purpose of this action is to:

(1) Remove restrictions in current regulations that prevent the provision of allowable services under the Affordable Care Act as

outlined in Health Resources and Services Administration (HRSA) policy guidance;

- (2) Eliminate the participant cost-sharing fee; and
- (3) Clarify the MADAP Advisory Board member selection process and member term limits to allow for smoother operations.

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 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 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 24, 2014. A public hearing has not been scheduled.

10.18.05 Maryland AIDS Drug Assistance Program: Eligibility

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

.08 Income.

A. The Department shall consider earned and unearned gross income of the household in determining *financial eligibility* under this chapter[:

- (1) Financial eligibility; and
- (2) Calculation of the fee].

B.—E. (text unchanged)

10.18.06 Maryland AIDS Drug Assistance Program: Services

Authority: Health-General Article, §§2-104(b) and (i), 2-105(a) and (b), and 18-102, Annotated Code of Maryland

.04-2 Advisory Board.

A. (text unchanged)

B. The Board shall consist of a maximum of 11 members as follows:

(1) Up to 7 members shall be clinicians including physicians, physician assistants, certified nurse practitioners, and pharmacists; and

(2) Up to 4 members shall be community representatives including representatives from community-based organizations, community advocates, and individuals living with HIV.

[B.] C. [The] Each Board [members] member shall:

- (1) Be appointed by the [Department] Secretary;
- (2) Have [1-year] 2-year terms; and
- (3) Be allowed to serve [more than one term] one or more additional terms after being off the Board for a 1-year minimum period between terms.

[C.] D. The Board shall:

- (1) Meet at least [quarterly] twice per year;

(2) Develop recommendations for the formulary for MADAP by considering the:

- (a) (text unchanged)
- (b) Cost effectiveness of the drug[, including any supplemental rebates from manufacturers]; and
- (c) Needs of MADAP recipients, such as the:
 - (i) Ease of drug therapy administration; and
 - [(ii) Rate of compliance with drug therapy instructions;

and]

[(iii)] (ii) Frequency of prior authorization] Availability of other drugs on the MADAP formulary to treat the same condition; and

(3) (text unchanged)

[D.] E. The Department shall:

(1) Decide if the recommendations of the Board will be accepted;

[(1)] (2) (text unchanged)

[(2)] (3) Post the times of meetings and allow the public to submit written comment for consideration by the [Advisory] Board.

.05 Limitations on Covered Services.

A. (text unchanged)

B. MADAP may not pay for:

(1) A drug prescribed as part of a recipient's care in an inpatient hospital, nursing home, or long-term care setting; or

(2) The drug *peginterferon alfa-2b*, *peginterferon alfa-2a*, *ribavirin*, epoetin alpha, filgrastim, or oxandrolone, unless the recipient has submitted to MADAP a written statement as specified in COMAR 10.18.05.05[; or]

[(3) Treatment of hepatitis C except as specified in COMAR 10.18.05.05].

10.18.07 Maryland AIDS Drug Assistance Program: Health Insurance (MADAP-PLUS)

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

.04 Eligibility.

A.—B. (text unchanged)

C. Insurance Criteria. To be eligible for MADAP-Plus an applicant shall be[:

(1) Receiving[*receiving* or eligible to receive health insurance benefits under:

[(a)] (1)—[(e)] (5) (text unchanged)

[(2) Responsible for paying 50 percent or more of the applicant's own total monthly health insurance costs.]

D. (text unchanged)

E. *Employer Sponsored Insurance Plans.* An individual is not eligible for MADAP-Plus if the individual has or is eligible for employer sponsored health insurance, unless the applicant is responsible for paying 50 percent or more of the individual's total monthly health insurance premiums.

[E.] F. (text unchanged)

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

**Subtitle 29 BOARD OF MORTICIANS
AND FUNERAL DIRECTORS**

Notice of Proposed Action

[14-025-P]

The Secretary of Health and Mental Hygiene proposes to adopt:

- (1) New Regulations .01 and .02 under a new chapter, **COMAR 10.29.16 Crematories—Definitions;**
- (2) New Regulations .01 — .09 under a new chapter, **COMAR 10.29.17 Crematories—Permit, Licensing, and Fees;**
- (3) New Regulations .01 — .06 under a new chapter, **COMAR 10.29.18 Crematories — Inspections, Complaints, Investigations, Grounds for Discipline, and Penalties;**
- (4) New Regulations .01 — .12 under a new chapter, **COMAR 10.29.19 Crematories — Cremation Procedures;** and
- (5) New Regulations .01 and .02 under a new chapter, **COMAR 10.29.20 Crematories — Code of Ethics.**

This action was considered by the Board of Morticians and Funeral Directors at a public meeting on December 11, 2013, notice of which was given on the Board’s website at <http://dhmh.maryland.gov/bom/SitePages/Home.aspx>, pursuant to State Government Article, §10-506(c)(1), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to:

- (1) Establish requirements for individuals to apply for a permit to operate a crematory or to be registered as a crematory operator;
- (2) Establish an application process for an individual to receive a permit to operate a crematory or to be registered as a crematory operator;
- (3) Establish a renewal process for permit holders and registration holders;
- (4) Establish certain fees;
- (5) Establish an inspection process for crematories, including minimum standards for operation;
- (6) Prohibit certain acts and establishing a code of ethics for permit holders and crematory operators;
- (7) Establish a process by which deficiencies can be determined and corrected;
- (8) Establish penalties for certain acts relating to inspections and correction of deficiencies;
- (9) Establish a complaints process; and
- (10) Establish a procedure for cremating human remains, including removal, transportation, and identification of human remains.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The Board of Morticians and Funeral Directors will incur expenses as a result of establishing a new permitting program and registration program, reviewing applications, responding to inquiries, maintaining files and a data system, handling disciplinary actions, etc. A moderate fee will be imposed on those seeking to run a business that includes running a crematory and crematory operators to offset the cost of these services. The Board has hired and has been approved to hire additional staff to carry out the required functions of this proposal which will be paid for using existing resources. There could be some income generated from penalties under COMAR 10.29.18.06.

II. Types of Economic Impact.	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude
A. On issuing agency:		
(1)	(R+)	\$19,750
(2)	(E+)	\$30,000
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	
	Magnitude	
D. On regulated industries or trade groups:	(-)	\$19,750
E. On other industries or trade groups:	(-)	Unquantifiable
F. Direct and indirect effects on public:		
(1)	(+)	Unquantifiable
(2)	(-)	Unquantifiable

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

A(1) and D. The Board estimates that it will issue 35 permits to operate a crematory and register 25 crematory operators.

$$\begin{aligned}
 \$350 \times 35 \text{ permits} &= \$12,250 \\
 \$300 \times 25 \text{ registrations} &= \$7,500 \\
 12,250 + 7,500 &= \$19,750
 \end{aligned}$$

A(2). Additional staff costs will be a portion of the new position for the full time inspector at 20 percent of \$43,671 (\$8,734.20) and the newly filled contractual compliance position at 20 percent \$44,010 (\$8,803.80) plus mileage and lodging expense necessary. In addition, hearing and transcription costs on additional complaints. Total estimated: \$30,000.

E. The impact to other industries, to the extent that a crematory could pass on the cost of the additional fees to a mortician using their service, would be unquantifiable at this time.

F. The impact on the public, to the extent that a permit holder could pass on the cost of the fees to consumers through price increases, is unquantifiable at this time. The public would, however, have the knowledge that the crematory is following specified standards and the staff is professionals with appropriate training.

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 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 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will

be accepted through February 24, 2014. A public hearing has not been scheduled.

10.29.16 Crematories — Definitions

Authority: Health Occupations Article, §§7-101, 7-102, and 7-205, Annotated Code of Maryland

.01 Scope.

This chapter defines terms used in COMAR 10.29.17—COMAR 10.29.20.

.02 Definitions.

A. In COMAR 10.29.17—COMAR 10.29.20, the following terms having the meanings indicated.

B. Terms Defined.

(1) “Advertising” means the publication, dissemination, or circulation of any oral or written matter, including labeling, which directly or indirectly calls to the attention of the public the goods and services one has to offer.

(2) “Authorizing agent” means an individual legally entitled to order the cremation of human remains or legally authorized to control the final disposition of human remains.

(3) “Board” means Board of Morticians and Funeral Directors.

(4) “Consumer” includes a funeral establishment contracting with a crematory or the designated next of kin of a decedent contracting with a crematory.

(5) “Cremated human remains” means all human remains recovered after completion of cremation and the use of mechanical pulverizing equipment.

(6) “Cremation” means the process of reducing human remains to bone fragments through intense heat and evaporation, including any mechanical or thermal process and may include pulverization.

(7) “Cremation container” means a readily combustible, rigid container in which human remains are sent to the crematory and then placed in the cremation chamber for cremation.

(8) “Cremator” means the machinery within which the process of cremation of human remains begins.

(9) “Crematory” means a building, portion of a building, or structure that houses the necessary appliances and facilities for cremation.

(10) “Crematory authority” has the same meaning as “permit holder”.

(11) “Embalming” means the disinfection and preserving of human remains by arterial or cavity injection or any other type of preservation.

(12) “Engage in the operation of a crematory” means controlling or managing a crematory.

(13) “Holding facility” means an area within or adjacent to the crematory establishment designed for the retention of human remains before cremation.

(14) “Human remains” means the body of a deceased person, or part of a body or limb that has been removed from a living person.

(15) “Office” means the Office of Cemetery Oversight.

(16) “Permit” means a license issued by the Board to allow a person to operate a business which engages in the operation of a crematory.

(17) “Permit holder” means the holder of a permit issued under Health Occupations Article, Title 7, Annotated Code of Maryland, to operate a crematory.

(18) “Person” means an individual, personal representative, or a corporation that is the operator of a mortuary science business where the practice of mortuary science is conducted for the corporation by a licensed mortician or funeral director, a

partnership, or professional association, each comprised of one or more licensed morticians or funeral directors.

(19) “Processed human remains” means the end result of pulverization, where the residue from the cremation process is pulverized leaving only bone fragments reduced to 5 millimeters or less.

(20) “Registered crematory operator” means an individual registered to operate a crematory as a sole proprietor or on behalf of a sole proprietor or permit holder.

(21) “Sealable container” means a container in which cremated human remains can be placed and sealed so as to prevent leakage or the entrance of foreign materials.

10.29.17 Crematories — Permit, Licensing, and Fees

Authority: Health Occupations Article, §§1-213, 7-101, 7-102, 7-205, 7-314, 7-315, 7-316, and 7-319, Annotated Code of Maryland

.01 Scope.

This chapter governs the crematory permit process and fees for persons regulated under Health Occupations Article, Title 7, Annotated Code of Maryland.

.02 Permit — Issuing Agency.

A. Office of Cemetery Oversight. An individual shall obtain a permit to engage in the operation of a crematory from the Office:

(1) If the individual:

(a) Holds a permit or registration under Business Regulation Article, Title 5, Annotated Code of Maryland; and

(b) Owns a greater interest in a crematory than a licensee or holder of a corporation license under Health Occupations Article, Title 7, Annotated Code of Maryland;

(2) If the person’s ownership interest is equal to the ownership interest in the crematory of a licensee or holder of a corporation license under Health Occupations Article, Title 7, Annotated Code of Maryland; or

(3) If the person who owns the crematory is not:

(a) A licensee or holder of a corporation license under Health Occupations Article, Title 7, Annotated Code of Maryland; or

(b) A registrant or permit holder under Business Regulation Article, Title 5, Annotated Code of Maryland.

B. Board of Morticians and Funeral Directors. A person shall obtain a permit to engage in the operation of a crematory from the Board if the person:

(1) Is a licensee or holder of a corporation license under Health Occupations Article, Title 7, Annotated Code of Maryland; and

(2) Owns a greater interest in a crematory than a person who holds a permit or registration under Business Regulation Article, Title 5, Annotated Code of Maryland.

.03 Permit — Requirements for Permit.

A. Subject to approval of the Board, a person shall receive a permit to operate a crematory in this State if the person meets the permit requirements of this chapter.

B. A person shall:

(1) Submit an application on a form provided by the Board;

(2) Pay the nonrefundable application fee and any other applicable fees set forth in Regulation .09 of this chapter;

(3) Be of good moral character, if the applicant is an individual;

(4) Designate a registered crematory operator who shall be responsible for the day-to-day operation of the business provided that the registered crematory operator may not be designated as the responsible party for more than a total of two crematories;

(5) Provide a certificate of status, issued by the Maryland Department of Assessments and Taxation, if the applicant is a business entity:

(a) Indicating that the entity is in good standing, or its equivalent as determined by the Board; and

(b) Dated not earlier than 30 days before the application; and

(6) Comply with all applicable federal, State, and local laws.

C. An operating crematory shall apply to the Board for a permit within 90 days from the effective date of this regulation or be subject to Board action.

D. Before applying to the Board for a permit, any crematory not in operation before the effective date of this chapter shall have in its employ an individual who holds a certification from:

(1) The Cremation Association of North America (CANA);

(2) The International Cemetery, Cremation and Funeral Association (ICCFA); or

(3) Another equivalent body recognized jointly by the Board and the Office.

.04 Requirements for Registration of a Registered Crematory Operator.

A. An individual may be registered by the Board as a registered crematory operator if the individual meets the requirements of this regulation.

B. An individual shall:

(1) Submit an application on a form provided by the Board;

(2) Pay the nonrefundable fee and any other applicable fee set forth in Regulation .09 of this chapter;

(3) Be of good moral character;

(4) Be 18 years old or older;

(5) Achieve certification as a crematory operator by the Cremation Association of North America (CANA), International Cemetery, Cremation and Funeral Association (ICCFA), or other equivalent certification recognized jointly by the Board and the Office;

(6) Successfully complete the operator training course of the manufacturer of the cremator located in the crematory with which the applicant is affiliated; and

(7) Provide evidence to the Board of the individual's ability to read and write.

.05 Change of Information.

The permit holder or registered crematory operator shall notify the Board of any change in the information provided in the application either before or after the issuance of a permit or registration within a reasonable period of time but not to exceed 7 days from the date of the change.

.06 Renewals.

A. Before the expiration date of the permit or registration, a permit holder or registered crematory operator shall complete and return the renewal form, pay the nonrefundable renewal fee, and submit any required documentation.

B. A person who has a permit or registration as a permit holder or registered crematory operator may renew the permit or registration every 2 years, beginning on a date specified by the Board, in the following manner:

(1) Complete the renewal application form;

(2) Pay the nonrefundable renewal fee set forth in Regulation .09 of this chapter;

(3) Meet the permit and registration requirements of this chapter and Health Occupations Article, Title 7, Annotated Code of Maryland; and

(4) Submit the required documentation.

C. After the expiration date, if an application for renewal of a permit or registration has not been made or if the individual has been identified by the Office of the Comptroller or the Department of Labor, Licensing, and Regulation as delinquent in the payment of taxes or unemployment insurance contributions, pursuant to tax compliance regulations of COMAR 10.31.02 or, pursuant to Family Law Article, §10-119.3, Annotated Code of Maryland, has outstanding child support obligations, the individual may not engage in the operation of a crematory business or act as a registered crematory operator.

D. An individual who engages in the operation of a crematory business or acts as a registered crematory operator without renewing the required permit or registration is subject to disciplinary action by the Board.

E. If a permit holder or registered crematory operator applies for renewal past the expiration date of the permit or registration, the individual shall pay the renewal fee plus the late renewal fee set forth in Regulation .08 of this chapter.

.07 Lapsed Permit.

A person who has been issued a permit and who has allowed the permit to lapse for at least 6 months may apply for a permit by doing the following:

A. Completing a permit application form;

B. Paying the permit fee and the late renewal fee set forth in Regulation .09 of this chapter;

C. Meeting the requirements under this chapter;

D. Submitting the documentation required by this chapter;

E. Providing a full written explanation to the Board detailing the reasons why the permit was allowed to expire and why a permit is now sought; and

F. Submitting to the Board an affidavit stating that the person did not engage in the operation of a crematory in this State while the permit was lapsed.

.08 Fees.

The following fees are established by the Board:

A. Initial permit or registration and renewal fees:

(1) Crematory permit — \$350;

(2) Registered crematory operator — \$300

(3) Crematory permit renewal — \$350;

(4) Registered crematory operator renewal — \$300; and

(5) Late fee — \$200; and

B. Miscellaneous fees:

(1) Replacement of permit or registration — \$50;

(2) Returned check fee — \$50

(3) Duplicate permit or registration — \$50;

(4) Business name change — \$50;

(5) Personal name change — \$50;

(6) Business address change — \$50; and

(7) Annual pre-need sales trust report — \$25.

.09 Display of Permit.

A permit and registration, as well as any other permit or license required by local, State, or federal agencies, shall be conspicuously displayed in a public area on the crematory premises.

10.29.18 Crematories — Inspections, Complaints, Investigations, Grounds for Discipline, and Penalties

Authority: Health Occupations Article, §§7-101, 7-102, 7-205, 7-316, 7-317, 7-319, and 7-406, Annotated Code of Maryland

.01 Scope.

This chapter governs crematory inspections, standards, the complaint process, investigations, grounds for discipline, and penalties.

.02 Inspection by the Board.

A. A crematory shall be available for inspection by a representative of the Board at any time during operating hours.

B. A crematory shall be inspected:

- (1) On at least a biennial basis;
- (2) In furtherance of an investigation; or
- (3) Upon the sale or change of ownership of the crematory.

C. The permit holder or any person responsible for day-to-day operation of the cremation machinery shall be available to accompany the inspector during the inspection and sign the initial inspection report. A copy of the inspection report shall be provided to the permit holder or registered crematory operator responsible for the day-to-day operation of the crematory.

D. A crematory shall maintain the following minimum standards:

(1) The premises shall be maintained in a sanitary manner to comply with Centers for Disease Control’s guidelines on universal precautions;

(2) Except by express written consent of the authorizing agent, there may not be more than one human body cremated simultaneously in a single cremator;

(3) A cremator shall be completely cleaned after each cremation;

(4) There may not be co-mingling of human remains and pet remains in refrigeration units or cremation machinery;

(5) Separate cremators shall be dedicated for the cremation of human remains and the cremation of pets;

(6) There may not be:

(a) Co-mingling of cremated human cremated human remains with other human or pet cremated human remains;

(b) Scooping of cremated human remains from a bucket containing co-mingled cremated human remains; or

(c) Any form of misrepresentation in the return of cremated human remains;

(7) Excluding a deceased person with a known communicable infection, human remains shall be properly identified before cremation by verifying that the documentation accompanying the human remains is consistent with a visual observation of the human remains;

(8) Burial transit permit shall be an original document pertaining to the deceased;

(9) Each crematory shall have:

(a) A sink with hot and cold water within the room housing the cremator; and

(b) The equipment necessary to thoroughly clean the floor within the room housing the cremator with water and an appropriate sanitizing agent;

(10) The name of the deceased shall be visible on the outside of the cremation container;

(11) Human remains shall be properly stored before cremation;

(12) Crematories shall:

(a) Use only mechanical pulverizing equipment meeting industry standards that has been totally brushed as clean as possible between each use; and

(b) Pulverize the cremated human remains with a mortar and pestle if the cremated human remains are not sufficient in amount for pulverizing in mechanical equipment;

(13) Separate pulverizing drums shall be dedicated for cremated human remains and cremated pet remains;

(14) Cremated human remains may not be held pending payment of any fees;

(15) Within 6 months of the effective date of these regulations, cremators without safety devices that prevent the automatic door from dropping prematurely shall be retrofitted with such safety devices;

(16) Portable fans may not be used in the area of the cremator and pulverizer;

(17) There shall be a minimum of 6 inches between cremator smoke stack and the roof of the crematory;

(18) Before pulverizing, the mechanical pulverizer shall be clamped;

(19) A cremator shall have visible on its front a warning sign stating, “No leaning past the door of the cremator.”;

(20) The permit holder or registered crematory operator shall be present at the crematory during regular business hours; and

(21) All individuals who operate the cremator in a crematory shall be certified by the Cremation Association of North America (CANA), International Cemetery, Cremation and Funeral Association (ICCF), or other equivalent certification recognized jointly by the Board and the Office. Individuals receiving training toward certification to operate a cremator shall be allowed to work under the supervision of a registered crematory operator who has the required certification for a period not to exceed 6 months.

E. The following completed forms from previous cremations shall be available at all times for inspection and copying and are subject to be pulled at random by the inspector:

- (1) Cremation authorization form;
- (2) Burial transit permit;
- (3) Delegation of authority form;
- (4) Receipt for human remains;
- (5) Record of cremation;
- (6) Certificate of cremation; and
- (7) Return of cremated human remains certificate.

F. Inspection results shall be written on forms approved by the Board.

G. The Board representative performing the inspection shall, on completion of the inspection:

(1) Apprise the permit holder of the findings of the inspection; and

(2) Provide the permit holder or representative of the permit holder with a copy of the inspection report.

H. The permit holder or representative of the permit holder shall sign and verify receipt of the inspection report.

I. At the time of the Board inspection, the permit holder shall provide written documentation to the Board’s inspector that:

(1) The cremator has been inspected in accordance with manufacturer specifications;

(2) In accordance with manufacturer specifications, it is not time for a manufacturer’s inspection; or

(3) The permit holder has requested that the manufacturer conduct an inspection of the cremator.

.03 Crematory Inspection Report, Deficiencies, and Penalties.

A. The Board shall review the inspection report and make a determination as to whether a deficiency exists.

B. The Board shall notify the permit holder of the results of the inspection by providing a copy of the inspection report to the permit holder.

C. If a permit holder passes an inspection, the permit holder shall, prominently and in public view, display on the premises a statement

issued by the Board that the crematory has successfully passed an inspection.

D. If the Board finds a deficiency, the Board shall:

(1) Within 7 days, notify the permit holder of the deficiency or failure to pass the inspection; and

(2) Provide a copy of the inspection report to the permit holder within 30 days.

E. Correction of Deficiency.

(1) Except as provided in this section, a permit holder shall correct a deficiency within 30 days after receipt of notification or sooner as determined by the Board.

(2) The Board may require immediate correction of a deficiency if the Board considers the correction necessary in the interest of public health.

(3) The permit holder may request an extension of time for correction of a deficiency.

(4) The Board may approve an extension of time for correction of a deficiency.

(5) Upon completion of correction of all deficiencies, the permit holder shall notify the Board.

(6) Upon notification by the permit holder, a representative of the Board shall re-inspect the crematory.

(7) The Board shall notify the permit holder in writing of the results of the re-inspection by providing a copy of a new inspection report to the permit holder.

(8) If re-inspection reveals additional deficiencies not cited in the first report, the permit holder shall correct those deficiencies in the time period specified by the Board unless an extension of time is requested by the permit holder and approved by the Board.

F. Penalties. In the event that a permit holder fails to allow an inspection of the crematory or fails to comply with a notice to correct deficiencies or violations within the time specified, the Board shall:

(1) Deem the failure to be a threat to the public health, safety, or welfare and requiring emergency action;

(2) Summarily suspend the crematory permit as provided under State Government Article, §10-226(c)(2), Annotated Code of Maryland;

(3) Provide notice of the Board's action to the permit holder; and

(4) Provide the permit holder an opportunity to be heard.

.04 Complaints.

A. If the permit holder was issued a permit by the Board, a complaint shall be:

(1) Filed in compliance with the provisions of COMAR 10.29.11.03; and

(2) Processed in accordance with the provisions of COMAR 10.29.11.04.

B. The Board may initiate a complaint or investigation on its own.

.05 Investigations.

The Board and the Office of Cemetery Oversight may share investigative information and conduct joint investigations.

.06 Grounds for Discipline, Hearing, and Penalties.

A. Pursuant to the provisions of Health Occupations Article, §§7-316 and 7-319, Annotated Code of Maryland, the Board may:

(1) Deny a crematory permit or crematory operator registration to an applicant;

(2) Reprimand any permit holder or registered crematory operator; or

(3) Suspend or revoke a crematory permit or crematory operator registration.

B. Pursuant to the provisions of Health Occupations Article, §7-317, Annotated Code of Maryland, if the Board, after bringing an

action, finds that there are grounds for probation, suspension, or revocation, the Board may impose a penalty not exceeding \$5,000.

10.29.19 Crematories — Cremation Procedures

Authority: Health Occupations Article, §§7-101, 7-102, and 7-205, Annotated Code of Maryland

.01 Scope.

This chapter governs the procedures to be followed in performing a cremation in this State.

.02 Removal, Identification, and Transportation of Human Remains.

A. Upon receipt of human remains, a permit holder in the presence of the authorizing agent or representative of the funeral establishment engaging crematory services shall:

(1) Verify that the information on the wrist tag is consistent with the:

(a) Documentation accompanying the deceased; and

(b) Visual observation of the remains themselves;

(2) Use a metal detector wand to inspect for the presence of any battery operated, implanted devices including pacemakers, defibrillators, or pain relief devices;

(3) Refuse to accept human remains for cremation if an inspection of the human remains indicates the presence of any battery operated, implanted device;

(4) Remove and properly dispose of any hazardous object or any other materials that the individual authorized under this subtitle deems should be removed from the human remains or cremation container in order to prevent harm to the public health or damage to the cremator;

(5) Remove any jewelry on the human remains or in the cremation container;

(6) Return any removed jewelry to the authorizing agent or representative of the funeral establishment engaging crematory services; and

(7) Obtain a signed, itemized receipt from the authorizing agent or representative of the funeral establishment engaging crematory services for the removed jewelry and retain the receipt as a permanent record.

B. Foreign objects removed from the human remains:

(1) Shall be treated as medical waste and disposed of accordingly; and

(2) May not be donated until a sterilization process through a third party recognized by the Board to dispose properly of medical waste has been performed.

C. Materials identifying the human remains that are placed in the custody of a permit holder shall contain the following information about the decedent:

(1) Name;

(2) Date of birth;

(3) Date of death;

(4) Name of funeral establishment or authorizing agent;

(5) Gender; and

(6) Name and relationship of authorizing agent to deceased.

D. A permit holder may not accept for cremation unidentified human remains.

.03 Cremation Containers.

A cremation container:

A. Shall be a readily combustible, rigid container suitable for cremation;

B. Shall provide a completely enclosed covering for the human remains;

C. Shall be resistant to leakage or spillage;

- D. Shall be of sufficient strength and rigidity for ease of handling;
- E. Shall provide protection to the health and safety of crematory establishment personnel and the public;
- F. Shall comply with all local, State, and federal governmental emissions regulations;
- G. May not be composed of metal or polyethylene material; and
- H. If it appears to be heavily coated with varnish, lacquer, or any other highly combustible substance, shall be:
 - (1) Placed in a cold cremator; or
 - (2) Coated completely with water before being placed in the cremator.

.04 Holding Facilities.

- A holding facility shall:
 - A. Comply with applicable public health laws;
 - B. Preserve the dignity of human remains;
 - C. Recognize the integrity, health, and safety of crematory establishment personnel; and
 - D. Be secure from access by unauthorized persons.

.05 Holding Remains.

- A. Human remains that have been designated for cremation shall be cremated within 48 hours after receipt.
- B. A permit holder may not hold human remains for cremation unless the human remains are contained within an individual, rigid, stackable, closed cremation container.
- C. A permit holder may not accept a cremation container from which there is any evidence of leakage of the body fluids from the human remains therein.
- D. Whenever human remains are unable to be cremated within 48 hours of taking custody thereof, the permit holder shall maintain the human remains in a refrigerated holding facility, either on or off site, at 40°F or less, unless the remains have been embalmed.

.06 Identification Immediately Before Cremation; Simultaneous Cremation of Multiple Human Remains.

- A. Immediately before being placed within the cremation chamber, the individual authorized under this subtitle shall:
 - (1) Verify the identification of the human remains; and
 - (2) Place in the cremator the circular hard metal identification tag of the human remains being cremated where it shall remain in place until the cremation process is complete.
- B. The permit holder's designee may not leave the immediate area of the cremator during the cremation process.
- C. Records.
 - (1) The permit holder shall maintain the written authorizations required by Regulation .08 of this chapter as required pursuant to Health-General Article, §4-304, Annotated Code of Maryland, and COMAR 10.01.16.04B.
 - (2) The records are subject to inspection and copying by the Board.

.07 Cremation Authorization.

- A. Except as otherwise provided in COMAR 10.29.18.02, a permit holder may not cremate human remains until:
 - (1) The body has been identified as required under Health Occupation Article, §7-411, Annotated Code of Maryland;
 - (2) The permit holder crematory has received:
 - (a) A cremation authorization on a form approved by the Board and signed by an authorizing agent;
 - (b) If applicable, a written delegation document or facsimile; and
 - (c) Any other documentation required by federal, State, or local law; and
 - (3) The permit holder has documented that at least 12 hours have elapsed from the time of death of the individual whose remains are to be cremated.

- B. The cremation authorization form shall:
 - (1) Be provided by the permit holder to the authorizing agent;
 - (2) Contain the following information:
 - (a) The identity of the human remains;
 - (b) Date of death;
 - (c) The name and address of the authorizing agent and the relationship between the authorizing agent and the deceased;
 - (d) Authorization for the permit holder to cremate the human remains;
 - (e) Authorization to verify that the following have been removed before cremation:
 - (i) An implanted pacemaker or defibrillator; and
 - (ii) Any other materials that should be removed to prevent harm to the public health or damage to equipment;
 - (f) A representation by the authorizing agent that radiologic implant treatment has not occurred within 5 days before cremation;
 - (g) A representation that the authorizing agent is aware of no objection to the human remains being cremated by any person who has a right to control the disposition of the human remains;
 - (h) The name and address of the person authorized to claim the cremated human remains from the permit holder or to accept the cremated remains via the current mailing standard approved by the U.S. Postal Service; and
 - (i) The name and address of the crematory to which the authorizing agent has given permission; and
 - (3) Be signed by the authorizing agent.
 - C. If an authorizing agent is not readily available to execute the cremation authorization form, the authorizing agent may transmit the document in writing with notary seal electronically:
 - (1) In writing; or
 - (2) If located outside the area, by transmitting to the permit holder:
 - (a) A signed statement electronically or by facsimile that contains the name, address, and relationship of the sender to the decedent and the name and address of the individual to whom authority is delegated; and
 - (b) Once the authorizing agent is located in the area, a notarized document through U.S. Postal Service attesting to the delegation of authority.
 - D. Upon receipt of the written delegation document or a copy transmitted electronically or by facsimile, the permit holder shall allow the named individual to serve as the authorizing agent. The documents shall be signed by the authorizing agent in the presence of a notary.
 - E. A person signing a cremation authorization form is deemed to warrant the truthfulness of any facts set forth in the cremation authorization form, including the identity of the deceased whose remains are sought to be cremated and the authority of that person to order such a cremation.
 - F. A permit holder shall notify and obtain written consent of the authorizing agent before the cremation of human remains at a location other than the location named on the cremation authorization form.
 - G. A permit holder shall maintain a copy of every cremation authorization form required under this regulation as permanent records.
 - H. Cremation authorization records are subject to inspection and copying by the Board.
- .08 Record of Receipt of Remains.**
- A. A permit holder shall provide to an individual who delivers human remains for cremation a receipt signed by both the permit holder authority and the individual who delivered the human remains, that includes the:
 - (1) Name of the individual from whom the human remains were received and the name of the individual's employer, if any;

- (2) Name and address of the crematory authority;
- (3) Name of the deceased;
- (4) Gender of deceased;
- (5) Date of death of deceased; and
- (6) Verification of authorized burial transit permit.

B. The permit holder shall maintain a record of each cremation, which shall include the:

- (1) Name of the decedent;
- (2) Date of birth of the decedent;
- (3) Gender of decedent;
- (4) Date of death;
- (5) Name and address of the authorizing agent;
- (6) Date, time, and location of cremation; and
- (7) Name of the individual who performed the cremation.

C. The permit holder shall provide a certificate of disposition of cremated human remains to the authorizing agent or funeral establishment that arranged for the cremation that includes the:

- (1) Name of the decedent;
- (2) Name of the authorizing agent;
- (3) Name and address of the person who received the cremated human remains from the crematory authority; and
- (4) If ascertainable:

- (a) The location, including the name of the cemetery and plot location if the remains are interred; and
- (b) The manner and date of the disposition of the cremated human remains.

D. The permit holder shall maintain a copy of every record and receipt required by this chapter as permanent records.

E. All records and receipts required by this chapter are subject to inspection and copying by the Board.

.09 Use of a Casket; Embalming.

A. Except as provided in §B of this regulation, a permit holder may not:

- (1) Require that human remains be placed in a casket before cremation or that human remains be cremated in a casket;
- (2) Refuse to accept human remains for cremation because the remains are not in a casket; or
- (3) Refuse to accept human remains for cremation because the remains are in a suitable, combustible wooden casket, but may require the authorizing agent or funeral establishment engaging the services of the crematory authority to remove the metal mattress holder in the casket.

B. Human remains delivered to a crematory establishment may not be removed from the cremation container.

C. The cremation container shall be cremated with the human remains unless the authorizing agent for the deceased requests a more natural environment for the deceased. A permit holder is not required to accept this manner of disposition.

D. A permit holder may not require that human remains be subjected to embalming before cremation.

.10 Disposition of Cremated Human Remains.

A. On completion of the cremation, insofar as is possible:

(1) All of the recoverable residue of the cremation process shall be:

- (a) Removed from the cremator;
- (b) Except for medical devices remaining after cremation, processed; and
- (c) Placed in a container; and

(2) The identification disc required by Health Occupations Article, §7-411, Annotated Code of Maryland, shall be:

- (a) Removed from the cremator; and
- (b) Placed in the container with the cremated human remains.

B. Medical devices which remain after the completion of the cremation process shall be treated as medical waste and disposed of accordingly.

C. After pulverization, all of the processed human remains, together with the identification disc, shall be placed in a sealable container.

D. If the cremation container opening is not of adequate dimensions to accommodate a disc, it shall be affixed to the container and a record of the cremation number shall be placed in the container.

E. If all of the processed human remains and the identification disc will not fit within the dimensions of a sealable container, the remainder of the remains shall be returned to the authorizing agent, or the agent's representative, in a separate, sealable container. Container seams shall be taped.

F. If the processed human remains and identification disc do not adequately fill the container's interior dimensions, the extra space may be filled with packing material that will not become intermingled with the remains and then securely closed.

G. If a sealable container is to be shipped, it shall:

(1) Be placed within a separate sturdy box with all box seams securely taped closed; and

(2) Have the name of the deceased person whose processed remains are contained therein clearly identified on the outside of the container.

H. If processed human remains have been in the possession of a permit holder, as originally authorized by the authorizing agent without instructions for disposition for a period of 10 days or more from the date of cremation, the permit holder may send the cremated human remains, using the current mailing standard approved by the U.S. Postal Service, return receipt requested, to the authorizing agent.

.11 Tools.

A crematory shall maintain at its own expense the following tool inventory:

- A. Safety placement tool measuring a minimum of 49 inches in length;
- B. Wire brushes for cleaning cremators;
- C. Brush with fine bristles for cleaning pulverizers;
- D. Mortar and pestle;
- E. Funnel;
- F. High temperature protective gloves and heat resistant leather gloves;
- G. Hand magnet and metal detector wand to detect and remove metal from cremated human remains;
- H. Tweezers to remove nonmetal objects from cremated human remains; and
- I. Dust masks.

.12 Visitors.

A. The permit holder or designated crematory operator shall:

(1) Submit to the Board the number of persons not affiliated with the operations of the crematory who can safely be within the same room and within 10 feet of the cremator door; and

(2) Verify to the Board that the permit holder has submitted the information required in §A(1) of this regulation to their liability insurance carrier.

B. Crematories that begin operation after July 1, 2014, shall construct a viewing room in the area of the cremator if the crematory intends to have more than two visitors present in the area of the cremator during the cremation.

10.29.20 Crematories — Code of Ethics

Authority: Health Occupations Article, §7-101, Annotated Code of Maryland

.01 Scope.

This chapter governs any person who holds a permit to:

- A. Engage in the operation of a crematory;
- B. Act as a designated crematory operator; or
- C. Act as a registered crematory operator.

.02 General Professional Practices.

A. A permit holder or registered crematory operator shall:

- (1) Act in a manner that respects and protects the dignity of a decedent and the decedent's family;
- (2) Conduct business in a reasonable, usual, and customary manner avoiding unfair trade practices;
- (3) Comply with the State public health laws as set forth in Health-General Article, §§4-215 and 5-501, Annotated Code of Maryland;
- (4) Comply with the Maryland Morticians and Funeral Directors Act, Health Occupations Article, Title 7, Annotated Code of Maryland;
- (5) Implement and follow through on all arrangements agreed on between consumer and the crematory;
- (6) Provide appropriate services for and respect the rights of individuals without regard to age, race, creed, national origin, gender, disability, marital status, political belief, religious affiliation, social or economic status, or social preferences;
- (7) Comply with all local, State, and federal laws regarding the final disposition of human remains;
- (8) Be sensitive and responsive to the bereavement needs of a decedent's family; and
- (9) Provide a general price list in effect at that time in accordance with the Federal Trade Commission's funeral rule, 16 CFR part 453.

B. In advertising, a licensee may not include statements:

- (1) That are misrepresentations of facts;
- (2) That are likely to mislead or deceive because, in context, the statement makes only a partial disclosure of relevant facts;
- (3) Relating to fees without reasonable disclosure of all relevant variables so that the statement would not be misunderstood or be deceptive to a consumer; or
- (4) Containing representations or implications that in reasonable probability can be expected to cause an ordinarily prudent individual to misunderstand or be deceived.

C. A permit holder or crematory operator may not:

- (1) Use, or participate in the use of, any form of communication to consumers containing a false, fraudulent, misleading, deceptive, or unfair statement or claim; or
- (2) Operate a crematory or perform a cremation while under the influence of alcohol, an illegal drug, or a controlled dangerous substance, without the prescription of a physician.

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Subtitle 34 BOARD OF PHARMACY

Notice of Proposed Action

[14-031-P]

The Secretary of Health and Mental Hygiene proposes to:

- (1) Amend Regulation .02 under **COMAR 10.34.09 Fees**; and
- (2) Amend Regulations .01, .03—.09, .11, .14, and .16, and adopt new Regulations .17—.21 under **COMAR 10.34.19 Sterile Compounding Preparations and Sterile Drug Products**.

This action was considered by the Board of Pharmacy at a public meeting held November 20, 2013, notice of which was given by publication on the Board of Pharmacy website, <http://dhmh.maryland.gov/pharmacy/SitePages/Home.aspx>, from October 30, 2013 — November 20, 2013, pursuant to the State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to:

(1) Add new fees for sterile compounding permits and for applications for a waiver for specified drug products under COMAR 10.34.09; and

(2) Revise COMAR 10.34.19 to accommodate H.B. 986, State Board of Pharmacy — Sterile Compounding — Permits, Ch. 397, Acts of 2013, which creates a new class of licensees.

The revisions include new definitions for “adverse events,” “compounding,” “designee,” “health care practitioner,” “risk level,” “sterile compounding,” “sterile compounding facility,” and “sterile drug product.” The following existing definitions were revised to accommodate H.B. 986: “clean room” and “compounded sterile preparation.” Regulations 01, .03 — .09, .11, .14, and .16 were revised to accommodate H.B. 986 striking the word “pharmacy” and substituting “sterile compounding facility.” Additionally, the word “pharmacist” has been stricken and substituted with the word “health care practitioner.” Other minor revisions were made to these sections to bring them in line with the new sterile compounding permit requirements. New Regulations .17 — .21 provide requirements for Sterile Compounding Permit Application Requirements, Minimum Requirements for Inspections of Sterile Compounding Permit Holders, Reporting Requirements for Sterile Compounding Permit Holders, Sterile Drug Products, and Sterile Drug Product Waivers.

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

I. Summary of Economic Impact. In the fiscal note for S.B. 896/H.B. 986, Ch. 397, the Board indicated that the program would increase operations at the Board. In addition to its existing regulatory authority over sterile compounding pharmacies in Maryland, the Board will assume additional regulatory responsibilities to ensure the safety of non-resident sterile compounding pharmacies and sterile compounding facilities that perform sterile pharmaceutical compounding for Maryland patients.

The Board's expenditures for FY 2014 are estimated to be \$287,785.00 as a result of H.B. 986 State Board of Pharmacy — Sterile Compounding — Permits, 2013, Ch. 397, and these proposed regulations. During the first year of operations, the Board projects that it will be able to absorb start-up costs (\$77,785.00) using funds available in its projected surplus and existing personnel and inspection resources. The training of existing management and inspection personnel to carry out some required functions will help absorb a portion of the costs. Also, performing dual inspections (related to the pharmacy permit and sterile compounding permit) during one annual visit to pharmacies that perform sterile compounding will defer costs related to the implementation of H.B. 986 State Board of Pharmacy — Sterile Compounding — Permits, Ch. 397, Acts of 2013.

The Board's revenues may increase by as much as \$210,000 in each of the next 5 years.

H.B. 986 State Board of Pharmacy — Sterile Compounding — Permits, 2013, Ch. 397, will require the Board to hire two Pharmacists III, Grade 18, Step 8, to do field inspections of compounding pharmacies. The two positions will require 2 new vehicles. The Board will also need to hire a Laboratory Scientist Surveyor I, Grade 16, Step 8, to work in-house to review

compounding pharmacy applications and to review and interpret scientific reports from the compounding pharmacies to insure compliance. A Grade 8, Step 3, Office Services Clerk, will be needed to process the applications and issue compounding pharmacy permits. The Board has requested DHMH and DBM to take steps support the Board's recruitment of staff in the positions to begin training no later than January 2014. Additionally, the impact on the Board's on-going operating expenses include: requiring additional staff training, additional office space and equipment to accommodate new staff, additional configuration of the Board MIS system to allow application and tracking of permitted entities, and increases in staff and Board members' workload time (comp/per diems) related to the implementation of H.B. 986 State Board of Pharmacy — Sterile Compounding — Permits, Ch. 397, Acts of 2013.

Expenses and revenues for implementing the new regulations are guesstimates only. The Board does not know how many types of sterile compounders are operating in Maryland. The Board's projects 300 total entities to be regulated under this new license class based on approximately 100 pharmacies and 200 other entities (clinics, physicians, veterinarians, ophthalmologists, etc.) that may require a sterile compounding permit to operate in Maryland.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:		
(1) Board of Pharmacy Expenditures	(E+)	\$287,785
(2) Sterile compounding permits	(R+)	\$210,000
(3) Sterile drug product waivers	(R+)	Indeterminable
B. On other State agencies:	NONE	
C. On local governments:	NONE	
D. On regulated industries or trade groups:		
(1) Sterile compounding facility permit	(-)	\$210,000
(2) Application fee for a waiver for specified sterile	(-)	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.)

A(1). and D(1). The Board estimates that its expenditures will be \$287,785 to implement this program taking into consideration the new positions, new vehicles and new licensure program.

A(2). The Board's revenue will increase \$210,000 each year if 300 sterile compounding facilities obtain a sterile compounding permit at \$700 each. $700 \times 300 = \$210,000$

A(3). and D(2). The fee for a sterile drug product waiver is \$1,750 due to the expense of reviewing the application, inspections, and consideration of criteria by the Board and other health care

professionals. However, it is unknown how many entities will apply for sterile drug product waivers.

F. There will be a benefit to the public because sterile compounded prescriptions and sterile drug products in Maryland will be prepared under strict USP 797 standards ensuring the safety and efficacy of these prescriptions and products.

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 A. Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 24, 2014. A public hearing has not been scheduled.

10.34.09 Fees

Authority: Health Occupations Article, §§12-205, 12-206, 12-302, 12-303, 12-305, 12-308, 12-310, 12-404, 12-407, 12-4A-02, 12-4A-04, 12-4A-05, 12-601, 12-6B-02, 12-6B-03, 12-6B-04, 12-6B-07, 12-6C-03, 12-6C-04, 12-6C-05, and 12-6C-06, Annotated Code of Maryland

.02 Fees.

The following fees are established by the Board:

A.—D. (text unchanged)

E. Sterile Compounding Permit Fees.

(1) Sterile compounding permit initial fee — \$700;

(2) Sterile compounding permit renewal fee — \$600; and

(3) Sterile compounding reinstatement fee (payable if renewal fee is received after January 31) — \$600.

F. Sterile Drug Product Waiver Fees.

(1) Sterile drug product waiver application fee — \$1,750;

(2) Sterile drug product waiver application fee for an additional sterile drug product for a person with an existing sterile drug product waiver — \$700; and

(3) Sterile drug product waiver amendment fee — \$700.

[E.] G. (text unchanged)

10.34.19 Sterile [Pharmaceutical] Compounding Preparations and Sterile Drug Products

Authority: Health Occupations Article, §§12-205, 12-4A-01 — 12-4A-11, 12-503, and 12-505, Annotated Code of Maryland

.01 Scope.

This chapter applies to a licensed pharmacy [in], sterile compounding facility, or other person dispensing or distributing sterile compounded preparations or sterile drug products into, out of, or within Maryland engaging in:

A.—B. (text unchanged)

.03 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) "Adverse events" means:

(a) Any adverse patient outcome related to the sterile compounding process; or

(b) Evidence of environmental contamination, including microbial contamination above the threshold set forth in USP 797 Standards.

[(1)] (2)—[(4)] (5) (text unchanged)

[(5)] (6) "Clean room" means a room with an ISO-5 environment or an International Standards Organization (ISO) Class 7 environment that meets USP 797 Standards, inside which compounding occurs within an ISO Class 5 engineering control device such as a laminar airflow workstation or a biological safety cabinet.

[(5-1)] (7) (text unchanged)

[(6)] (8) "Compounded sterile preparation" means sterile medication preparations, such as intravenous, epidural, and intraocular medications, compounded in the [pharmacy] sterile compounding facility using currently accepted aseptic compounding techniques under acceptable compounding conditions.

(9) "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a drug only:

(a) As the result of a practitioner's prescription drug order or initiative based on the practitioner/patient relationship in the course of professional practice; or

(b) For the purpose of, or incidental to, research, teaching, or chemical analysis and not for the sale or dispensing of the drug or device; or

(c) In anticipation of a prescription drug order based on routine, regularly observed prescribing patterns.

[(7)] (10)—[(9)] (12) (text unchanged)

(13) "Designee" means a public agency or private entity trained in USP 797 Standards and/or FDA good manufacturing practices approved by the Board to conduct inspections of sterile compounding facilities or entities that prepare sterile drug products.

(14) "Health Care Practitioner" means a licensed dentist, pharmacist, physician, podiatrist, or veterinarian who is authorized to perform sterile compounding for dispensing or administering directly to their patients.

[(10)] (15)—[(15)] (20) (text unchanged)

(21) "Risk level" means a risk level of low, medium, or high as defined in USP 797 Standards.

[(16)] (22) (text unchanged)

(23) "Sterile compounding" means compounding of biologics, diagnostics, drugs, nutrients, and radiopharmaceuticals that, under USP 797 Standards, are prepared using aseptic techniques.

(24) "Sterile compounding facility" means a pharmacy, a health care practitioner's office, or any other setting in which sterile compounding is performed in a controlled environment as required by USP 797 Standards.

(25) "Sterile drug product" means a drug product that:

(a) Is prepared using aseptic techniques; and

(b) Is not required to be prepared in response to a patient specific prescription.

[(17)] (26)—[(19)] (28) (text unchanged)

.04 [Pharmacy] Sterile Compounding Facility Environment.

The compounding, preparation, and dispensing of compounded sterile preparations shall be accomplished in a [pharmacy] sterile compounding facility environment subject to State and federal laws, regulations, and standards.

.05 General Requirements.

A licensed [pharmacist] health care practitioner who has [appropriate practical and didactic] training in compounding sterile preparations, clean room technology, laminar flow technology, quality assurance techniques, and clinical application of intravenous drug therapy shall control and supervise the section of the [pharmacy]

sterile compounding facility that prepares compounded sterile preparations and is responsible for, at a minimum, the following:

A. Preparation of compounded sterile preparations within the [pharmacy or pharmacy satellite] sterile compounding facility;

B. (text unchanged)

C. Labeling of containers of compounded sterile preparations compounded within the [pharmacy] sterile compounding facility;

D. Recording of transactions of the [pharmacy] sterile compounding facility as may be applicable to State and federal laws and regulations, as may be necessary to maintain accurate control over, and accountability for, pharmaceutical materials; and

E. Ensuring that licensed [pharmacists] health care practitioners meeting the requirements of §A of this regulation, or registered pharmacy technicians under direct supervision of a licensed pharmacist meeting the requirements of §A of this regulation, prepare, compound, and dispense compounded sterile preparations.

.06 Special Handling, Packaging, Labeling, and Beyond Use Dating.

A. The [pharmacy] sterile compounding facility shall make available special handling and packaging materials to maintain container integrity and drug stability of the prepared prescription orders, including antineoplastic or other hazardous sterile preparations, during [delivery] handling, and before administration, to the patient including:

(1) (text unchanged)

(2) [Delivery from the pharmacy to the patient within a reasonable time; and

(3)] Proper in-transit storage consistent with preparation labeling[.]; and

(3) For a sterile compounding facility that is a pharmacy, delivery to the patient within a reasonable time.

B. The dispensed container for any compounded sterile preparation shall include labeling according to Maryland law and regulations, in addition to the following information that is required by federal law:

(1)—(8) (text unchanged)

(9) The name or identifying initials of the [pharmacist] health care practitioner who checked or prepared the compounded sterile preparation unless otherwise readily retrievable from prescription records;

(10) The name, address, and telephone number of the [pharmacy] sterile compounding facility unless in an inpatient hospital facility;

(11)—(13) (text unchanged)

C. A [pharmacy] sterile compounding facility compounding sterile infusion preparations shall provide a 24-hour telephone number to allow its patients or other health care providers who may be administering its prescriptions to contact its [pharmacists] health care practitioners.

D. Expiration or Beyond-Use Dating. In the absence of direct testing evidence, as detailed in the Stability Criteria and Beyond Use Dating section of USP 795 Standards, the [pharmacist] health care practitioner shall use "beyond-use dating" as determined by USP 797 Standards and reference materials as cited in Regulation .16 of this chapter.

.07 Record-Keeping Requirements.

A. Patient Prescription Records.

(1) The [pharmacy] sterile compounding facility shall maintain records of patient prescriptions.

(2) Patient prescription records shall contain:

(a) Available medical information consistent with prevailing [pharmacy] sterile compounding standards; and

(b) (text unchanged)

(3) The [pharmacy] *sterile compounding facility* shall keep completed patient prescription records in a retrievable manner for at least 5 years[.], *either*:

(a) *At the inspection site; or*

(b) *So as to be immediately retrievable by computer or other electronic means.*

B. Compounded Sterile Preparations Records.

(1) For a [pharmacy] *sterile compounding facility* preparing compounded sterile preparations, the following records shall be maintained for at least 5 years:

(a)—(c) (text unchanged)

(d) Other facility quality control logs specific to the [pharmacy's] *sterile compounding facility's* policies and procedures, for example, cleaning logs for facilities and equipment;

(e)—(f) (text unchanged)

(g) Preparation records including compounding work sheets and records of the [pharmacists'] *health care practitioners'* checking/sign-off process.

(2) In addition to the records requirement in §B(1) of this regulation, for batch compounded sterile preparations, a [pharmacy] *sterile compounding facility* compounding sterile batch preparations for future use shall have records indicating the:

(a)—(e) (text unchanged)

(3) A [pharmacy] *sterile compounding facility* shall maintain records of media fill verification results for 5 years.

.08 Batch Preparation.

A. A [pharmacist] *health care practitioner* may prepare batched sterile preparations for future use in limited quantities supported by prior valid prescriptions or physician orders before receiving a valid written prescription or medication order.

B. Batch preparation of specific compounded sterile preparations is acceptable if the:

(1) [Pharmacist] *Health care practitioner* can document a history of valid prescriptions or physician orders that have been generated solely within an established professional [prescriber-patient-pharmacist] *prescriber-patient-health care practitioner* relationship; and

(2) [Pharmacy] *Sterile compounding facility* maintains the prescription on file for such preparations dispensed.

.09 Minimum Facility Requirements.

A. Controlled Environment.

(1) The [pharmacy] *sterile compounding facility* shall have a controlled environment *that meets USP 797 Standards.*

(2) A [pharmacist] *health care practitioner* shall ensure that the controlled environment is:

(a)—(b) (text unchanged)

(3) The permit holder shall ensure that the controlled environment is:

(a) Structurally isolated from other areas within the [pharmacy] *sterile compounding facility* by means of restricted entry or access; and

(b) (text unchanged)

B.—D. (text unchanged)

.11 Minimum Requirements for Supplies.

A [pharmacy] *sterile compounding facility* engaging in compounding sterile preparations shall maintain adequate stock levels of the following supplies according to USP 797 Standards, including but not limited to:

A.—H. (text unchanged)

.14 Training of Staff, Patient, and Caregiver.

A. The [pharmacist] *health care practitioner* shall make counseling available to the patient or primary caregiver, or both,

concerning proper use of compounded sterile preparations and related supplies furnished by the [pharmacy] *sterile compounding facility.*

B. The permit holder shall ensure that [pharmacy] *sterile compounding facility* personnel engaging in compounding sterile preparations are trained and demonstrate competence in the safe handling and compounding of compounded sterile preparations and parenteral solutions, including cytotoxic agents if applicable.

C. (text unchanged)

D. The permit holder shall ensure the continuing competence of [pharmacy] *sterile compounding facility* personnel engaged in compounding sterile preparations.

E. A [pharmacy] *sterile compounding facility* that compounds sterile preparations shall comply with the following training requirements:

(1) The [pharmacy] *sterile compounding facility* shall establish and follow a written program of training and performance evaluation designed to ensure that individuals working in the designated area have the knowledge and skills necessary to perform the assigned tasks properly and include at least the following:

(a)—(j) (text unchanged)

(2)—(3) (text unchanged)

.16 Reference Library.

Minimum reference materials in a [pharmacy] *sterile compounding facility* shall include:

A.—C. (text unchanged)

.17 Sterile Compounding Permit Application Requirements.

A. A *sterile compounding facility* shall hold a *sterile compounding permit* issued by the Board before the *sterile compounding facility* may perform *sterile compounding* in the State.

B. A *sterile compounding permit* is required in addition to and does not replace any other permit or license a *sterile compounding facility* holds.

C. A *sterile compounding facility* that performs *sterile compounding* outside the State shall hold a *sterile compounding permit* issued by the Board before the *sterile compounded preparations* of the *sterile compounding facility* are dispensed in the State.

D. *Minimum Application Requirements.* To obtain a *sterile compounding permit* or renewal of a *sterile compounding permit* an applicant shall:

(1) *Submit an application form approved by the Board that includes:*

(a) *Name;*

(b) *Address and contact information;*

(c) *Health care practitioner license number; and*

(d) *The highest USP 797 risk level of compounding engaged in by the applicant;*

(2) *Pay a fee as set forth in COMAR 10.34.09;*

(3) *Submit to an inspection which indicates compliance with USP 797 Standards, and conducted by:*

(a) *The Board;*

(b) *A designee of the Board; or*

(c) *The U.S. Food and Drug Administration;*

(4) *If an applicant is outside the State, obtain an inspection from a designee of the Board to demonstrate compliance with USP 797 Standards;*

(5) *Submit a statement of current compliance with USP 797 Standards;*

(6) *Submit reports and corrective actions taken or proposed in response to adverse events identified 12 months before submission of the application;*

(7) *Submit evidence that the sterile compounding facility employs at least one licensed health care practitioner who has training in compounding sterile preparations, clean room*

technology, laminar flow technology, quality assurance techniques, and clinical application of intravenous drug therapy;

(8) Submit evidence of good standing with:

(a) Any other State licensing entity; or

(b) The licensing entity in the state in which the applicant is located; and

(9) Submit any other documentation as required by the Board.

E. The applicant shall notify the Board in writing within 30 days of any change in the information given on the initial or renewal application.

F. A separate sterile compounding permit is required for each sterile compounding facility at which sterile compounding is performed.

G. A sterile compounding permit is not transferable.

H. Renewal.

(1) A sterile compounding permit expires on May 31 of the next even-numbered year after its effective date, unless the sterile compounding permit is renewed for a 2-year term as provided in this regulation.

(2) Before a sterile compounding permit expires, the sterile compounding permit may be renewed for an additional 2-year term if the applicant:

(a) Otherwise is entitled to the permit;

(b) Pays a renewal fee as set forth in COMAR 10.34.09; and

(c) Submits to the Board a renewal application on the form the Board requires.

.18 Minimum Requirements for Inspections of Sterile Compounding Permit Holders.

A. The Board shall inspect a sterile compounding permit holder at least annually.

B. The sterile compounding permit holder shall provide as part of the inspection process:

(1) Quality assurance testing reports;

(2) Documentation of reporting adverse events as required in this chapter;

(3) Microbial testing of a sampling of the sterile compounded preparations of the sterile compounding facility if applicable according to USP 797 Standards; and

(4) Any other information requested to ensure compliance with USP 797 Standards.

C. Inspections may be conducted by:

(1) A designee of the Board;

(2) The U.S. Food and Drug Administration; or

(3) Another appropriate state entity which indicates compliance with USP 797 Standards.

D. The Board may inspect a sterile compounding permit holder at any time to:

(1) Verify compliance with permit requirements; or

(2) Investigate a complaint.

.19 Reporting Requirements for Sterile Compounding Permit Holders.

A sterile compounding permit holder shall:

A. Document and perform routine testing as required by USP 797 Standards for the appropriate risk levels of sterile compounded preparations; and

B. Report to the Board within 5 calendar days:

(1) Adverse events including corrective actions taken or proposed;

(2) Deficiencies related to the sterile compounding process;

(3) Disciplinary actions in other states or by other state agencies;

(4) Changes in accreditation status;

(5) Disciplinary actions taken against a health care practitioner who is an owner, operator, or employee of the sterile compounding permit holder; and

(6) Disciplinary actions taken against any other known permit, or any other authorization, held by the sterile compounding permit holder.

.20 Sterile Drug Products.

A. A person that prepares and distributes sterile drug products into, out of, or within the State shall:

(1) Hold a manufacturer's permit or other permit designated by the U.S. Food and Drug Administration to ensure the safety of sterile drug products; and

(2) Hold a wholesale distributor's permit, if applicable, issued by the Board under Health Occupations Article, Title 12, Subtitle 6C, Annotated Code of Maryland.

B. A person that prepares and distributes sterile drug products into, out of, or within the State may not be required to hold a sterile compounding permit under Health Occupations Article, §12-4A-02, Annotated Code of Maryland.

.21 Sterile Drug Product Waiver.

A. The Board may issue a waiver of the requirements in Regulation .20A(1) of this chapter to a person that prepares and distributes sterile drug products into, out of, or within the State only:

(1) For a specified sterile drug product where exigent circumstances exist under the following criteria:

(a) The specified sterile drug product in the size and strength needed is:

(i) Listed on the current drug shortages index by the U.S. Food and Drug Administration or other nationally recognized index; or

(ii) Only prepared and distributed by the person applying for the waiver; and

(b) The absence of the specified sterile drug product would result in a patient care or a patient safety risk;

(2) For which there is a clinical need as determined by the Board with input from relevant professionals as determined by the Board;

(3) If the request for the waiver is not based on financial or business concerns; and

(4) If the applicant meets the following requirements:

(a) Submits an application form approved by the Board;

(b) Identifies in the application the highest USP 797 risk levels of compounding engaged in by the applicant;

(c) Pays a fee as set forth in COMAR 10.34.09;

(d) Submits reports of inspections conducted within a year of the application by:

(i) The Board or its designee; or

(ii) The U.S. Food and Drug Administration;

(e) Submits a statement of compliance with USP 797 Standards;

(f) Submits reports and corrective actions taken or proposed in response to adverse events identified 12 months before submission of an application for a waiver;

(g) If a pharmacy or a wholesale distributor shall employ at least one licensed pharmacist who has training in compounding sterile preparations, clean room technology, laminar flow technology, quality assurance techniques, and clinical application of intravenous drug therapy;

(h) Submits evidence of good standing with:

(i) Any other State licensing entity; or

(ii) The licensing entity in the state in which the applicant is located; and

(i) Submits any other documentation as required by the Board.

B. The Board shall, in its discretion, determine whether to issue a waiver based on the Board's review of the information submitted in accordance with §A(1)—(4) of this regulation.

C. A person that prepares and distributes sterile drug products into, out of, or within the State under a Board-approved waiver shall submit to the Board within 5 calendar days reports of adverse events and corrective actions taken or proposed.

D. A person that prepares and distributes sterile drug products into, out of, or within the State under a Board-approved waiver shall notify the Board in writing within 30 days of any change in the information given on the initial or renewal application.

E. A person that prepares and distributes sterile drug products into, out of, or within the State under a Board-approved waiver shall submit reports of an inspection conducted:

(1) Within 1 year of the Board's approval of the waiver that demonstrates compliance with USP 797 Standards; and

(2) By:

(a) The Board or its designee; or

(b) The U.S. Food and Drug Administration.

F. An applicant outside the State is responsible for obtaining an inspection from a designee of the Board to demonstrate compliance with USP 797 Standards.

G. Renewal. Any waiver issued by the Board may:

(1) Not exceed a duration determined by the Board based on exigent circumstances and clinical need;

(2) Not exceed 2 years; and

(3) Be renewed if the renewal applicant submits:

(a) An application form approved by the Board;

(b) A fee as set forth in COMAR 10.34.09; and

(c) Meets the requirements for a waiver under §A(1)—(3) of this regulation.

H. Documentation of Administration of Sterile Drug Products. The holder of a sterile drug product waiver shall ensure that the recipient of the sterile drug products maintain readily retrievable records of the administration and/or dispensing of the sterile drug products to patients, to include:

(1) Documentation of the lot number or other mechanism for identifying the sterile drug product for the purpose of tracing the sterile drug product back to the sterile compounding facility or other person that prepared it; or

(2) If documentation of the lot number or other identification mechanism is not feasible, documentation of the source of the sterile drug product for the purpose of tracking the sterile drug product back to the sterile compounding facility or other person that prepared it.

I. Amendments to the Waiver.

(1) The holder of a sterile drug product waiver shall submit amendments to the waiver in advance to the Board for approval, including the addition of a specified sterile drug product.

(2) The Board may approve amendments to the waiver if:

(a) The requirements of this chapter and Health Occupations Article, Title 12, Subtitle 4A, Annotated Code of Maryland, are met;

(b) The applicant submits any additional information requested by the Board; and

(c) Pays to the Board an amendment fee as set forth in COMAR 10.34.09.

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Subtitle 34 BOARD OF PHARMACY

Notice of Proposed Action

[14-028-P]

The Secretary of Health and Mental Hygiene proposes to:

(1) Amend Regulations .02, .03, and .05, and adopt new Regulations .03-1, and .09—11 under **COMAR 10.34.22 Licensing of Wholesale Prescription Drug or Device Distributors**; and

(2) Adopt new Regulations .01—03 under a new chapter, **COMAR 10.34.37 Pharmacy Permit Holder—Wholesale Distribution**.

At this time, the Secretary is also withdrawing amendments to Regulations .02, .03, and .05, and new Regulations .03-1, and .09—11 under **COMAR 10.34.22 Licensing of Wholesale Prescription Drug or Device Distributors** as proposed in 40:8 Md. R. 742—745 (April 19, 2013).

This action was considered by the Board of Pharmacy at a public meeting held November 20, 2013, notice of which was given by publication on the Board of Pharmacy website, <http://dhmh.maryland.gov/pharmacy/SitePages/Home.aspx>, from October 30, 2013 through November 20, 2013, pursuant to the State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to:

(1) Revise COMAR 10.34.22 to comply with statutory requirements as amended by SB 133/HB 316 State Board of Pharmacy — Wholesale Distributor Permits — Application Requirements, 2012 and SB 595/ HB 591 State Board of Pharmacy — Wholesale Distribution — Pharmacies, 2013. The revisions include: adding definitions for “ANDA,” “NDA,” “pharmacy,” “UDI” numbers, “cease to operate,” “central repository,” “intracompany sales,” and “virtual manufacturer.” “Original wholesale distributor” was added to § B(22)(b)(x) of the definition of “wholesale distribution” where wholesale distribution does not include the sale or transfer from a pharmacy or pharmacy warehouse of expired, damaged, returned, or recalled prescription drugs to the original wholesale distributor, the original manufacturer, or a third-party returns processor. The word “retail” was stricken from § B(23)(b)(xii) of the definition of “Wholesale Distributor” so that all pharmacies distributing more than 5% of their annual sales would be required to obtain a wholesale distributor permit. Revisions have been made: concerning criminal background checks so that applicants may submit their request for criminal background checks directly to the central repository instead of to the Board; adding a section that requires out of state applicants to obtain criminal background checks from the state in which they are located; and revising the inspection requirement so that only entities that hold product are required to be inspected. The proposed action also includes four new regulations which clarify procedures. The new Regulation .03-1 addresses minimum application requirements for virtual manufacturers. The new Regulation .09 addresses reinstatement for expired wholesale distributor permits. The new Regulation .10 addresses required information and procedures for closing. The new Regulation .11 addresses relocation requirements. Finally, the proposal includes clarifying revisions to the surety bond requirement and Regulation .05 Violations and Penalties; and

(2) Adopt new regulations under a new chapter COMAR 10.34.37 Pharmacy Permit Holder — Wholesale Distribution to comply with statutory requirements as amended by SB 595/HB 591 State Board of Pharmacy — Wholesale Distribution — Pharmacies, 2013. The requirements do not allow wholesale distribution by a pharmacy with a waiver permit to a wholesale distributor. Waiver pharmacies will be required to keep proper records of wholesale distribution. Full service pharmacies may distribute to a wholesale

distributor with proper record keeping and by submission to the Board of a “Reporting Form” within a week of the wholesale distribution.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The revisions to COMAR 10.34.22 Licensing of Wholesale Prescription Drug or Device Distributors, add minimum application requirements for virtual manufacturers. It also includes new regulations for reinstatement, procedures for ceasing to operate, and relocation. These revisions impose a positive economic impact on the issuing agency since less time will be required of Board staff to process applications. These revisions impose a positive impact on virtual manufacturers because they may now utilize less time staff time completing the application. The adoption of a new chapter COMAR 10.34.37 Pharmacy Permit Holder – Wholesale Distribution, has no fiscal impact on the Board as a change to inspections forms, which is done on an annual basis in any event, would be the only known change as a result of the proposed legislation. The receipt of “Reporting Forms” should be minimal as this practice is limited to unusual or emergency circumstances.

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

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

A. The revisions in COMAR 10.34.22 Licensing of Wholesale Prescription Drug or Device Distributors, simplify the application process and, as a consequence, require less staff time to process applications.

The new regulations in COMAR 10.34.37 Pharmacy Permit Holder – Wholesale Distribution, would have minimal impact on the Board. Inspections forms would be required to be revised, but are revised annually as a matter of course. Receipt of “Reporting Forms” should be infrequent and may easily be stored in the permit holder’s file.

D. For COMAR 10.34.22 Licensing of Wholesale Prescription Drug or Device Distributors, the regulated industry will welcome the simpler application process for certain virtual manufacturers since it will save staff time for the regulated industry. For COMAR 10.34.37 Pharmacy Permit Holder – Wholesale Distribution, the regulated pharmacies should find the “Reporting Form” a short and brief. It should not be a burden to complete as

wholesale distribution to wholesale distributors should be an infrequent occurrence.

F. The revisions in COMAR 10.34.22 Licensing of Wholesale Prescription Drug or Device Distributors has an indirect and positive effect on the public as virtual manufacturers will be able to apply for licensure in less time making certain prescription drugs available to Maryland consumers in less time without sacrificing public safety. The adoption of a new chapter COMAR 10.34.37 Pharmacy Permit Holder – Wholesale Distribution, will have a positive effect on the public by tracking the sale of prescription drugs from a pharmacy to a wholesale distributor. This may alert the Board when prescription drugs are in shortage and sold by pharmacies instead of by wholesale distributors.

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 410-767-6500 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 24, 2014. A public hearing has not been scheduled.

10.34.22 Licensing of Wholesale Prescription Drug or Device Distributors

Authority: Health Occupations Article, §§12-205, 12-601, and 12-6C-01—12-6C-13, Annotated Code of Maryland

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) “ANDA” means an Abbreviated New Drug Application number and contains data that, when submitted to the U.S. Food and Drug Administration’s (FDA) Center for Drug Evaluation and Research, Office of Generic Drugs, provides for the review and ultimate approval of a generic drug product.

[(1)] (1-1)—(5) (text unchanged)

(5-1) “Cease to operate” means the date on which the last prescription drug or prescription device is distributed by the permit holder.

(5-2) “Central repository” means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(6)—(8) (text unchanged)

(8-1) “Designee” means a Board contracted or Board recognized entity.

(9)—(12) (text unchanged)

(12-1) “Intracompany sales” means a:

(a) Transaction or transfer of prescription drugs between a division, subsidiary, parent, or affiliated or related company under common ownership and control of a corporate entity, other than a transaction or transfer of prescription drugs from a pharmacy to a wholesale distributor; or

(b) Transaction or transfer of a co-licensed product between co-licensed partners.

(13)—(14) (text unchanged)

(14-1) "NDA" means a New Drug Application number assigned by the FDA for drugs formally proposed to the FDA as a new pharmaceutical for sale and marketing in the U.S.

(15)—(16) (text unchanged)

(16-1) "Pharmacy" means a pharmacy that has been issued a:

(a) Waiver pharmacy permit in accordance with COMAR 10.34.17; or

(b) Full service pharmacy permit.

(17)—(18) (text unchanged)

(18-1) "Reinstatement" means renewal of a wholesale distributor permit after the permit has expired.

(18-2) "Renewal" means renewing a wholesale distributor permit before the date of expiration.

(19)—(21) (text unchanged)

(21-1) "UDI" means a Unique Device Identification number that is created through a globally accepted device identification and coding standard that allows the unambiguous identification of a specific medical device.

(21-2) Virtual Manufacturer.

(a) "Virtual Manufacturer" means an entity that engages in the manufacture of drug or device products for which it:

(i) Owns the NDA or ANDA number, if a prescription drug;

(ii) Owns the UDI number, as available, for a prescription device;

(iii) Contracts with a contract manufacturing organization for the physical manufacture of the drug or device product;

(iv) Is not involved in the physical manufacture of the drug or device product; and

(v) At no time takes physical possession of, or stores, the drug or device product.

(b) "Virtual Manufacturer" may include entities that are identified as a broker, own-label distributor, sponsor manufacturer, private-label manufacturer, or contract manufacturer.

(22) Wholesale Distribution.

(a) (text unchanged)

(b) "Wholesale distribution" does not include:

(i) [Intra-company] *Intracompany* sales;

(ii)—(ix) (text unchanged)

(x) The sale or transfer from a [retail] pharmacy or pharmacy warehouse of expired, damaged, returned, or recalled prescription drugs to the *original wholesale distributor*, the original manufacturer, or [to] a third-party returns processor.

(23) Wholesale Distributor.

(a) (text unchanged)

(b) "Wholesale distributor" includes:

(i)—(xi) (text unchanged)

(xii) A [retail] pharmacy that conducts wholesale distribution, if the wholesale distribution business accounts for more than 5 percent of the [retail] pharmacy's annual sales; and

(xiii) (text unchanged)

.03 Minimum Application Requirements for [Applicant] Applicants Holding Product.

A. (text unchanged)

B. *Criminal Background Check Requirements for an Applicant Located in this State.* The Board shall require [the following information from] the designated representative and the immediate supervisor of the designated representative at the applicant's place of business as part of the [initial] application for a permit to submit to the Central Repository and the Federal Bureau of Investigation:

(1) [Two complete sets of legible fingerprints taken on forms] Electronically or digitally captured fingerprints at approved electronic fingerprint locations approved by the Director of the

Central Repository [and the Director of the Federal Bureau of Investigation];

(2)—(3) (text unchanged)

B-1. *Criminal Background Check Requirements for an Applicant Located Outside this State.*

(1) *The Board shall require the designated representative and the immediate supervisor of the designated representative at the applicant's place of business as part of the application for a permit to submit to a criminal history records check by the applicant's state of residence, in accordance with the laws of the applicant's state of residence.*

(2) *The criminal history records check shall consist of:*

(a) *A state criminal history records check for the applicant's state of residence; and*

(b) *A national criminal history records check.*

(3) *The designated representative and the immediate supervisor of the designated representative of an applicant shall request the appropriate entity in the applicant's state of residence to forward the results of the criminal history records check to the Board and the applicant.*

(4) *If the appropriate entity in the applicant's state of residence is unable to forward the results of the criminal history records check, then the designated representative and the immediate supervisor of the designated representative of an applicant shall ensure that the results of the criminal history records check are forwarded to the Board in a manner approved by the Board.*

C. (text unchanged)

D. The Board may not issue an initial or renewal wholesale distributor permit to an applicant unless the Board or its designee:

(1) [Conducts] *If the applicant holds prescription drugs or devices, conducts a physical inspection of the applicant's place of business, including any facility of the applicant;*

(2)—(4) (text unchanged)

E. Surety Bond.

(1)—(2) (text unchanged)

(3) [The] *An applicant shall submit the following documentation to verify the applicant's annual gross receipts in the State are less than \$10,000,000 for the previous tax year:*

(a) *A federal tax return[, if the applicant's total annual gross receipts within or without the State are less than \$10,000,000]; or*

(b) *An annual sales report specifying the sales of prescription drugs and devices in the State audited by a certified public accountant[, if the applicant's total annual gross receipts within or without the State are \$10,000,000 or more].*

(4) (text unchanged)

(5) *[A single surety bond shall cover all facilities operated by the applicant in the State] An applicant shall obtain a surety bond for each facility.*

(6) *A single surety bond may cover all facilities operated by the applicant within this State.*

F.—I. (text unchanged)

J. *Information and qualification requirements for obtaining a permit under this regulation, beyond that required by federal law, does not apply to a manufacturer who distributes its own prescription:*

(1) *Drugs approved by the U.S. Food and Drug Administration; or*

(2) *Devices that are approved or authorized by the U.S. Food and Drug Administration.*

.03-1 Minimum Application Requirements for Virtual Manufacturers.

The information and qualification requirements for obtaining a permit under Regulation .03 of this chapter, beyond that required by

federal law, do not apply to a virtual manufacturer that meets the following requirements:

- A. Provides a list of drug or device products it distributes;
- B. Provides a list of the NDA or ANDA numbers associated with each drug it distributes;
- C. Provides a list of the UDI numbers, as available, associated with each device it distributes;
- D. Provides the name and facility address of the contract manufacturer for each drug or device product it distributes;
- E. Provides verification of current FDA registration for each contract manufacturing facility listed;
- F. If the contract manufacturer distributes into this State, provides the wholesale distributor permit number for the contract manufacturer;
- G. If the contract manufacturer does not distribute into this State, provides name and Maryland's wholesale distributor permit number for the entity that physically distributes the product into this State;
- H. Provides a statement affirming that the virtual manufacturer does not contract the manufacture or distribution for drugs or devices other than those for which it owns the NDA, ANDA, or UDI numbers;
- I. Provides an attestation by the owner of the virtual manufacturer that it does not hold product;
- J. Provides a copy of existing licensure from the state in which it is located, if applicable; and
- K. Has valid federal licensure or registration, as verified by the Board.

.05 Violations and Penalties.

A. After a hearing held under Health Occupations Article, §12-601, Annotated Code of Maryland, the Board may deny, suspend, revoke, or place on probation a permit holder, reprimand a permit holder, or impose a fine if the permit holder:

- (1)—(2) (text unchanged)
- (3) Commits any of the following acts:
 - (a)—(o) (text unchanged)
 - (p) Distributes a prescription drug or device to [the] a consumer or patient [without a prescription or prescription order from a practitioner licensed by law to use or prescribe the prescription drug or device];
 - (q)—(x) (text unchanged)
- (4) (text unchanged)
- B. (text unchanged)

.09 Reinstatement.

- A. The wholesale distributor permit shall expire on the last day of its term.
- B. The Board may not reinstate the wholesale distributor permit unless the applicant pays a reinstatement fee set by the Board.

.10 Required Information and Procedures for Ceasing to Operate.

- A. If a wholesale distributor is located in another state, a wholesale distributor anticipating ceasing to operate in Maryland shall return the permit to the Board within 10 days of ceasing to operate in Maryland.
- B. Procedures for Wholesale Distributors Located in this State for Ceasing to Operate.
 - (1) Notification.
 - (a) At least 30 days before a wholesale distributor's anticipated date of ceasing to operate, the wholesale distributor shall notify the Board in writing, by certified mail, return receipt requested, or hand delivered to the Board's office, of the day on which the wholesale distributor will cease to operate.
 - (b) A wholesale distributor shall:
 - (i) Notify drug and device suppliers that supply prescription drugs and devices to the wholesale distributor, at least

30 days in advance of ceasing to operate, of the date that the wholesale distributor will cease to operate;

- (ii) Notify manufacturers, wholesale distributors, licensed pharmacies and authorized prescribers that receive prescription drugs and devices from the wholesale distributor, at least 30 days in advance of ceasing to operate, of the date that the wholesale distributor will cease to operate; and
- (iii) Comply with applicable federal regulations.
- (2) The wholesale distributor shall submit to and pass a closing inspection conducted by the Board.
- (3) With the exception of controlled dangerous substances, the wholesale distributor shall dispose of prescription drugs or devices in stock by one or more of the following means:
 - (a) Returning the prescription drugs or devices to a distributor or manufacturer;
 - (b) Transferring the prescription drugs or devices to another wholesale distributor, licensed pharmacy, authorized prescriber, or other person or entity approved by the Board; or
 - (c) Destroying in accordance with this regulation.
- (4) Disposition of Controlled Dangerous Substances. The wholesale distributor shall comply with the procedures set forth in this regulation in addition to those set forth in COMAR 10.19.03.10 governing the transfer, return or disposal of controlled dangerous substances.
- (5) At the closing inspection, the wholesale distributor shall provide to the Board the following:
 - (a) The exact date on which the wholesale distributor ceased to operate;
 - (b) A copy of the inventory of prescription drugs or devices disposed of, transferred, or returned.
 - (c) The names, addresses, telephone numbers, and Drug Enforcement Administration registration numbers, if applicable, of the persons or business entities to whom prescription drugs or devices in stock were returned or transferred under this regulation;
 - (d) The wholesale distributor permit;
 - (e) If prescription drugs or devices are destroyed pursuant to this regulation, a letter, signed under oath by the wholesale distributor, stating the:
 - (i) Date, place and manner in which the prescription drugs or devices were destroyed;
 - (ii) Names, addresses, and telephone numbers of the persons responsible for destroying the prescription drugs or devices; and
 - (iii) Name, dosage unit, and quantity of each type of prescription drug or device destroyed; and
 - (f) If any pedigrees or other documents are transferred, a letter, signed under oath by the wholesale distributor, stating:
 - (i) The date, time, place to which and manner in which the pedigrees or other documents were transferred; and
 - (ii) The names, addresses, and telephone numbers of the persons responsible for transferring the pedigrees or other documents.
- (6) At the closing inspection, the wholesale distributor shall provide to the Division of Drug Control the following pertaining to controlled dangerous substances:
 - (a) The exact date on which the wholesale distributor ceased to operate;
 - (b) A copy of the closing inventory of controlled dangerous substances required by the Drug Enforcement Administration.
 - (c) The names, addresses, telephone numbers, Drug Enforcement Administration registration numbers, Division of Drug Control registration numbers, and Board permit numbers, if applicable, of the persons or business entities to whom controlled dangerous substances in stock were returned or transferred under this regulation; and

(d) The State Department of Health and Mental Hygiene Controlled Dangerous Substance Registration for cancellation.

.11 Relocation.

A. At least 30 days before relocation, a permit holder shall submit an application to the Board.

B. If relocation is due to a catastrophic event or State of Emergency, the relocation applicant shall:

- (1) Notify the Board within 48 hours; and
- (2) Submit an application to the Board within 30 days.

C. A relocation applicant:

(1) If the applicant holds products, shall comply with Regulation .07 of this chapter;

(2) Shall submit a surety bond or other equivalent means of security acceptable to the State specific to the permit holder's relocation, in accordance with Regulation .03 if this chapter; and

(3) Shall indicate on the application changes in product or personnel from the original application to the Board.

D. A new or different designated representative or immediate supervisor of a designated representative functioning at the relocated facility shall be required to undergo a criminal history records check as set forth in Regulation .03 of this chapter.

E. As part of the application process, a relocation applicant located in this State shall submit to and pass an opening inspection conducted by the Board, which shall include:

(1) Documentation of the permit holder's notification to suppliers of prescription drugs and devices of the permit holder's relocation; and

(2) Documentation from the permit holder evidencing the appropriate transfer, return, or disposal of any prescription drugs or devices not transferred to the facility's relocation.

F. A relocation applicant located in another state shall provide to the Board:

(1) Evidence of approval of the permit holder's relocation from the accreditation organization that accredited the permit holder's original location; or

(2) If the relocation applicant is not required to be accredited by an accreditation organization in accordance with Maryland law, inspection reports from the state in which the relocation applicant is located pertaining to the permit holder's relocation.

10.34.37 Pharmacy Permit Holder—Wholesale Distribution

Authority: Health Occupations Article, §§12-205 and 12-406, Annotated Code of Maryland

.01 Scope.

This chapter establishes requirements for a pharmacy licensed by the Maryland Board of Pharmacy that engages in wholesale distribution.

.02 Pharmacies Issued a Waiver Permit.

A. A pharmacy that is issued a waiver permit by the Board under Health Occupations Article, §12-403(c), Annotated Code of Maryland, may engage in wholesale distribution, provided that:

(1) The waiver pharmacy only engages in wholesale distribution with another pharmacy; and

(2) The wholesale distribution business does not exceed 5 percent of the waiver pharmacy's annual sales.

B. Record Keeping Requirements. A waiver pharmacy that conducts wholesale distribution as set forth in §A of this regulation shall:

(1) Maintain records of the waiver pharmacy's wholesale distribution separately from its other records; and

(2) Make records of wholesale distribution available for inspection by the Board.

.03 Requirements for Wholesale Distribution.

A. General Requirements.

(1) A full service pharmacy may conduct wholesale distribution provided that the wholesale distribution business does not exceed 5 percent of the full service pharmacy's annual sales.

(2) A full service pharmacy may conduct wholesale distribution:

(a) With another pharmacy; or

(b) With a wholesale distributor, if the full service pharmacy reports to the Board within a week, on a form approved by the Board, of the full service pharmacy's wholesale distribution to a wholesale distributor.

B. Recordkeeping Requirements. A full service pharmacy that conducts wholesale distribution as set forth in §A of this regulation shall:

(1) Maintain records of wholesale distribution separately from its other records;

(2) Maintain records of wholesale distribution to wholesale distributors separately from its records of wholesale distribution to pharmacies; and

(3) Make records of wholesale distribution available for inspection by the Board.

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Subtitle 61 HEALTH ENTERPRISE ZONE INITIATIVE

10.61.01 Health Enterprise Zone Tax Credits

Authority: Health-General Article, Title 20, Subtitle 14; Tax-General Article, §10-731, Annotated Code of Maryland

Notice of Proposed Action

[14-038-P]

The Secretary of Health and Mental Hygiene proposes to adopt new Regulations .01—.05 under a new chapter, **COMAR 10.61.01 Health Enterprise Zone Tax Credits**, under a new subtitle, **Subtitle 61 Health Enterprise Zone Initiative**.

Statement of Purpose

The purpose of this action is to establish procedures for implementation of the income tax credit available to certain health practitioners in Health Enterprise Zones.

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 would enable eligible applicants to apply for Health Enterprise Zone (HEZ) income tax credits, made available under the Maryland Health Improvement and Disparities Reduction Act of 2012. This Act provides the framework to establish Health Enterprise Zones and provides \$4 million per year for 4 years. In January 2013, the DHMH Secretary designated five Health Enterprise Zones. As part of these designations, the five Zones submitted budget requests totaling approximately \$3.9 million. Of this total, approximately \$200,000 was included to support HEZ tax credits. The proposed action would enable eligible applicants to apply for these tax credits (a portion of the \$200,000).

II. Types of Economic Impact.

	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude
<hr/>		
A. On issuing agency:	(E+)	\$200,000
B. On other State agencies:	NONE	
C. On local governments:	NONE	
<hr/>		
	Benefit (+)	
	Cost (-)	Magnitude
<hr/>		
D. On regulated industries or trade groups:	(+)	\$200,000
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. and D. The estimate of \$200,000 is derived from the approved budget requests submitted by the five Zones. The \$200,000 is a portion of the \$3.9M that has been awarded under the designations and is derived from the HEZ Reserve Fund, which is administered by the Maryland Community Health Resources Commission (CHRC).

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 action will have a meaningful economic input on small businesses that are health care providers by establishing the process for health practitioners in Health Enterprise Zones to access beneficial income tax credits.

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 W. Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 24, 2014. A public hearing has not been scheduled.

.01 Objective.

The objective of the Health Enterprise Zone tax credits are to reduce health disparities, improve health outcomes, and reduce health care costs and hospital admissions and readmissions in traditionally underserved communities in the State by encouraging qualified licensed or certified health care practitioners to relocate or expand services in areas designated as Health Enterprise Zones under the Maryland Health Improvement and Disparities Reduction Act of 2012, Health-General Article, §§20-1401, et seq., Annotated Code of Maryland, and Tax-General Article, §10-731, Annotated Code of Maryland.

.02 Purpose.

This chapter describes the procedures that will be used by the Secretary of Health and Mental Hygiene to establish the requirements necessary to qualify for and receive the Health Enterprise Zone tax credits.

.03 Definitions.

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

B. Terms Defined.

(1) "Credit year" means the taxable year for which a qualified Health Enterprise Zone practitioner claims a Health Enterprise Zone tax credit.

(2) "Department" means the Maryland Department of Health and Mental Hygiene.

(3) "Health Enterprise Zone" has the meaning stated in Health-General Article, §20-1401(e), Annotated Code of Maryland.

(4) "Health Enterprise Zone practitioner" means a health care practitioner who:

(a) Is licensed or certified under the Health Occupations Article; and

(b) Provides one or more of the following services in a Health Enterprise Zone:

(i) Primary care, including obstetrics, gynecological services, pediatric services, or geriatric services;

(ii) Behavioral health services, including mental health or alcohol and substance abuse services; or

(iii) Dental services.

(5) "Income tax credit" means the Health Enterprise Zone tax credit set forth under Tax-General Article, §10-731(d)(1), Annotated Code of Maryland.

(6) "Secretary" means the Secretary of Health and Mental Hygiene or the Secretary's designee.

.04 Income Tax Credits.

A. The income tax credit is a nonrefundable credit against the State income tax and shall be in an amount equal to 100 percent of the amount of State income tax expected to be due from the Health Enterprise Zone practitioner from income derived from practice in the Health Enterprise Zone for the credit year.

B. A Health Enterprise Zone practitioner who practices health care in a Health Enterprise Zone may be eligible for an income tax credit available under Tax-General Article, §10-731, Annotated Code of Maryland, if the individual:

(1) Demonstrates cultural and linguistic competency in the form and manner set by the Department;

(2) Demonstrates competence in health literacy in the form and manner set by the Department;

(3) Demonstrates that the practitioner accepts and provides care for patients enrolled in the Maryland Medical Assistance Program and for uninsured patients in the form and manner required by the Department;

(4) Demonstrates support from the Health Enterprise Zone in which the HEZ practitioner is practicing in the form and manner specified by the Department; and

(5) Meets any other criteria specified in applicable tax forms by the Department.

C. Certification for Income Tax Credit.

(1) To be certified as preliminarily eligible to receive the income tax credit, a Health Enterprise Zone practitioner shall submit an application for preliminary certification to the Department on a form approved by the Department.

(2) To receive final certification of eligibility to receive the Health Enterprise Zone Income tax credit, a Health Enterprise Zone practitioner shall:

(a) Have received preliminary certification; and

(b) Submit an application for final certification to the Department on a form approved by the Department.

(3) To claim the credit, the HEZ practitioner shall file an amended tax return for the year in which the income was earned and attach a copy of the Department's certification to the amended income tax return to claim the income tax credit.

.05 Verification and Audit of Income Tax Credits.

A. The Department may:

(1) Request from a HEZ practitioner additional information to verify statements in preliminary and final applications for the income tax credit; and

(2) Use independent verification to verify information reported on a preliminary or final application for an income tax credit.

B. The Comptroller retains its audit authority under Tax-General Article, Annotated Code of Maryland.

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Title 14 INDEPENDENT AGENCIES

Subtitle 22 COMMISSION ON CRIMINAL SENTENCING POLICY

14.22.02 Criminal Offenses and Seriousness Categories

Authority: Criminal Procedure Article, §6-211, Annotated Code of Maryland

Notice of Proposed Action

[14-024-P]

The Maryland State Commission on Criminal Sentencing Policy proposes to amend Regulation .02 under **COMAR 14.22.02 Criminal Offenses and Seriousness Categories.**

Statement of Purpose

The purpose of this action is to indicate modifications to the table of seriousness categories in Regulation .02 under COMAR 14.22.02.

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 David Soule, Executive Director, Maryland State Commission on Criminal Sentencing Policy, 4511 Knox Road, Suite 309, College Park, MD 20742, or call 301-403-2707, or email to dsoule@umd.edu, or fax to . Comments will be accepted through February 24, 2014. A public hearing has not been scheduled.

.02 Seriousness Categories.

	Offense Literal	CJIS Code	Source	Felony or Misd.	Max Term	Min Term	Offense Type	Ser. Category	Fine
1—5 (text unchanged)									
5-1	Abuse and Other Offensive Conduct Prevent or interfere with the making of a report of suspected child abuse or neglect	1-0734	FL, §5-705.2 (penalty)	Misd.	5Y		Person	V	\$10,000
6—6-1 (text unchanged)									
6-2	Abuse and Other Offensive Conduct Failure to report disappearance of a minor	1-1002	CR, §3-608	Misd.	3Y		Person	VI	
6-3	Abuse and Other Offensive Conduct Failure to report death of a minor	1-1003	CR, §3-609	Misd.	3Y		Person	VI	
7—8 (text unchanged)									
8-1	Accessory after the Fact Accessory after the fact to 1 st degree murder	1-0774	CR, §1-301(b)(1)	Felony	10Y		Person	V	
8-2	Accessory after the Fact Accessory after the fact to 2 nd degree murder	1-0776	CR, §1-301(b)(2)	Felony	10Y		Person	V	
9—9-2 (text unchanged)									

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10	Animals, Crimes Against Use dog in dogfight or for baiting; arrange dogfight; possess, own, etc. dog for dogfight or baiting; allow dogfight or baiting on premises	1-0506 1-0510 <i>1-0511</i> <i>1-0652</i>	CR, §10-607	Felony	3Y		Property	VI	\$5,000
11—34 (text unchanged)									
35	Bad Check Felony bad check, \$100,000 or greater	<i>1-1220</i> <i>1-1224</i> <i>1-1228</i> <i>1-1232</i> <i>1-1236</i>	CR, §8-103 CR, §8-106(a)(3)	Felony	25Y		Property	V	\$25,000
35-1	Bad Check Felony bad check, at least \$10,000 but less than \$100,000	<i>1-1221</i> <i>1-1225</i> <i>1-1229</i> <i>1-1233</i> <i>1-1237</i>	CR, §8-103 CR, §8-106(a)(2)	Felony	15Y		Property	V	\$15,000
35-2	Bad Check Felony bad check, at least \$1,000 but less than \$10,000	<i>1-1222</i> <i>1-1226</i> <i>1-1230</i> <i>1-1234</i> <i>1-1238</i>	CR, §8-103 CR, §8-106(a)(1)	Felony	10Y		Property	V	\$10,000
35-3	Bad Check Multiple bad checks within a 30-day period, each less than \$1,000 and totaling \$1,000 or more	<i>1-1218</i> <i>1-1219</i>	CR, §8-103 CR, §8-106(b)	Felony	10Y		Property	V	\$10,000
36	Bad Check Misdemeanor bad check, less than \$1,000	<i>1-1223</i> <i>1-1227</i> <i>1-1231</i> <i>1-1235</i> <i>1-1239</i>	CR, §8-103 CR, §8-106(c)	Misd.	18M		Property	VII	\$500
36-1	Bad Check Misdemeanor bad check, less than \$100	1-1141 1-1142 1-1143 1-1144 <i>1-1240</i>	CR, §8-103 CR, §8-106(d)	Misd.	90D		Property	VII	\$500
37—58 (text unchanged)									
59	CDS and Paraphernalia Unlawful distribution, manufacture, etc.; counterfeiting, etc.; manufacture, possession, etc., of certain equipment for illegal use; keeping common nuisance, Schedules I through V non-narcotics (e.g., amphetamines, marijuana, <i>synthetic marijuana</i> , diazepam, MDMA under 750 grams, and Valium) and buprenorphine	1-0233 1-0234 1-0235 1-0236 1-0237 1-0238 1-0239 1-0660 2-3550	CR, §5-607(a)	Felony	5Y		Drug	IV	\$15,000
60—84-10 (text unchanged)									
84-11	Commercial Fraud, Other Violation of any provision of Business Regulation Article, Title 5, Subtitle 6, 1 st offense	<i>1-0980</i> <i>1-0981</i>	BR, §5-610(a)(1), (b)(1) (penalty)	Misd.	1Y		Property	VII	\$5,000

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84-12	Commercial Fraud, Other Violation of any provision of Business Regulation Article, Title 5, Subtitle 6, 2 nd offense	<i>1-0980</i> <i>1-0981</i>	BR, §5-610(a)(2), (b)(2) (penalty)	Misd.	2Y		Property	VII	\$10,000
84-13	Commercial Fraud, Other Violation of any provision of Business Regulation Article, Title 5, Subtitle 6, 3 rd or subsequent offense	<i>1-0980</i> <i>1-0981</i>	BR, §5-610(a)(3), (b)(3) (penalty)	Misd.	3Y		Property	VI	\$20,000
84-14	Commercial Fraud, Other Misappropriation or fraudulent conversion of perpetual care trust funds in excess of \$100	<i>1-0982</i>	BR, §5-610(c)	Felony	10Y		Property	V	\$25,000
84-15	Commercial Fraud, Other Violation of any provision of Business Regulation Article, Title 5, Subtitle 9, 1 st offense	<i>1-0986</i>	BR, §5-904(1) (penalty)	Misd.	1Y		Property	VII	\$5,000
84-16—84-17 (text unchanged)									
84-18	Commercial Fraud, Other Failure to deposit money received under or in connection with preneed burial contract, 1 st offense	<i>1-0983</i> <i>1-0984</i>	BR, §5-712(b)(1)(i), (b)(2)(i)	Misd.	1Y		Property	VII	\$10,000
84-19	Commercial Fraud, Other Failure to deposit money received under or in connection with preneed burial contract, 2 nd offense	<i>1-0983</i> <i>1-0984</i>	BR, §5-712(b)(1)(ii), (b)(2)(ii)	Misd.	2Y		Property	VII	\$15,000
84-20	Commercial Fraud, Other Failure to deposit money received under or in connection with preneed burial contract, 3 rd or subsequent offense	<i>1-0983</i> <i>1-0984</i>	BR, §5-712(b)(1)(iii), (b)(2)(iii)	Misd.	3Y		Property	VI	\$20,000
84-21	Commercial Fraud, Other Misappropriation or fraudulent conversion of preneed trust funds in excess of \$100	<i>1-0985</i>	BR, §5-712(c)	Felony	10Y		Property	V	\$25,000
84-22—84-23 (text unchanged)									
84-24	Commercial Fraud, Other Violations of law relating to plastic secondary packaging, 1 st offense	<i>1-0877</i> <i>1-0878</i>	BR, §19-308(e)(1)	Misd.	1Y		Property	VII	\$1,000
84-25—114 (text unchanged)									
114-1	Credit Card Crimes Felony credit card crimes, \$100,000 or greater	<i>1-1243</i> <i>1-1244</i> <i>1-1247</i> <i>1-1250</i> <i>1-1253</i> <i>1-1255</i>	CR, §8-206(c)(1)(iii) CR, §8-207(b)(1)(iii) CR, §8-209(b)(1)(iii)	Felony	25Y		Property	V	\$25,000
114-2	Credit Card Crimes Felony credit card crimes, at least \$10,000 but less than \$100,000	<i>1-1242</i> <i>1-1245</i> <i>1-1248</i> <i>1-1251</i> <i>1-1254</i> <i>1-1256</i>	CR, §8-206(c)(1)(ii) CR, §8-207(b)(1)(ii) CR, §8-209(b)(1)(ii)	Felony	15Y		Property	V	\$15,000

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114-3	Credit Card Crimes Felony credit card crimes, at least \$1,000 but less than \$10,000	1-1241 1-1246 1-1249 1-1252 1-1257 1-1365	CR, §8-206(c)(1)(i) CR, §8-207(b)(1)(i) CR, §8-209(b)(1)(i)	Felony	10Y		Property	V	\$10,000
114-4	Credit Card Crimes Misdemeanor credit card crimes, less than \$1,000	3-4120 3-4130 3-4140 3-4150 3-4160 3-4170	CR, §8-206(c)(2) CR, §8-207(b)(2) CR, §8-209(b)(2)	Misd.	18M		Property	VII	\$500
115	Credit Card Crimes Misdemeanor credit card crimes, not exceeding \$100	1-0581 1-0582 1-0583 1-0584 1-0585 1-0586	CR, §8-206(c)(3) CR, §8-207(b)(3) CR, §8-209(b)(3)	Misd.	90D		Property	VII	\$500
115-1—137 (text unchanged)									
138	Extortion and Other Threats Felony Extortion—by anyone, \$100,000 or greater	1-1207 1-1213	CR, §3-701(c)(3)	Felony	25Y		Property	II	\$25,000
138-1	Extortion and Other Threats Felony Extortion—by anyone, at least \$10,000 but less than \$100,000	1-1206 1-1211	CR, §3-701(c)(2)	Felony	15Y		Property	IV	\$15,000
138-2	Extortion and Other Threats Felony Extortion—by anyone, at least \$1,000 but less than \$10,000	1-1204 1-1210	CR, §3-701(c)(1)	Felony	10Y		Property	V	\$10,000
138-3	Extortion and Other Threats Misdemeanor Extortion—by anyone, less than \$1,000	1-1209 1-1286	CR, §3-701(d)	Misd.	18M		Property	VII	\$1,000
139	Extortion and Other Threats Felony Extortion—by State or local officer, \$100,000 or greater	1-1217	CR, §3-702(e)	Felony	25Y		Property	II	\$25,000
139-1	Extortion and Other Threats Felony Extortion—by State or local officer, at least \$10,000 but less than \$100,000	1-1216	CR, §3-702(d)	Felony	15Y		Property	IV	\$15,000
139-2	Extortion and Other Threats Felony Extortion—by State or local officer, at least \$1,000 but less than \$10,000	1-1215	CR, §3-702(c)	Felony	10Y		Property	V	\$10,000
139-3	Extortion and Other Threats Misdemeanor Extortion—by State or local officer, less than \$1,000	1-1214	CR, §3-702(f)	Misd.	18M		Property	VII	\$500
140—151 (text unchanged)									
151-1	False Statements, Other File false lien or encumbrance or make false statement on lien or encumbrance, 1 st offense	1-0651	[CR, §3-807(b)(1)] CR, §3-808(b)(1)	Misd.	1Y		Property	VII	\$10,000
151-2—154 (text unchanged)									

154-1	Fraud, Financial Crimes Against Vulnerable Adults Obtain property of vulnerable adult or an individual at least 68 years old by deception, intimidation, or undue influence, \$100,000 or greater	<i>1-1283</i>	CR, §8-801(c)(1)(iii)	Felony	25Y		Property	II	\$25,000
154-2	Fraud, Financial Crimes Against Vulnerable Adults Obtain property of vulnerable adult or an individual at least 68 years old by deception, intimidation, or undue influence, at least \$10,000 but less than \$100,000	<i>1-1282</i>	CR, §8-801(c)(1)(ii)	Felony	15Y		Property	IV	\$15,000
154-3	Fraud, Financial Crimes Against Vulnerable Adults Obtain property of vulnerable adult or an individual at least 68 years old by deception, intimidation, or undue influence, at least \$1,000 but less than \$10,000	<i>1-1281</i>	CR, §8-801(c)(1)(i)	Felony	10Y		Property	V	\$10,000
154-4	Fraud, Financial Crimes Against Vulnerable Adults Obtain property of vulnerable adult or an individual at least 68 years old by deception, intimidation, or undue influence, less than \$1,000	<i>1-0781</i>	CR, §8-801(c)(2)	Misd.	18M		Property	VII	\$500
155—159-1 (text unchanged)									
159-2	Fraud, Miscellaneous Violation of any provision of Health Occupations Article, Title 19, Subtitle 4	<i>1-0888</i> <i>1-0889</i> <i>1-0890</i>	HO, §19-407 (penalty)	Misd.	2Y		Person	VII	\$5,000
159-3	Fraud, Miscellaneous Practicing medicine without a license or misrepresentation as practitioner of medicine	<i>1-0891</i> <i>1-1375</i>	HO, §14-601 HO, §14-602 HO, §14-606(a)(4) (penalty)	Felony	5Y		Person	VI	\$10,000
160—163-1 (text unchanged)									
164	Fraud, Miscellaneous Willful transportation of unstamped cigarettes or other tobacco products on which tobacco tax has not been paid	<i>1-0796</i>	TG, §13-1015	Felony	2Y		Property	VII	Mandatory \$150/carton for a first offense, or \$300/carton for a subsequent offense
164-1—206 (text unchanged)									
206-1	Identity Fraud Possess, obtain personally identifying information or willfully assume the identity of another, benefit \$100,000 or greater	<i>1-1258</i> <i>1-1263</i> <i>1-1267</i>	CR, §8-301(b), (c) CR, §8-301(g)(1)(iii) (penalty)	Felony	25Y		Property	II	\$25,000

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206-2	Identity Fraud Possess, obtain personally identifying information or willfully assume the identity of another, benefit at least \$10,000 but less than \$100,000	1-1259 1-1264 1-1268	CR, §8-301(b), (c) CR, §8-301(g)(1)(ii) (penalty)	Felony	15Y		Property	IV	\$15,000
206-3	Identity Fraud Possess, obtain personally identifying information or willfully assume the identity of another, benefit at least \$1,000 but less than \$10,000	1-1260 1-1265 1-1269	CR, §8-301(b), (c) CR, §8-301(g)(1)(i) (penalty)	Felony	10Y		Property	V	\$10,000
206-4	Identity Fraud Possess, obtain personally identifying information or willfully assume the identity of another, benefit less than \$1,000	1-1261 1-1266 1-1270	CR, §8-301(b), (c) CR, §8-301(g)(2) (penalty)	Misd.	18M		Property	VII	\$500
206-5	Identity Fraud Use a re-encoder or skimming device for purpose of identity theft, benefit \$100,000 or greater	1-1271 1-1275	CR, §8-301(d) CR, §8-301(g)(1)(iii) (penalty)	Felony	25Y		Property	II	\$25,000
206-6	Identity Fraud Use a re-encoder or skimming device for purpose of identity theft, benefit at least \$10,000 but less than \$100,000	1-1272 1-1276	CR, §8-301(d) CR, §8-301(g)(1)(ii) (penalty)	Felony	15Y		Property	IV	\$15,000
207	Identity Fraud Use a re-encoder or skimming device for purpose of identity theft, benefit at least \$1,000 but less than \$10,000	1-1273 1-1277	CR, §8-301(d) CR, §8-301(g)(1)(i) (penalty)	Felony	10Y		Property	V	\$10,000
207-1	Identity Fraud Use a re-encoder or skimming device for purpose of identity theft, benefit less than \$1,000	1-1274 1-1278	CR, §8-301(d) CR, §8-301(g)(2) (penalty)	Misd.	18M		Property	VII	\$500
207-2 (text unchanged)									
207-3	Identity Fraud Falsely represent self as another person	[2-0082] [1-1305] 1-1262 1-1280	CR, §8-301(c)(1), (f) CR, §8-301(g)(4) (penalty)	Misd.	18M		Property	VII	\$500
207-4—207-5 (text unchanged)									
207-6	Identity Fraud Possess, obtain, or help another obtain a re-encoder or skimming device for purpose of identity theft	[1-0778] 1-1279	CR, §8-301(e) CR, §8-301(g)(4) (penalty)	Misd.	18M		Property	VII	\$500
208—361-1 (text unchanged)									
361-2	Sexual Crimes Sex Offender—violation of restriction barring sex offenders from specified locations where children gather	1-1478 1-1479	CP, §11-722(d)	Misd.	5Y		Person	V	\$5,000
361-3—365-1 (text unchanged)									
365-2	Stalking and Harassment Aiming laser pointer at aircraft	1-1001	CR, §3-807	Misd.	3Y		Person	VI	\$2,500
365-3—377 (text unchanged)									

377-1	Telecommunications and Electronics, Crimes Involving Use an interactive computer service to inflict emotional distress on a minor or place a minor in fear of death or serious bodily injury	1-0653	CR, §3-805(b)(2) CR, §3-805(e) (penalty)	Misd.	1Y		Person	VII	\$500
378—392-2 (text unchanged)									
392-3	Weapons Crimes—In General Possess or use restricted firearm ammunition in a crime of violence	1-1284	CR, §4-110	Misd.	5Y		Person	V	\$5,000
393—404 (text unchanged)									
404-1	Weapons Crimes—In General Possession of ammunition by a restricted person or after having been convicted of a crime of violence or select drug crimes	1-1285	PS, §5-133.1	Misd.	1Y		Person	VII	\$1,000
405—419 (text unchanged)									
419-1	Weapons Crimes—In General Use, possess, or purchase bulletproof body armor after being convicted of a crime of violence or a drug trafficking crime	1-1449 1-1451	CR, §4-107	Misd.	5Y		Person	V	\$5,000
420 (text unchanged)									

Footnotes (text unchanged)
General Rules (text unchanged)

DAVID SOULE
Executive Director
Commission on Criminal Sentencing Policy

Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 06 WATERWORKS AND WASTE SYSTEMS OPERATORS

26.06.01 General Regulations

Authority: Environment Article, [§§12-205 and 12-302—12-307] *Title 12*,
Annotated Code of Maryland

Notice of Proposed Action [14-007-P]

The Secretary proposes to amend Regulations .01, .02, .05—, .10, .12, .13, and .16 under COMAR 26.06.01 General Regulations.

Statement of Purpose

The purpose of this action is to amend the current State regulations. These actions are taken to address findings from the Office of Legislative Auditors as presented in the October 2009

report, Sunset Review Evaluation of the State Board Of Waterworks and Waste Systems Operators, increase the certification and examination fees, and to address technical errors in the regulations. The regulations were last revised in 2001; the amendments to the regulations address the following issues:

- To provide consistency between other State operator certification programs, Maryland’s “Temporary” certificate holders will be identified as “Operators-In-Training”.

- In COMAR 26.06.01.05, the regulations have been revised to clarify which individuals are required to be certified as operators.

- As of 2009, there are no operators who hold limited certificates. All references to limited certificates have been removed from the regulations.

- The Annotated Code, Environment Article 12-402 was revised during the FY2012 Legislative Session for the purpose of authorizing certain waterworks, wastewater works, and industrial wastewater works to be under the supervision of a certified operator instead of a certified superintendent under certain circumstances; and generally relating to the supervision of a waterworks, a wastewater works, and an industrial wastewater works. This change is incorporated in the regulations.

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 regulatory changes to the Waterworks and Waste Systems Operators – General Regulations will have a direct economic impact on the issuing agency, local governments, and regulated industries, and an indirect economic impact on the public. The proposed changes will require waterworks and waste systems operators to pay an increased certification fee.

In 2009, during the Board’s sunset review, the legislative auditors reported that the Board and its associated activities should be self-sufficient. The certification fees were last increased in February 2001. Based on FY2013 and FY2014 appropriations, the Board’s revenues should approach \$290,000 per year in order to be self-sufficient.

As of March 2013, the Board certified over 4500 persons who held a combination of 7,989 certifications. The proposed regulations would increase the certification fees currently paid by operators from \$75 to \$100. The renewal fees for a three year period would also increase from \$75 to \$100.

II. Types of Economic Impact.

	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(R+)	Approximate \$65,000/year
B. On other State agencies:	(R-)	Approximately \$25,000/year
C. On local governments:	(R-)	Approximately \$25,000/year
	Benefit (+)	
	Cost (-)	Magnitude
D. On regulated industries or trade groups:	(-)	Approximately \$40,000/year
E. On other industries or trade groups:	(-)	Not applicable
F. Direct and indirect effects on public:	(-)	Minimal

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

A. Assumes a positive revenue for the State agency based on the increased annual certification fees required in the proposed regulations. The increase in annual certification fees will generate an estimated additional \$65,000 per year for the Maryland Department of the Environment once the final regulations are in effect. The increase in fees should enable the Board to generate fees of approximately \$290,000 per year which makes the Board self-sufficient as recommended by the legislative auditors.

In March 2013, there were 7940 active certificates held by operators, and superintendents in Maryland.

Revenues from the Board’s certification and examination fees vary from year to year, but they have been consistently above \$215,000 per year.

- FY2012: \$240,195
- FY2011: \$216,815
- FY2010: \$223,570

B. Assumes the State and local government agencies operate approximately 40% of the waterworks and waste system facilities statewide. The negative revenue represents the increased expense related to the fees.

C. Assumes the State and local government agencies operate

approximately 40% of the waterworks and waste system facilities statewide. The negative revenue represents the increased expense related to the fees.

D. Assumes a negative revenue to industry trade groups based on the increased certification fees. Private businesses own and operate approximately 60% of the waterworks and waste system facilities.

E. No impact is expected to other industries or trade groups.

F. Assumes minimal impact to the public.

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 Lee Haskins, Board Secretary, Maryland Department of the Environment, 1800 Washington Blvd., Baltimore, MD 21230, or call 410-537-3167, or email to Lee.Haskins@maryland.gov, or fax to 410-537-3168. Comments will be accepted through February 24, 2013. A public hearing will be held on February 4, 2014, 10a.m. — 12 p.m., at Maryland Department of the Environment, 1800 Washington Blvd., Aeris Conference Room, Baltimore, MD 21230.

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (2) (text unchanged)

(3) Certificate.

(a) (text unchanged).

(b) "Certificate" includes:

(i) — (iii) (text unchanged)

[(iv) A limited certificate, as limited by Regulation .06E of this chapter;]

[(v) (iv) — [(vi) (v) (text unchanged)

(4) — (9) (text unchanged)

(10) "Operator-in-training" means an individual who lacks the experience or the education that is acceptable to the Board to receive Operator certification from the Board, and holds a temporary certificate from the Board.

[(10)] (11) — [(12)] (13) (text unchanged)

[(13)] (14) "Secretary" means the Secretary of the Maryland Department of the Environment.

[(14)] (15) — [(15)] (16) (text unchanged)

(17) "Training, Review, and Evaluation Committee" means the committee that is established by the Board to receive, review, and evaluate each application for training approval.

[(16)] (18) — [(22)] (24) (text unchanged)

.02 Board Organization.

A. — B. (text unchanged)

C. Communication with the Board. All communications with the Board [should] shall be directed to the secretary of the Board of Waterworks and Waste Systems Operators, [2500 Broening Highway, Baltimore, Maryland 21224] 1800 Washington Boulevard, Baltimore, Maryland 21230.

D. Payment of Fee. All fees shall be directed to the Maryland Department of the Environment, Board of Waterworks and Waste Systems Operators, as specified by the Board.

.05 Certification.

A. (text unchanged)

B. Individuals Who Shall Have an Operator [,] or Grandparented [, or Limited] Certificate.

(1) Wastewater Treatment Plant and Water Treatment Plant. Individuals who are responsible for one or more of the following

tasks shall be certified as water treatment plant or wastewater treatment plant operators:

(a) Makes decisions regarding the control of flow, and processing of raw and [finished] treated drinking water, wastewater, or sludge, or makes the adjustments that control flow or processing of raw or treated drinking water, wastewater, or sludge;

(b) Observes variations in operating conditions, and interprets meter and gauge readings and test results to determine processing requirements for treatment of drinking water, wastewater, or sludge; or

(c) In the absence of the superintendent or operator in responsible charge, makes operating decisions based on the superintendent's or operator in responsible charge's directives or on standard operating procedures.

(2) Wastewater Collection System and Water Distribution System. Individuals who are responsible for one or [both] more of the following tasks shall be certified as wastewater collection system or water distribution system operators:

(a) (text unchanged)

(b) In the absence of the superintendent or operator in responsible charge, makes operating decisions based on the superintendent's or operator in responsible charge's directives or on standard operating procedures; or

(c) Makes the adjustments that control flow of treated drinking water or wastewater, unless directed by an operator in responsible charge or superintendent who is available on-site when the adjustment is made.

(3) (text unchanged)

C. — D. (text unchanged)

.06 Types of Certificates and Certification Requirements.

A. The Board shall issue a certificate only for a class of works at which the applicant is employed or is awaiting specific employment. If the applicant is not employed or awaiting specific employment in the class of works under review, the Board may not issue a certificate.

B. Temporary Certificates and Certification.

(1) (text unchanged)

(2) The temporary certificate holder shall work only under the direction of a holder of a superintendent or operator [, or limited] certificate.

(3) (text unchanged)

.07 Payment of Fees.

A. Payment of all fees under this chapter shall be [in the form of a personal check, cashier's check, or money order,] made payable to the "Board of Waterworks and Waste Systems Operators".

B. — C. (text unchanged)

D. Except as provided in §F of this regulation, the following fees are established by the Board for items and services provided under this chapter:

Types of Certificates (Currency unit — U.S. dollars)				
Service	Operator	Temporary	Superintendent	Grandparented [/Limited]
[Exam] Examination fee	[\$75] \$100	N/A	N/A	N/A
Fee to retake an exam	[\$75] \$100	\$100	N/A	N/A
Reciprocity	[\$75] \$200	N/A	N/A	N/A
Late Renewal Fee (in addition to standard renewal fees)	[\$150] \$100	[\$150] \$100	[\$150] \$100	[\$150] \$100
Reinstatement Fee (in addition to standard renewal fees)	\$150	N/A	N/A	N/A
Replace certificate	\$25	\$25	\$25	\$25
Replace renewal card	\$15	\$15	\$15	\$15
Fee for initial certification [Issue certificate]	[\$75] \$100	[\$75] \$100	\$100 [75]	[\$75] N/A
Name/address change	No charge for any name/address change			

(4) A temporary certificate holder will be identified as an Operator-in-Training.

C. Operator Certificates and Certification.

(1) — (3) (text unchanged)

(4) The approval by the Board of experience credit under §C(3)(b) or (c) of this regulation is based upon the following information in writing from the applicant:

(a) — (c) (text unchanged)

(5) The approval of experience credit under §C(3)(a)(i) of this regulation for a person who holds multiple certificates will be determined by the Board. The following information will be considered:

(a) Experience as a water, wastewater, or industrial wastewater operator that is earned under a valid certificate may be credited hour-for-hour toward the experience requirement for a temporary certificate;

(b) Whether the applicant has passed the appropriate examination for the certification that is under review; and

(c) Whether a minimum of 1,800 hours or 1 year of experience was earned in the highest class of each certificate category for which a temporary certificate is held.

[(5)] (6) — [(7)] (8) (text unchanged)

D. (text unchanged)

[E.] Limited Certificates. A limited certificate shall be site-specific and expire immediately upon termination of employment at the works identified in the certificate.]

[F.] E. — [H.] G. (text unchanged)

[I.] H. Certificate. Each certificate shall:

(1) Indicate the classification the operator[, limited] or temporary certificate holder is authorized to operate as set out in Tables 4—7 of Regulation .16 of this chapter;

(2) (text unchanged)

(3) Indicate the certification number and the date of issuance; [and]

(4) Bear the seal of the Board; and [be signed as follows:]

[(a)] (5) [Superintendent,] In the case of superintendent and operator [, and limited] certificates [shall], be signed by the chairman and the secretary of the Board[;].

[(b)] Temporary certificates shall be signed by the secretary of the Board.]

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E. The renewal fee paid by an individual shall be based upon the types and categories of certificates held by that individual. *The renewal fee for a 3-year period shall be \$100 per certification category and type.*

Types of Certificates (Currency unit — U.S. dollars)				
Certification Categories	Operator	Temporary	Superintendent	Grandparented [/Limited]
Wastewater	[\$75] \$100	[\$75] \$100	[\$75] \$100	[\$75] N/A
Water treatment	[\$75] \$100	[\$75] \$100	[\$75] \$100	[\$75] \$100
Industrial wastewater	[\$75] \$100	[\$75] \$100	[\$75] \$100	[\$75] N/A
Wastewater collection	[\$75] \$100	[\$75] \$100	[\$75] \$100	[\$75] N/A
Water distribution	[\$75] \$100	[\$75] \$100	[\$75] \$100	[\$75] \$100

F. The maximum fee for the renewal of all certificates held by an individual shall be [\$150] \$200 if the certificates are renewed at the same time. This does not include any late renewal fees, reinstatement fee, computer-based examination fees charged by the testing facility, or examination fees that may be applicable. The maximum late renewal fee assessed for an operator with multiple certificates shall be \$200.

G. Applicants who are utilizing the services of computer-based examination sites shall:

- (1) Pay the examination fee to the Board that is specified in §D of this regulation; and
- (2) Pay the site-specific fee that is required by the approved examination location.

.08 Duration of All Certificates.

A. Except as provided in §B of this regulation, superintendent, operator, temporary, and grandparented [, and limited] certificates are valid for 3 years from the date of issuance.

B. — D. (text unchanged)

.09 Application Procedures.

A. An application to the Board for certification or examination shall be:

(1) Addressed to the secretary of the Board of Waterworks and Waste Systems Operators [, 2500 Broening Highway, Baltimore, Maryland 21224];

(2) — (4) (text unchanged)

B. — C. (text unchanged)

.10 Examination for Certification.

A. The Board shall permit an applicant to take the examination for certification only after the Board has determined that the applicant has:

(1) [Any type of valid certification as set forth in Regulation .06 of this chapter] A valid certificate for the water, wastewater, or industrial wastewater category which corresponds with the examination category being requested; or

(2) Submitted an application to renew a temporary certificate late.

B. (text unchanged)

C. Passing Score for Examinations. The passing score for examinations is a minimum of [70] 69.5 percent.

D. — F. (text unchanged)

.12 Requirements for Renewal of All Certificates.

A. Except as provided in Regulation .08 of this chapter, the Board shall renew an operator, [limited,] grandparented, or superintendent certificate if the certificate holder:

(1) (text unchanged)

(2) Pays a renewal fee in accordance with Regulation .07 of this chapter; [and]

(3) Submits the application for renewal and payment of the renewal fee to the Board before the current certificate expires; and

(4) Meets the applicable training requirements set out in Regulation .13 of this chapter;

B. (text unchanged)

C. Late Renewal Procedures.

(1) Holders of expired operator, [limited,] grandparented, or superintendent certificates shall:

(a) — (c) (text unchanged)

(2) — (3) (text unchanged)

D. Reinstatement.

(1) Limitations.

(a) (text unchanged)

(b) Temporary, [limited,] grandparented, and superintendent certificates may not be reinstated.

(c) (text unchanged)

(2) — (3) (text unchanged)

.13 Training.

A. — C. (text unchanged)

D. Training Approval. The Board, in conjunction with the Department and based on a review of the recommendations of the Training, Review, and Evaluation Committee, if applicable, will approve courses for purposes of satisfying the training requirements in §A, based on the following factors:

(1) — (5) (text unchanged)

E. (text unchanged)

F. Assignment of Units for Approved Training.

(1) The Board in conjunction with the Department will assign one training [units] unit to approved training courses [on the following basis:] for each hour of instruction.

[a] Training with successfully completed final examination—1.5 units for each hour of instruction;

(b) All other training—1 unit for each hour of instruction.]

(2) (text unchanged)

G. — H. (text unchanged)

.16 Tables.

Table 1 (text unchanged)

Class of Plants	Types of Treatment Systems	Typical Processes Included in the System
1 — 5	(text unchanged)	
6	Site Specific	Other alternative technology systems not covered under this classification system which may include groundwater discharge systems such as spray irrigation systems, and drip dispersal systems.
S*—A**	(text unchanged)	

*Class S will only be required when the specific works is limited to solids handling.

**Class A is used in conjunction with other classes.

Tables 3 — 4 and 6 (text unchanged)

Note: Tables 5, 7, and 8 have been amended and appear as Insert A at the end of the Proposed Action on Regulations section of this issue of the Maryland Register.

ROBERT M. SUMMERS
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 Proposed Action

[14-034-P]

The Secretary of the Environment proposes to amend Regulations .01, .04, .06, .07, .09, and .10 and adopt new Regulation .12 under **COMAR 26.11.09 Control of Fuel-Burning Equipment, Stationary Internal Combustion Engines, and Certain Fuel-Burning Installations.**

Statement of Purpose

The purpose of this action is to:

1. Incorporate the definition of biomass into Regulation .01;
2. Establish that the provisions from regulations .04 Prohibitions of Certain New Fuel-Burning Equipment, .06 Control of Particulate Matter, and .07 Control of Sulfur Oxides from Fuel-Burning Equipment do not apply to fuel-burning equipment installed after May 1, 2014 that burns only biomass fuels;
3. Establish new regulation .12 Standards for Biomass Fuel-Burning Equipment Equal to or Greater Than 350,000 Btu/hr which sets NO_x and PM standards and requirements for biomass equipment where federal standards are not established; and
4. Amend incorrect references from regulations .09 and .10.

This action will be submitted to the U.S. Environmental Protection Agency (EPA) for approval as part of Maryland's State Implementation Plan.

Background

There is significant potential for and interest in biomass for energy recovery and the Department is taking action to enhance and facilitate the application of renewable and energy efficient technologies and practices by establishing standards and procedures. There are existing federal regulations that apply to some of the same fuel-burning categories that Maryland's proposed regulation will cover. Where Federal regulations are more stringent than the Maryland regulations, the federal standards apply.

New technologies and environmental initiatives have recently increased the use of wood and farming by-products as a fuel to be burned to provide heat and power. To incorporate this new fuel category of biomass, the Department has proposed a new regulation COMAR 26.11.09.12 and related amendments to other pertinent sections of COMAR 26.11.09 regulations.

Biomass materials include wood residue and wood products; animal manure, including litter and other bedding materials; and vegetative agricultural and silvicultural materials. Because certain components of biomass based fuel could be considered waste, EPA has spent extensive efforts to define the application of biomass any other 'non-traditional fuels'. The proposed Maryland definition of biomass includes the application of the federal legitimacy criteria procedures when required for determining if a material is classified as

a solid waste or not. Non-hazardous secondary materials that have been determined not to be solid waste pursuant to 40 CFR 241.3(b)(1), and based on the legitimacy criteria under 40 CFR 241.3(d)(1) can be used in fuel-burning equipment. This determination has no impact/effect on whether the material will be considered a state solid waste.

Biomass fuel, where readily and cost effectively available as a result of energy crop harvesting, sustainable forestry and poultry litter management practices can be used in fuel-burning equipment for energy recovery while meeting applicable standards and also reducing the amount of phosphorous and nitrogen entering the Chesapeake Bay and its tributaries.

Maryland produces approximately 500-600 million chickens a year, as a result, it is projected that close to 600-700 million pounds of poultry litter is produced. The industry is one of the state's most productive forms of agriculture, one of its largest employers, and has seen steady growth with increasing demand for low cost chicken and contributes close to \$700 million to the Maryland economy. The application of technology that meets Maximum Achievable Control Technology (MACT)/Generally Available Control Technology (GACT)/Best Available Control Technology (BACT) standards to recover energy from poultry litter and other biomass materials would be useful to utilize renewable fuels and provide broad benefits to the environment.

Federal Maximum Achievable Control Technology (MACT) standards for major sources were finalized on January 31, 2013 under 40 CFR 63 Subpart DDDDD National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters. The amendments to COMAR 26.11.09 and standards for biomass fuel-burning equipment will reduce the permit review and approval process by approximately 60 days and at the same time apply standards to size categories of fuel-burning equipment that do not have emission standards under MACT and GACT standards.

MACT standards for industrial, commercial and institutional boilers apply to complex, non-homogeneous biomass fuels and equipment differentiated by design and heat input capacity. The MACT standards are for hazardous air pollutants (HAPs). EPA finalized 40 CFR Part 63 Subpart JJJJJJ, National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers on February 1, 2013. GACT standards are applicable to boilers less than 10 MMBtu/hr heat input. Under GACT, optimization and best operating practices are required. The technology developments for different types of boilers and performance results reflected in the MACT standards have a significant impact on the development of NO_x standards for different size boilers and on PM standards for small size boilers.

MDE is proposing to amend the existing regulations in COMAR 26.11.09 that would be applicable to biomass fuel-burning equipment. New biomass fuel-burning equipment would be subject to standards based on MACT/GACT /BACT analysis. The amendments and new regulation have been developed to facilitate the permitting and compliance process and also apply standards to size category fuel-burning equipment in the absence of emission standards under MACT/GACT.

Sources Affected and Location

These amendments and new regulation affect new biomass fuel-burning equipment in Maryland.

Requirements

Summary of Federal MACT/GACT Standards, Amendments and Related Federal MACT –Applicability, Standards and Monitoring Requirements

40 CFR 63 Subpart DDDDD (5D) –Maximum Achievable Control Technology Standards (MACT) for Boilers and Process Heaters – standards for Major Sources

1. HAPS regulated: a) Fuel based emission standards PM and HG; b) Combustion based emissions of CO.

2. Compliance schedule for source categories: January 31, 2016 for existing sources; and January 31, 2013 or upon startup for new sources.

3. New/existing sources with less than 10 MMBtu/hr category boilers are subject to biennial tune – up requirement.

4. For greater than 10 MMBtu/hr new and existing – emission standards for CO, PM and Hg are applicable.

5. Existing boilers or heaters are subject to work practice standards and energy assessment requirement.

6. Operating and monitoring parameters are based on performance tests and include operating parameters for CO and control devices such as wet scrubber, ESP and bag house with leak detection system.

Federal GACT - 40 CFR Part 63 Subpart JJJJJ, National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers

1. New biomass boilers greater than 10MMBtu/hr have to meet PM standards and implement a biennial tune-up program.

2. New biomass boilers less than 10 MMBtu/hr are required to implement a biennial tune-up program.

3. Existing biomass boilers are required to implement a biennial tune-up program.

4. Existing biomass boilers greater than 10 MMBtu/hr heat input are required to conduct energy assessment.

Tune-Up Procedures

1. Inspect the flame pattern and burner. Adjust, test, clean, modify and replace as necessary under manufacturer’s specifications.

2. Inspect the system controlling the air-to-fuel ratio, calibrate and assure proper operation.

3. Optimize total CO emissions consistent with manufacturer’s specification.

4. Measure CO concentrations in the flue gas stream, both before and after the adjustments are made. A portable analyzer may be used.

Energy Assessment

1. Inspection and inventory of energy consuming systems.

2. Analysis of engineering and architectural plans.

3. A list of energy management and conservation measures.

4. Report with recommendations for energy efficiency.

5. List of energy savings.

Startup, Shutdown and Malfunction Requirements

1. Meet work practice standard by following manufacturer recommended procedures to minimize startup and shutdown procedures.

2. For exceedance of standard due to malfunction, records must be kept of malfunction and corrective actions.

Record Keeping and Reporting

1. Monitor and record hours of operation for major sources.

2. For tune-ups, information on dates, results, procedures and manufacturer’s specification.

3. The type and amount of fuel used over the 12 months prior to the biennial tune-up of the boiler.

4. For each boiler subject to an emission limit records of monthly fuel use by each boiler, including the type(s) of fuel and amount(s) used must be kept.

5. Electronic copy of reports of required performance tests using the Electronic Reporting Tool via EPA’s Central Data Exchange.

6. For area and major sources notification of compliance status, submit statement of completed energy assessment.

7. For operating units that combust non-hazardous secondary materials that have been determined not to be solid waste pursuant to § 241.3(b)(1) a record which documents how the secondary material meets each of the legitimacy criteria under § 241.3(d)(1) must be kept.

Summary of Proposed Maryland Standards — COMAR 26.11.09 Amendments

COMAR 26.11.09.04 prohibitions will not apply to fuel-burning equipment installed after May 1, 2014 that burns only biomass fuels.

COMAR 26.11.09.06 shall not apply to fuel-burning equipment installed after May 1, 2014 that burns only biomass fuels; however, the particulate matter requirements of Regulation .12 of this Chapter will apply to new biomass units.

COMAR 26.11.09.07 shall not apply to fuel-burning equipment installed after May 1, 2014 that burns only biomass fuels

COMAR 26.11.09.12 Standards for Biomass Fuel-Burning Equipment Equal to or Greater Than 350,000 Btu/hr.

1. Standards and requirements are applicable to owners and operators of biomass fuel-burning equipment equal to or greater than 350,000 Btu/hr heat input capacity.

2. Federal requirements under 40 CFR 63 Subparts DDDDD and JJJJJ, as amended, are applicable.

3. Emission Standards for Biomass Fuel-Burning Equipment Greater Than or Equal to 10 MMBtu/hr Heat Input Capacity. Applicable standards

a. A particulate matter emission standard of 0.07 lb/MMBtu heat input if the total heat input capacity is less than 30 MMBtu/hr;

b. A particulate matter emission standard of 0.03 lb/MMBtu heat input if the total heat input capacity is equal to or greater than 30 MMBtu/hr;

c. A NO_x emission standard of 0.30 lb/MMBtu heat input, if the heat input capacity is less than or equal to 250 MMBtu/hr;

d. A NO_x emission standard of 0.25 lb/MMBtu heat input, if the heat input capacity is greater than 250 MMBtu/hr; and

e. An initial and biennial tune-ups are conducted.

4. Requirements for Biomass Fuel-Burning Equipment Greater Than 1.5 MMBtu/hr and Less Than 10 MMBtu/hr Heat Input Capacity. Applicable standards:

a. A particulate matter emission standard of 0.23 lb/MMBtu heat input in Areas I, II, V and VI;

b. A particulate matter emission standard of 0.1 lb/MMBtu heat input in Areas III and IV;

c. A NO_x emission standard of 0.30 lb/MMBtu heat input; and

d. An initial and biennial tune-ups are conducted.

5. Requirements for Biomass Fuel-Burning Equipment Less Than or Equal to 1.5 MMBtu/hr and Greater than 350,000Btu/hr Heat Input Capacity. Applicable standards:

a. A particulate matter emission standard of 0.35 lb/MMBtu heat input in Areas I, II, V and VI;

b. A particulate matter emission standard of 0.1 lb/MMBtu heat input in Areas III and IV;

c. A NO_x emission standard of 0.30 lb/MMBtu heat input; and

d. An initial and biennial tune-ups are conducted.

6. Existing biomass fuel-burning equipment:

a. An initial and biennial tune-ups are required to be conducted; and

b. All the standards and requirements of must be complied with.

7. Fuel-burning equipment operation in accordance with the design and maintenance specifications of the manufacturer in order to meet and maintain compliance with the applicable emission standards and performance requirements.

8. Startup and Shutdown Requirements. The boiler's startup and shutdown periods are required to be minimized following the:

- a. Manufacturer's recommended procedures, if available; or
- b. Recommended procedures for a unit of similar design for which manufacturer's recommended procedures are available if manufacturer's recommended procedures for the actual unit are not available.

9. Compliance.

a. Testing following 40 CFR Part 60, Appendix A, as amended.

b. Sources subject to §§D and E demonstrate compliance by providing certification, on a form provided by the Department, from the manufacturer that the fuel-burning equipment is designed and tested to meet the applicable particulate matter and NO_x standards including a copy of test results with EPA approved test methods on fuel-burning equipment in the same model line as the new fuel-burning equipment.

c. The particulate matter emission standards of §§C, D or E of this regulation and the requirements of 40 CFR 63 Subparts DDDDD and JJJJJ, as amended, are required to be complied with by:

(a) Demonstrating continuous compliance with the work practice and management practice standards as specified in 40 CFR 63; and

(b) Complying with the monitoring, installation, operation, and maintenance requirements as specified in 40 CFR 63.

d. Fuel-burning equipment with a heat-input capacity greater than or equal to 100 MMBtu/hr and less than 250 MMBtu/hr demonstrate compliance with the §B(2) of Regulation .08.

e. Fuel-burning equipment with a heat-input capacity greater than or equal to 250 MMBtu/hr demonstrate compliance by installing, operating, calibrating, and maintaining a certified NO_x CEM in accordance with §C(3) of Regulation .08.

10 Record Keeping and Reporting. The following requirements are applicable:

a. The record-keeping and reporting requirements of 40 CFR 63 Subparts DDDDD and JJJJJ, as amended.

b. For the particulate matter emission standards of §§C, D or E of this regulation and for biomass fuel-burning equipment subject to the requirements of 40 CFR 63 Subparts DDDDD and JJJJJ, as amended, the notification, reporting, and record-keeping requirements of 40 CFR 63.

c. For the NO_x emission standards of §C of this regulation and biomass fuel-burning equipment subject to the requirements of 40 CFR 63 Subparts DDDDD and JJJJJ, as amended, the reporting requirements of §K of Regulation .08 of this chapter.

d. For the emission standards of §§C, D or E of this regulation and biomass fuel-burning equipment not subject to the requirements of 40 CFR 63 Subparts DDDDD and JJJJJ keep records for each boiler that identify:

- (i) The date of tune-up operations;
- (ii) The procedures followed for tune-up;
- (iii) The manufacturer's specifications to which the boiler was tuned;

(iv) The occurrence and duration of each malfunction of the boiler, or of the associated air pollution control, or monitoring equipment;

(v) Actions taken during periods of malfunction to minimize emissions including corrective actions to restore the

malfunctioning boiler, air pollution control, or monitoring equipment to its normal or usual manner of operation;

e. Maintain records on site for not less than 3 years, and make these records available to the Department upon request.

Expected Emissions Reductions

There are no emission reductions as a result of this action. New Regulation .12 will require MACT/GACT/BACT standards to be established for biomass fuel-burning equipment. This action, however, will have broad environmental benefits and reduce the amount of phosphorous and nitrogen entering the Chesapeake Bay and its tributaries.

Comparison to Federal Standards

In compliance with Executive Order 01.01.1996.03, this proposed regulation is more restrictive or stringent than corresponding federal standards as follows:

(1) Regulation citation and manner in which it is more restrictive than the applicable federal standard:

New COMAR 26.11.09.12

Equivalent to the federal NSPS 40 CFR 60 Subpart D, Db, Dc and

NESHAP 40 CFR 63 Subpart DDDDD and JJJJJ.

This regulation goes further than these particular federal requirements in that it:

-- establishes NO_x standards for all size categories of biomass boilers; and

-- establishes PM standards for biomass boilers less than 10MMBtu/hr whereas federal requirements for smaller boilers are limited to optimization practices.

For boilers less than 10MMBtu/hr using biomass as fuel, it is important to note that under existing regulations such boilers are prohibited unless an exception is approved under COMAR 26.11.09.04. These existing regulations are part of Maryland's clean air plan (Clean Air Act State Implementation Plan, or SIP) and, as such, are federally enforceable requirements. One element of the exception approval is that there will be no violation of applicable emission standards. The applicable emission standard for particulate matter under the existing regulations cannot be met unless pollution controls are installed. The new regulations remove the prohibition process for biomass fuel. The new regulations, when promulgated, also lead to pollution controls needing to be installed for particulate matter. Although the new particulate matter requirements are more restrictive than those contained in the overall federal rule, they are not more restrictive than the existing, federally enforceable requirements as part of the SIP. As such, for a facility to meet the new requirements for particulate matter it will be no more expensive than it would have been had the facility installed a boiler under the existing regulatory scheme. This is because under the existing regulatory scheme similar controls must be installed on a boiler as the exception analysis would require it.

(2) Benefit to the public health, safety or welfare, or the environment:

The new standards for biomass fuel-burning equipment are under proposed COMAR 26.11.09.12 Standards for Biomass Fuel-burning Equipment greater than or Equal to 350,000 Btu. New biomass fuel-burning equipment under 10 MMBtu/hr will be required to meet emission standards which will necessitate control technology, whereas federal requirements did not establish standards for biomass fuel-burning equipment under 10 MMBtu/hr.

Installing biomass fuel-burning equipment is a choice over conventional fuels, such as fuel oil. Exact quantification of air quality benefits depends on the type and number of units installed and cannot be quantified at this time. A farm or a school may choose a small biomass boiler for heating needs. The additional NO_x and PM

standards established by the regulation will help to ensure that new biomass boilers installed in the state will have less emissions of pollutants than under the federal program, which will help reduce the state's burden in meeting federal ozone and fine particle standards. Utilizing poultry litter as fuel can possibly remove ammonia emissions that contribute to fine particulate matter formation. Selection of a biomass boiler contributes to Maryland's goals of reducing greenhouse gas emissions. In addition, utilizing poultry biomass fuel-burning equipment may benefit water quality through better management of excess nutrients resulting in a reduction in the amount of phosphorus and nitrogen entering the Chesapeake Bay and its tributaries.

(3) Analysis of additional burden or cost on the regulated person:

This regulation sets standards for new biomass fuel-burning equipment that an owner of a facility may choose to install in lieu of equipment that burns a more conventional fuel, such as oil. The new state standards would require control technology to be integrated into new biomass fuel-burning equipment. In consultation with applicable boiler manufacturers, the overall cost of a 10 MMBtu/hr or less biomass fuel-burning unit can range from \$175,000 to \$725,000, depending on the size of a given unit, with the pollution control portion of these costs ranging between \$10,000 to \$25,000. These pollution control costs reflect equipment added on to the boiler to meet Maryland's more stringent particulate matter standard. To meet the more stringent NO_x emission standard imposed under this regulation for both small and large boilers, no add-on pollution controls are needed, as NO_x emissions can be achieved through boiler design (primarily by incorporating staged combustion chambers and fluidized bed reactor/feed systems into the design). Large boilers will also need to add pollution controls to meet State particulate matter standards imposed under this regulation, which are equivalent to federal standards. Costs associated with installing particulate controls to meet the state and federal standards are discussed in the Estimate of Economic Impact section of the proposed regulatory action.

Also, by using biomass as a fuel source, owners of biomass equipment anticipate an overall economic benefit over the life of the unit due to reduced fuel costs. Potential fuel savings on an annual basis range from \$5,000 — \$15,000 for the equipment size range of 10 — 30 MMBtu/hr heat input as compared to conventional fuels. Savings are higher if the biomass is generated on site or in close proximity and minimal costs are associated with handling and storage.

(4) Justification for the need for more restrictive standards:

(a) The benefit from the more restrictive standard exceeds the burden or cost of the more restrictive standard on the regulated person or business:

An owner of an existing or new facility may choose to install a new biomass boiler which may allow the owner to take advantage of grant or incentive opportunities. It may also provide reduced fuel costs in the long term by utilizing the owner's waste products as fuel. These new technologies may divert animal waste products into use as a fuel. State legislation was enacted this year (2013 SB797, Chapter 322) mandating that the Department revise the existing regulatory exception process for solid fuel-burning equipment and make it easier to take advantage of these new technologies. This legislation prompted the Department to review and propose revised environmental emission standards for solid fuel-burning equipment such as boilers and include biomass as a solid fuel.

(b) Conditions or circumstances specific or special to Maryland require that Maryland enact a more restrictive standard:

Maryland is actively seeking as many NO_x reductions as possible to enable Maryland to achieve compliance with the 75 ppb health based ozone standard. Maryland is the only moderate

nonattainment area for ozone on the east coast. Additionally, Maryland has recently complied with the current and future fine PM health based standard but felt that restrictive standards for equipment that emits PM pollution were necessary to maintain compliance with the standard.

(c) The applicable federal standard is not sufficient to protect the public health, safety, or welfare of Maryland citizens; or

For purposes of complying with the ozone standard the applicable federal standard is not sufficient to protect public health. The federal standards are performance based standards and not health based standards.

(d) State law requires the adoption of a more restrictive standard.

Not applicable

Estimate of Economic Impact

I. Summary of Economic Impact. There is no mandatory economic impact upon affected sources of this regulation. This regulation sets standards for new biomass boiler equipment. An owner of a facility may choose to upgrade existing equipment or purchase new biomass boilers on a voluntary basis. The federal and State standards would require control technology to be integrated into new biomass fuel burning equipment. By using biomass as a fuel source, owners of biomass equipment anticipate an overall economic benefit over the life of the unit due to reduced fuel costs. Potential savings range from \$5,000 — \$15,000 in the equipment size range of 10 — 30 MMBtu/hr heat input compared to conventional fuels. Savings are higher if the biomass is generated on site or in close proximity and minimal costs are associated with handling and storage.

Different options exist for boiler designers and manufacturers, including the application of low cost advanced optimization technologies to reduce emissions and meet the standards. Depending on the specific type of biomass fuel, boiler design and size, the following control technologies and costs have to be considered.

1. Cyclone \$10,000
2. Multi-Cyclone \$15-25,000
3. Reeltration System \$65-97,000
4. ESP
 - a. 10 MMBtu approx 3500 acfm ----\$97,000.00
 - b. 15 MMBtu approx 7000 acfm ----\$160,000.00
 - c. 20 MMBtu approx 11000 acfm ---\$220,000.00
 - d. 25 MMBtu approx 14500 acfm ---\$290,000.00
 - e. 30 MMBtu approx 22500 acfm ---\$340,000.00

Capital costs with corresponding control costs for biomass fuel-burning equipment in the size range 1-100 MMBtu/hr heat input that can meet the standards of the regulation are provided below:

- 1) 1 MMBtu/hr Capital Cost (Cap.C) \$175,000 Control Cost (Con.C)\$10,000
- 2) 2 MMBtu/hr Cap.C \$350,000-\$410,000 Con.C \$10,000-\$15,000
- 3) 10 MMBtu/hr Cap.C \$650,000-\$725,000 Con.C \$15,000-\$25,000
- 4) 20 MMBtu/hr Cap.C \$1-1.25 Million Con.C ESP \$220,000-\$300,000
- 5) 30 MMBtu/hr. Cap.C \$4-6 Million Con..C ESP \$340,000-\$550,000
- 6) 100 MMBtu/hr Cap.C \$12-20 Million Con.C ESP \$1.5-2.0 Million

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

The Department of the Environment will hold a public hearing on the proposed action on February 26, 2014 at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Conference Rooms, Baltimore, Maryland 21230-1720. Interested persons are invited to attend and express their views. Comments may be sent to Randy Mosier, Division Chief, Air and Radiation Management Administration, Department of the Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or emailed to randy.mosier@maryland.gov. Comments must be received not later than February 26, 2014, or be submitted at the hearing. For more information, call Randy Mosier at (410) 537-4488.

Copies of the proposed action and supporting documents are available for review at the following locations:

- The Department of the Environment's website at: http://www.mde.state.md.us/programs/regulations/air/Pages/req_comments.aspx
- The Air and Radiation Management Administration;
- Regional offices of the Department in Cumberland and Salisburg;
- All local air quality control offices; and
- Local health departments in those counties not having separate air quality control offices.

Anyone needing special accommodations at the public hearing should contact the Department's Fair Practices Office at (410) 537-3964. TTY users may contact the Department through the Maryland Relay Service at 1-800-735-2258.

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(1-1) Biomass.

(a) "Biomass" means solid organic material that can be combusted for use as fuel including the following:

(i) Wood residue and wood products such as trees, tree stumps, tree limbs, bark, lumber, sawdust, sander dust, chips, scraps, slabs, millings, and shavings;

(ii) Animal manure, including litter and other bedding materials;

(iii) Vegetative agricultural and silvicultural materials, such as logging residues (slash), nut and grain hulls and chaff (e.g., almond, walnut, peanut, rice, and wheat), bagasse, orchard prunings, corn stalks, coffee bean hulls and ground; and

(iv) Any solid organic material that has been approved by the Department, on a case-by-case basis, utilizing the criteria established by EPA and set forth in 40 C.F.R.241.3, as amended.

(b) This definition of biomass is not intended to suggest that these materials are or are not solid waste.

[(1-1)] (1-2) (text unchanged)

(2)—(3) (text unchanged)

(4) "Fuel" means:

(a) Coal or any other fossil fuel [and wood or wood products; and]

(b) Waste combustible fluid or used oil that has been approved by the Department to be burned as a fuel in accordance with Regulation .10 of this chapter[.]; and

(c) Biomass as defined in this regulation, or approved by the Department.

(5)—(18) (text unchanged)

.04 Prohibition of Certain New Fuel-Burning Equipment.

A.—B. (text unchanged)

C. Exceptions.

(1) *Fuel-Burning Equipment on Ships and Biomass Fuel-Burning Equipment.*

(a) [Fuel-Burning Equipment on Ships.] New fuel-burning equipment on ships is exempt from §§A(1) and B(1) of this regulation.

(b) *The provisions of §§A and B of this regulation do not apply to fuel-burning equipment installed after May 1, 2014 that burns only biomass fuels.*

(2)—(6) (text unchanged)

.06 Control of Particulate Matter.

A.—C. (text unchanged)

D. *Small Wood Boilers and Biomass Fuel-Burning Equipment.*

(1) Small wood boilers are *subject to particulate matter requirements of Regulation .11 of this chapter and exempt from the provisions of §§A and B of this regulation.*

(2) *The provisions of §§A and B of this regulation shall not apply to fuel-burning equipment installed after May 1, 2014 that burns only biomass fuels; however, the particulate matter requirements of Regulation .12 of this chapter apply.*

.07 Control of Sulfur Oxides From Fuel-Burning Equipment.

A. (text unchanged)

B. Exceptions.

(1)—(4) (text unchanged)

(5) *The provisions of §§A(1)(a) and A(2)(a) of this regulation shall not apply to fuel-burning equipment installed after May 1, 2014 that burns only biomass fuels.*

C. (text unchanged)

.09 Tables and Diagrams.

(Table 1 unchanged)

(a) Construction of residual oil fired units of less than 13 million Btu (13.7 gigajoules) per hour prohibited (see Regulation [.09A(1) and B(1)] .04).

(b)—(c) (text unchanged)

See Figures 1 & 2. (Figures unchanged)

Notes: (Notes unchanged)

.10 Requirements to Burn Used Oil and Waste Combustible Fluid as Fuel.

A. General Requirements.

(1)—(2) (text unchanged)

(3) A person who is burning used oil or WCF under a current written approval from the Department may continue to burn the approved material if:

(a) The person demonstrates that any WCF being burned satisfies the definition of that term in Regulation .01B[(23)] of this chapter;

(b)—(d) (text unchanged)

(4)—(7) (text unchanged)

B.—D. (text unchanged)

.12 Standards for Biomass Fuel-Burning Equipment Equal to or Greater Than 350,000 Btu/hr.

A. *Applicability. The requirements of this regulation apply to a person who owns or operates biomass fuel-burning equipment equal to or greater than 350,000 Btu/hr heat input capacity.*

B. *Federal Requirements. The requirements of 40 CFR 63 Subparts DDDDD and JJJJJ, as amended, are applicable.*

C. *Requirements for Biomass Fuel-Burning Equipment Greater Than or Equal to 10 MMBtu/hr Heat Input Capacity.* A person subject to the requirements of this regulation may not install or operate new biomass fuel-burning equipment, unless the following standards and requirements are met:

- (1) A particulate matter emission standard of 0.07 lb/MMBtu heat input if the total heat input capacity is less than 30 MMBtu/hr;
- (2) A particulate matter emission standard of 0.03 lb/MMBtu heat input if the total heat input capacity is equal to or greater than 30 MMBtu/hr;
- (3) A NO_x emission standard of 0.30 lb/MMBtu heat input, if the heat input capacity is less than or equal to 250 MMBtu/hr;
- (4) A NO_x emission standard of 0.25 lb/MMBtu heat input, if the heat input capacity is greater than 250 MMBtu/hr; and
- (5) An initial and biennial tune-ups are conducted.

D. *Requirements for Biomass Fuel-Burning Equipment Greater Than 1.5 MMBtu/hr and Less Than 10 MMBtu/hr Heat Input Capacity.* A person subject to the requirements of this regulation may not install or operate new biomass fuel-burning equipment unless the following standards and requirements are met:

- (1) A particulate matter emission standard of 0.23 lb/MMBtu heat input in Areas I, II, V and VI;
- (2) A particulate matter emission standard of 0.1 lb/MMBtu heat input in Areas III and IV;
- (3) A NO_x emission standard of 0.30 lb/MMBtu heat input; and
- (4) An initial and biennial tune-ups are conducted.

E. *Requirements for Biomass Fuel-Burning Equipment Less Than or Equal to 1.5 MMBtu/hr and Greater than 350,000Btu/hr Heat Input Capacity.* A person subject to the requirements of this regulation may not install or operate new biomass fired fuel-burning equipment that is less than equal to 1.5 MMBtu/hr heat input and greater than 350,000 Btu/hr heat input unless the following standards are met:

- (1) A particulate matter emission standard of 0.35 lb/MMBtu heat input in Areas I, II, V and VI;
- (2) A particulate matter emission standard of 0.1 lb/MMBtu heat input in Areas III and IV;
- (3) A NO_x emission standard of 0.30 lb/MMBtu heat input; and
- (4) An initial and biennial tune-ups are conducted.

F. A person subject to the requirements of this regulation may not operate biomass fuel-burning equipment installed prior to March 1, 2014 unless:

- (1) An initial and biennial tune-ups are conducted; and
- (2) All the standards and requirements of Regulations .03 and .05 — .09 of this chapter are met.

G. A person subject to the requirements of this regulation shall operate the fuel-burning equipment in accordance with the design and maintenance specifications of the manufacturer in order to meet and maintain compliance with the applicable emission standards and performance requirements.

H. *Startup and Shutdown Requirements.* A person subject to the requirements of §§C, D and E of this regulation shall minimize the boiler's startup and shutdown periods following the:

- (1) Manufacturer's recommended procedures, if available; or
- (2) Recommended procedures for a unit of similar design for which manufacturer's recommended procedures are available if manufacturer's recommended procedures for the actual unit are not available.

I. *Compliance.* A person subject to the requirements of:

- (1) Section C of this regulation shall demonstrate compliance with the emissions standards by following 40 CFR Part 60, Appendix A, as amended.
- (2) Sections D and E of this regulation shall demonstrate compliance by providing certification, on a form provided by the Department, from the manufacturer that the fuel-burning equipment

is designed and tested to meet the applicable particulate matter and NO_x standards including a copy of test results with EPA approved test methods on fuel-burning equipment in the same model line as the new fuel-burning equipment.

(3) The particulate matter emission standards of §§C, D or E of this regulation who owns or operates biomass fuel-burning equipment subject to the requirements of 40 CFR 63 Subparts DDDDD and JJJJJ, as amended, shall:

(a) Demonstrate continuous compliance with the work practice and management practice standards as specified in 40 CFR 63; and

(b) Comply with the monitoring, installation, operation, and maintenance requirements as specified in 40 CFR 63.

(4) The NO_x emission standards of §C of this regulation and who owns or operates biomass fuel-burning equipment subject to the requirements of 40 CFR 63 Subparts DDDDD and JJJJJ, as amended, shall meet the following requirements:

(a) For fuel-burning equipment with a heat-input capacity greater than or equal to 100 MMBtu/hr and less than 250 MMBtu/hr, demonstrate compliance with the NO_x emission standards of §C of this regulation in accordance with Regulation .08B(2) of this chapter; and

(b) For fuel-burning equipment with a heat-input capacity greater than or equal to 250 MMBtu/hr subject to the requirements of §C of this regulation shall demonstrate compliance with the NO_x emission standards of Regulation .12C of this chapter in accordance with Regulation .08B(2) of this chapter by installing, operating, calibrating, and maintaining a certified NO_x CEM in accordance with Regulation .08C(3) of this chapter.

J. *Reporting and Record-Keeping Requirements.*

(1) A person subject to the particulate matter emission standards of §§C, D or E of this regulation who owns or operates biomass fuel-burning equipment subject to the requirements of 40 CFR 63 Subparts DDDDD and JJJJJ, as amended, shall comply with the notification, reporting, and record-keeping requirements of 40 CFR 63.

(2) A person subject to the NO_x emission standards of §C of this regulation and who owns or operates biomass fuel-burning equipment subject to the requirements of 40 CFR 63 Subparts DDDDD and JJJJJ, as amended, shall comply with the reporting requirements of Regulation .08K of this chapter.

(3) A person subject to the to the emission standards of §§C, D or E of this regulation who owns or operates biomass fuel-burning equipment not subject to the requirements of 40 CFR 63 Subparts DDDDD and JJJJJ shall:

(a) Keep records for each boiler that identify:

- (i) The date of tune-up operations;
- (ii) The procedures followed for tune-up;
- (iii) The manufacturer's specifications to which the boiler was tuned;
- (iv) The occurrence and duration of each malfunction of the boiler, or of the associated air pollution control, or monitoring equipment; and

(v) Actions taken during periods of malfunction to minimize emissions including corrective actions to restore the malfunctioning boiler, air pollution control, or monitoring equipment to its normal or usual manner of operation; and

(b) Maintain records on site for not less than 3 years, and make these records available to the Department upon request.

ROBERT M. SUMMERS, Ph.D.
Secretary of the Environment

Title 31
MARYLAND INSURANCE
ADMINISTRATION

Subtitle 08 PROPERTY AND
CASUALTY

31.08.12 Temporary Moratoriums and Weather Events

Authority: Insurance Article, §§2-108, 2-109, 19-107, and 27-501, Annotated Code of Maryland

Notice of Proposed Action

[12-266-R-1]

The Insurance Commissioner proposes to amend Regulations .02—.06 under **COMAR 31.08.12 Temporary Moratoriums and Weather Events**. Because substantive changes have been made to the original proposal as published in 39:20 Md. R. 1346—1348 (October 5, 2012) and the reproposal as published in 40:14 Md. R. 1200—1201 (July 12, 2013), this action is being repropose at this time.

Statement of Purpose

The purpose of this action is to delete the term “areas” and insert in its place the term “parts” for internal consistency within this chapter; to clarify that an insurer may be subject to administrative action if it does not file with the Administration a moratorium protocol; to define “National Weather Service;” to define “renewal period;” to clarify the time frame within which a moratorium shall be discontinued for weather events and an earthquake; to set forth the information that an insurer shall include in its notice to the MIA of the activation of a moratorium; and to make certain technical and syntactical changes. The purpose of the reproposal is to provide that an insurer may not utilize the activation of a temporary moratorium to suspend the binding or writing of all of its lines of insurance business unless the suspension is reasonably related to the event or emergency that triggered the activation of the temporary moratorium; to clarify the time frame for the deactivation of a temporary moratorium that is activated based on a State of Emergency, evacuation, or special curfew; to require an insurer to notify the Commissioner of its activation of a temporary moratorium protocol through SERFF; to provide that an insurer that seeks to notify the Commissioner of its activation of a temporary moratorium by a means other than SERFF shall obtain advance written permission from the Commissioner; and to require that the notice of the activation of a temporary moratorium supplied in SERFF to be in a format designated by the Commissioner. The purpose of the second reproposal is to clarify the circumstances under which the Commissioner may order the end of a temporary moratorium and to clarify that an insurer may provide notice of activation of a temporary moratorium by a means other than SERFF only if the insurer obtains written permission to provide the notice by a means other than SERFF from the Commissioner before activating the temporary moratorium.

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 Katrina Lawhorn, Regulations Coordinator, Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202, or call 410-468-2450, or email to Katrina.Lawhorn@Maryland.Gov, or fax to 410-468-2020. Comments will be accepted through February 24, 2014. A public hearing has not been scheduled.

Ed. Note: Pursuant to State Government Article, §10-113, Annotated Code of Maryland, if a promulgating agency substantively alters the text of regulations that have been previously proposed in the Maryland Register, the altered text must be published in the Maryland Register as though it were initially proposed. The text of regulations appearing immediately below has been altered substantively from the initially proposed text.

Symbols: Roman type indicates existing text of regulations. *Italic* type indicates initially proposed new text. **Helvetica Bold Italic** type indicates new text that substantively alters the text as initially proposed. [Single brackets] indicate existing text proposed for repeal. [[[Triple brackets]]] indicate text proposed for deletion which substantively alters the originally proposed text.

.02 (originally proposed text unchanged)

.03 Moratorium Protocol.

- A. (originally proposed text unchanged)
- B. (originally repropose text unchanged)
- C.—E. (originally proposed text unchanged)

.04 (originally proposed text unchanged)

.05 Deactivating a Temporary Moratorium.

- A.—C. (originally proposed text unchanged)

D. Except as otherwise provided under §G of this Regulation, a temporary moratorium that is activated based on a declaration of a State of Emergency by the Governor or other governmental entity for part of the State or the entire State ends at the expiration of the State of Emergency.

E. Except as otherwise provided under §G of this Regulation, a temporary moratorium that is activated based on the announcement of an evacuation, whether mandatory or voluntary, for part of the State or the entire State ends at the expiration of the evacuation period.

F. Except as otherwise provided under §G of this Regulation, a temporary moratorium that is activated based on the imposition of a special curfew for part of the State or the entire State ends at the expiration of the special curfew.

G. The Commissioner may order the end of a temporary moratorium before the expiration of a State of Emergency, evacuation period, or special curfew, if the Commissioner determines that there is no longer a need for the temporary moratorium for purposes of enforcing the Insurance Article.

.06 Notice to the Commissioner.

- A. **Except as otherwise provided in §B of this Regulation, [[[An]]] an insurer shall notify the**

Commissioner of its activation of a temporary moratorium protocol filed pursuant to Regulation .02 of this by[[[

(1) Email to an electronic mailbox as identified in §B of this regulation; or

(2) Filing]]] *filing a notice through the System for Electronic Rate and Form Filing (SERFF), indicating the filing type as “activate moratorium.”*

B. [[The Administration shall establish an electronic mailbox which shall be available at all times to receive notice that *an insurer* has [implemented] *activated* its filed *temporary moratorium protocol*.]] **An insurer may provide the notice of activation of a temporary moratorium required by §A of this Regulation by a means other than SERFF only if the insurer obtains written permission to provide the notice by a means other than SERFF from the Commissioner before activating the temporary moratorium.**

[[[C. The Administration shall post in the insurer section of the Administration’s website the electronic mailbox address described in §B of this Regulation.]]]

[[[D.]]] C. (originally proposed text unchanged)

[[[E.]]] D. (originally proposed text unchanged)

THERESE GOLDSMITH
Insurance Commissioner

Subtitle 08 PROPERTY AND CASUALTY INSURANCE

31.08.15 Underwriting Period

Authority: Insurance Article, §§2-109, 11-205, 11-306, 12-106, and 19-406, Annotated Code of Maryland

Notice of Proposed Action
[13-189-R]

The Insurance Commissioner proposes to adopt new Regulations .01—.09 under a new chapter, COMAR 31.08.15 Underwriting Period. Because substantive changes have been made to the original proposal as published in 40:14 Md. R. 1201—1202 (July 12, 2013), this action is being repropose at this time.

Statement of Purpose

The purpose of this action is to implement Insurance Article, §12-106, Annotated Code of Maryland by establishing procedures and requirements for an insurer that is required to provide a notice of recalculated premium or a notice of cancellation during the 45-day underwriting period for a policy or binder of certain types of insurance. The purpose of the reproposal is to: clarify the authority for adoption of the regulations; amend the definition of “delivery by electronic means” to make it consistent with the definition of “delivered by electronic means” in Insurance Article, §27-601.2(a)(2), Annotated Code of Maryland; and delete the requirement that, in stating the reason for a change in premium due to the discovery of a material risk factor or factors, an insurer state the amount of the change in premium caused by each material risk factor.

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 Katrina Lawhorn, Regulations Coordinator, Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202, or call 410-468-2450, or email to katrina.lawhorn@maryland.gov, or fax to 410-468-2020. Comments will be accepted through February 24, 2014. A public hearing has not been scheduled.

Ed. Note: Pursuant to State Government Article, §10-113, Annotated Code of Maryland, if a promulgating agency substantively alters the text of regulations that have been previously proposed in the Maryland Register, the altered text must be published in the Maryland Register as though it were initially proposed. The text of regulations appearing immediately below has been altered substantively from the initially proposed text.

Symbols: Roman type indicates existing text of regulations. *Italic* type indicates initially proposed new text. **Helvetica Bold Italic** type indicates new text that substantively alters the text as initially proposed. [Single brackets] indicate existing text proposed for repeal. [[[Triple brackets]]] indicate text proposed for deletion which substantively alters the originally proposed text.

.01 (originally proposed text unchanged)

.02 Definitions.

A (originally proposed text unchanged)

B. *Terms Defined.*

(1) “Delivery by electronic means” [[[means]]] **includes:**

(a)—(b) (originally proposed text unchanged)

(2)—(3) (originally proposed text unchanged)

.03 (originally proposed text unchanged)

.04 Discovery of Material Risk Factor During Underwriting Period.

A. — B. (originally proposed text unchanged)

C. *Reason for Increase or Reduction in Premium.*

(1) *In stating the reason for the increase or reduction in the premium, the insurer shall:*

(a) *Identify each material risk factor that was discovered during the 45-day underwriting period; and*

(b) *With respect to each material risk factor, explain with specificity why the material risk factor required the premium to be recalculated in language that is reasonably [[[understood]]] understandable [[[by]]] to the average policyholder[[[; and*

(c) *State the amount of the change in premium caused by each material risk factor]]].*

(2) (originally proposed text unchanged)

D.—E. (originally proposed text unchanged)

.05 Notice of Recalculated Premium Form.

This form appears as Insert B at the end of the Proposed Action on Regulations section of this issue of the Maryland Register.

.06—.09 (originally proposed text unchanged)

THERESE M. GOLDSMITH
Insurance Commissioner

**Table 5
WASTEWATER TREATMENT PLANTS**

A Class of Plants	B Class of Operators	C Authorized to Operate or Supervise Plants (Class)	D Operators				E Superintendents				
			1 Education Requirements	2 Maximum Education Substitution	3 Experience Requirements	4 Maximum Experience Substitution	1 Education Requirements	2 Maximum Education Substitution	3 Experience Requirements	4 Maximum Experience Substitution	
1	1	1	Completion of High School OR High School Equivalency	NONE	500 hours or 1 year ¹	NONE	NONE	Completion of High School OR High School Equivalency	NONE	NONE	NONE
2	2	1 and 2		1800 hours or 2 years ²	1800 hours or 1 year ²	900 hours or 1 year ^{2,6}	900 hours or 1 year ²				
3	3	1, 2, and 3	5400 hours or 3 years ⁹	2 years ⁵	3600 hours or 2 years ⁶	1800 hours or 1 year ³					
4	4	1, 2, and 4	AS DETERMINED BY THE BOARD								
5	5	1, 2, 3, [and] 5, and C2									
6	6	6	Completion of High School OR High School Equivalency	NONE	5400 hours or 3 years ⁹	1800 hours or 1 year ³	2 years college ⁴	2 years college ⁴	3600 hours or 2 years ⁶	1800 hours or 1 year ³	
S ⁷	S ⁷	S ⁷	AS DETERMINED BY THE BOARD								
A ⁸	A ⁸	A ⁸									

Notes:

- 1 Whichever is longer, years of experience is based on 2 hours/day operation.
- 2 Whichever is longer, years of experience is based [oh 3,5] on 3.5 hours/day operation.
- 3 One year of college course work in science or engineering leading toward a degree, for 1 year experience.
- 4 In science, engineering, or management leading toward a degree.
- 5 One year experience for 1 year college.
- 6 Experience obtained as provided in Regulation .06E of this chapter.
- 7 Is limited to solids handling.
- 8 Class A is used in conjunction with other classes.
- 9 Whichever is longer (for applications received by the Board before the effective date of these regulations, see Regulation .06 of this chapter).

**Table 7
WATER TREATMENT PLANTS AND DISTRIBUTION SYSTEMS**

A Class of Plants	B Class of Operators and Superintendents	C Authorized to Operate or Supervise Plants (Class)	D Operators				E Superintendents				
			1 Education Requirements	2 Maximum Education Substitution	3 Experience Requirements	4 Maximum Experience Substitution	1 Education Requirements	2 Maximum Education Substitution	3 Experience Requirements	4 Maximum Experience Substitution	
D	D	None	Completion of High School OR High School Equivalency	NONE	500 hours or 1 year ¹	NONE	NONE	Completion of High School OR High School Equivalency	NONE	NONE	NONE
1	1	D, G, and 1									
2	2	D, G, 1, and 2								500 hours or 1 year ^{1,6}	
3	3	D, G, 1, 2, and 3			1800 hours or 2 years ²	900 hours or 1 year ^{2,3}		1 year college ⁴	1 year ⁵	900 hours or 1 year ^{2,6}	900 hours or 1 year ³
4	4	D, G, 1, 2, 3, and 4			5400 hours or 3 years/ ⁷	1800 hours or 1 year ³		2 years college ⁴	2 years ⁵	3600 hours or 2 years ⁶	1800 hours or 1 year ³
5	5	5									
G	G	G									

AS DETERMINED BY THE BOARD
AS DETERMINED BY THE BOARD

- Notes:
- 1 Whichever is longer, years of experience is based on 2 hours/day operation.
 - 2 Whichever is longer, years of experience is based on a 3.5 hours/day operation.
 - 3 One year of college course work in science or engineering leading toward a degree, for 1 year of experience.
 - 4 In science, engineering, or management leading toward a degree.
 - 5 One year experience for 1 year college.
 - 6 Experience obtained as provided in Regulation .06E of this chapter.
 - 7 Whichever is longer (for applications received by the Board before the effective date of these regulations, see Regulation .06 of this chapter).

**Table 8
TRAINING REQUIREMENTS FOR OPERATORS AND SUPERINTENDENTS
CERTIFICATE RENEWAL FOR 3-YEAR RENEWAL PERIOD**

Class	INDUSTRIAL WASTEWATER WORKS		WASTEWATER TREATMENT PLANTS		WASTEWATER COLLECTION SYSTEMS		WATER TREATMENT PLANTS		WATER DISTRIBUTION SYSTEMS			
	Operators ⁽⁴⁾	Super-intendents ⁽³⁾ [Limited and] Temporary ⁽⁴⁾	Operators ⁽⁴⁾	Super-intendents ⁽³⁾ [Limited and] Temporary ⁽⁴⁾	Operators ⁽⁴⁾	Super-intendents ⁽³⁾	Operators ⁽⁴⁾	Super-intendents ⁽³⁾	Operators ⁽⁴⁾	Super-intendents ⁽³⁾		
	UNITS ⁽²⁾		UNITS ⁽²⁾		UNITS ⁽²⁾		UNITS ⁽²⁾		UNITS ⁽²⁾			
1	0	0	16	24	16	7	24	16	7	16	7	24
2	0	0	16	24	16	7	24	16	7	16	7	24
3	16	7	30	45		7	45	30	7	30	7	45
4	16	7	30	45		7	45	30	7	30	7	45
5	30	7	30	45		7	45					
6	16	7										
7												
S												
A			16	24		7						
G			[16]	[24]				7	7			[16] 7

Notes:

- 1 For site-specific operator classifications, training units to be determined by the Board on a case-by-case basis.
- 2 For operators that hold multiple certificates, units of training may be applied to multiple classifications if the training is approved as defined in Regulation .13.
- 3 For superintendents, training units approved by the Board for superintendents are required in addition to their operator's training.
- 4 Effective January 1, 2006, for all operator categories, except [WD, C1 and C2] *Water Class 1, Water Class 2, Water Class G, Water Distribution, and Wastewater Collection*, a minimum of 50 percent of the training units submitted for issuance or renewal of a certificate shall be process related.

Insurer's Name
NOTICE OF RECALCULATED PREMIUM

Date of Notice:

Insured's Name

*Producer's Name (if
Applicable)*

Insured's Address

*Insurer/Producer's T/P
Number*

RE: Policy Number:

Effective Date:

Dear [INSURED'S NAME]:

Thank you for choosing [NAME OF INSURER] to provide your [LINE OF INSURANCE BUSINESS] policy.

Your binder or policy is subject to a 45-day underwriting period beginning on the effective date of coverage. In accordance with § 12-106 of the Insurance Article, Annotated Code of Maryland if [NAME OF INSURER] discovers a material risk factor during the underwriting period, the company may recalculate your premium from the effective date of the policy.

While reviewing your binder or policy, we discovered the following material risk factor or factors:

[IDENTIFY THE MATERIAL RISK FACTOR]

The material risk factor caused us to recalculate your premium for the following reason:

[INSERT AN EXPLANATION OF WHY THE MATERIAL RISK FACTOR CAUSED THE COMPANY TO RECALCULATE THE PREMIUM IN LANGUAGE THAT IS REASONABLY UNDERSTANDABLE TO THE AVERAGE POLICYHOLDER.]

[REPEAT THE ABOVE TWO ITEMS FOR EACH MATERIAL RISK FACTOR DISCOVERED DURING THE UNDERWRITING PERIOD.]

As a result, the premium on the policy was recalculated and has [INCREASED OR DECREASED].

The initial, quoted premium amount was – [\$CURRENT PREMIUM].

*The new premium amount is – **[\$NEW PREMIUM]**.*

[OPTIONAL: If an additional premium amount is due, [EXPLAIN HOW THE INSURED WILL BE BILLED]. If your premium amount has decreased, [EXPLAIN HOW THE PREMIUM WILL BE CREDITED OR REFUNDED].

*By law, **[NAME OF INSURER]** must also inform you of your right to terminate the policy and receive a pro-rata refund of any premium paid by notifying us of the termination. For additional information regarding this notice of recalculated premium or to terminate the policy, please contact **[NAME OF COMPANY OR PRODUCER, (IF APPLICABLE)]** at the contact information printed above.*

Sincerely,

[NAME OF AUTHORIZED COMPANY REPRESENTATIVE]

Errata

COMAR 10.09.43.12

At 40:21 Md. R. 1828 (October 18, 2013), column 2, line 4 from the bottom:

For: (a) Send to the Department or its designee the first month's

Read: [(a)] (1) Send to the Department or its designee the first month's

At 40:21 Md. R. 1829 (October 18, 2013), column 1, line 1 from the top:

For: (b) Complete and submit to the Department's enrollment

Read: [(b)] (2) Complete and submit to the Department's enrollment

COMAR 10.09.46.01

At 40:20 Md. R. 1662 (October 4, 2013), column 2, line 8 from the top:

For: the medical record.

Read: the medical record.]

COMAR 26.09.02.03

At 40:15 Md. R. 1263 (July 26, 2013), column 1, line 26 from the top:

For: [(3)] (4)(a) The Department shall deduct CO₂ allowances from

Read: [(3)] (4) *Deduction of CO₂ Allowances.*
(a) The Department shall deduct CO₂ allowances from

At 40:15 Md. R. 1263 (July 26, 2013), column 2, line 7 from the top:

For: [(6)] (7)(a) The following guidelines apply in assessing fines,

Read: [(6)] (7) *Guidelines.*
(a) The following guidelines apply in assessing fines,
[14-02-48]

COMAR 26.09.02.11

At 40:15 Md. R. 1264 (July 26, 2013), column 1, after line 3 from the top:

Insert: E.—I. (text unchanged)

[14-02-36]

COMAR 31.04.22

At 40:25 Md. R. 2138 (December 13, 2013), column 2, line 11 from the top:

For: Comments will be accepted through January 13, 2013. A public

Read: Comments will be accepted through January 13, 2014. A public

COMAR 31.08.13

At 40:25 Md. R. 2140 (December 13, 2013), column 2, line 2 from the bottom:

For: Comments will be accepted through January 13, 2013. A public

Read: Comments will be accepted through January 13, 2014. A public

COMAR 31.08.17

At 40:25 Md. R. 2142 (December 13, 2013), column 2, line 19 from the top:

For: Comments will be accepted through January 13, 2013. A public

Read: Comments will be accepted through January 13, 2014. A public

COMAR 31.10

At 41:1 Md. R. 64 (January 10, 2014), column 1, line 6 from the top:

For: Comments will be accepted through February 10, 2013. A public

Read: Comments will be accepted through February 10, 2014. A public

[14-02-53]

Special Documents

DEPARTMENT OF THE ENVIRONMENT

SUSQUEHANNA RIVER BASIN COMMISSION

Public Hearing

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: The Susquehanna River Basin Commission will hold a public hearing on February 6, 2014, in Harrisburg, Pennsylvania. At this public hearing, the Commission will hear testimony on the projects listed in the Supplementary Information section of this notice. Such projects are intended to be scheduled for Commission action at its next business meeting, tentatively scheduled for March 6, 2014, which will be noticed separately. The public should take note that this public hearing will be the only opportunity to offer oral comment to the Commission for the listed projects. The deadline for the submission of written comments is February 18, 2014.

DATES: The public hearing will convene on February 6, 2014, at 2:30 p.m. The public hearing will end at 5:00 p.m. or at the conclusion of public testimony, whichever is sooner. The deadline for the submission of written comments is February 18, 2014.

ADDRESS: The public hearing will be conducted at the Pennsylvania State Capitol, Room 8E-B, East Wing, Commonwealth Avenue, Harrisburg, Pa.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238-0423, ext. 1306; fax: (717) 238-2436.

Information concerning the applications for these projects is available at the SRBC Water Resource Portal at www.srbc.net/wrp. Materials and supporting documents are available to inspect and copy in accordance with the Commission's Access to Records Policy at www.srbc.net/pubinfo/docs/2009-02%20Access%20to%20Records%20Policy%209-10-09.PDF.

Opportunity to Appear and Comment:

Interested parties may appear at the hearing to offer comments to the Commission on any project listed below. The presiding officer reserves the right to limit oral statements in the interest of time and to otherwise control the course of the hearing. Ground rules will be posted on the Commission's web site, www.srbc.net, prior to the hearing for review. The presiding officer reserves the right to modify or supplement such rules at the hearing. Written comments on any project listed below may also be mailed to Mr. Richard Cairo, General Counsel, Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pa. 17110-1788, or submitted electronically through <http://www.srbc.net/pubinfo/publicparticipation.htm>. Comments mailed or electronically submitted must be received by the Commission on or before February 18, 2014, to be considered.

SUPPLEMENTARY INFORMATION: The public hearing will cover the following projects:

Public Hearing – Projects Scheduled for Action:

1. Project Sponsor and Facility: Aqua Infrastructure, LLC (Tioga River), Hamilton Township, Tioga County, Pa. Application for surface water withdrawal of up to 2.500 mgd (peak day).
2. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Susquehanna River), Great Bend Township, Susquehanna County, Pa. Application for renewal of surface water withdrawal of up to 0.750 mgd (peak day) (Docket No. 20091201).
3. Project Sponsor and Facility: DS Waters of America, Inc., Clay Township, Lancaster County, Pa. Application for renewal of groundwater withdrawal of up to 0.115 mgd (30-day average) from Well 6 (Docket No. 20000203).
4. Project Sponsor and Facility: Jay Township Water Authority, Jay Township, Elk County, Pa. Application for groundwater withdrawal of up to 0.265 mgd (30-day average) from Brynedale Well #1.
5. Project Sponsor and Facility: Keystone Clearwater Solutions, LLC (Lycoming Creek), Lewis Township, Lycoming County, Pa. Modification to low flow protection requirements and authorization of additional water uses of the surface water withdrawal approval (Docket No. 20110616).
6. Project Sponsor and Facility: Manheim Borough Authority, Manheim Borough, Lancaster County, Pa. Application for renewal of groundwater withdrawal of up to 0.936 mgd (30-day average) from Well 4 (Docket No. 19830903).
7. Project Sponsor and Facility: Martinsburg Municipal Authority, North Woodbury Township, Blair County, Pa. Application for groundwater withdrawal of up to 0.288 mgd (30-day average) from Wineland Replacement Well 2.
8. Project Sponsor and Facility: Newport Borough Water Authority, Oliver Township, Perry County, Pa. Application for groundwater withdrawal of up to 0.162 mgd (30-day average) from Well 1.
9. Project Sponsor: Old Dominion Electric Cooperative. Project Facility: Rock Springs Expansion, Rising Sun District, Cecil County, Md. Application for consumptive water use of up to 7.900 mgd (peak day).
10. Project Sponsor and Facility: Old Dominion Electric Cooperative (Susquehanna River), Fulton Township, Lancaster County, Pa. Application for surface water withdrawal of up to 8.700 mgd (peak day).
11. Project Sponsor: Pennsylvania Department of Environmental Protection – South-central Regional Office, City of Harrisburg, Dauphin County, Pa. Facility Location: Leacock Township, Lancaster County, Pa. Application for groundwater withdrawal of up to 0.576 mgd (30-day average) from Stoltzfus Well.
12. Project Sponsor: Pennsylvania Department of Environmental Protection – South-central Regional Office, City of Harrisburg, Dauphin County, Pa. Facility Location: Leacock Township, Lancaster County, Pa. Application for groundwater withdrawal of up to 0.432 mgd (30-day average) from Township Well.
13. Project Sponsor and Facility: Pro-Environmental, LLC (Martins Creek), Lathrop Township, Susquehanna County, Pa. Application for surface water withdrawal of up to 0.999 mgd (peak day).
14. Project Sponsor and Facility: Seneca Resources Corporation (Arnot No. 5 Mine Discharge), Bloss Township, Tioga County, Pa. Application for renewal of surface water withdrawal of up to 0.499 mgd (peak day) (Docket No. 20090908).
15. Project Sponsor and Facility: Susquehanna Gas Field Services, LLC (Susquehanna River), Meshoppen Township, Wyoming

- County, Pa. Application of surface water withdrawal of up to 2.000 mgd (peak day).
16. Project Sponsor and Facility: SWEPI LP (Susquehanna River), Sheshequin Township, Bradford County, Pa. Application for renewal of surface water withdrawal of up to 0.850 mgd (peak day) (Docket No. 20091202).
 17. Project Sponsor and Facility: Talisman Energy USA Inc. (Fall Brook – C.O.P. Tioga State Forest), Ward Township, Tioga County, Pa. Application for renewal of surface water withdrawal of up to 0.999 mgd (peak day) (Docket No. 20091204).
 18. Project Sponsor and Facility: Talisman Energy USA Inc. (Fellows Creek – C.O.P. Tioga State Forest), Ward Township, Tioga County, Pa. Application for renewal of surface water withdrawal of up to 0.999 mgd (peak day) (Docket No. 20091205).
 19. Project Sponsor and Facility: XTO Energy, Inc. (Little Muncy Creek), Moreland Township, Lycoming County, Pa. Application for renewal of surface water withdrawal of up to 0.249 mgd (peak day) (Docket No. 20100313).

AUTHORITY: Pub. L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806-808.

Dated: January 6, 2014.

STEPHANIE L. RICHARDSON
Secretary to the Commission
[14-02-35]

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.

MARYLAND STATE ARTS COUNCIL

Subject: Public Meeting
Date and Time: January 31, 2014, 8:30 a.m. — 4:30 p.m.
Place: To Be Determined, Baltimore, MD
Contact: Okeena Stephenson (410) 767-78832

[14-02-24]

MARYLAND STATE ARTS COUNCIL

Subject: Public Meeting
Date and Time: March 21, 2014, 9:30 a.m. — 3 p.m.
Place: Carroll County Arts Council, Westminster, MD
Add'l. Info: Council Meeting and Community Engagement
Contact: Okeena Stephenson (410) 767-78832

[14-02-22]

MARYLAND STATE ARTS COUNCIL

Subject: Public Meeting
Date and Time: March 25, 2014, 9:30 a.m. — 5 p.m.
Place: Maryland State Arts Council, Baltimore, MD
Add'l. Info: Grants Panel for Dance
Contact: Amy Grossmann (410) 767-6356

[14-02-30]

MARYLAND STATE ARTS COUNCIL

Subject: Public Meeting
Date and Time: March 28, 2014, 9:30 a.m. — 5 p.m.
Place: Maryland State Arts Council, Baltimore, MD
Add'l. Info: Literary Arts Grant Panel
Contact: Christine Stewart (410) 767-6476

[14-02-25]

MARYLAND STATE ARTS COUNCIL

Subject: Public Meeting
Date and Time: April 8, 2014, 9:30 a.m. — 5 p.m.
Place: Maryland State Arts Council, Baltimore, MD
Add'l. Info: Grants Panel for Theater A/B
Contact: Amy Grossmann (410) 767-6536

[14-02-28]

MARYLAND STATE ARTS COUNCIL

Subject: Public Meeting
Date and Time: April 10, 2014, 9:30 a.m. — 5 p.m.
Place: Maryland State Arts Council, Baltimore, MD
Add'l. Info: Grants Panel for Multi-Discipline A/B
Contact: Carla Dunlap (410) 767-6494

[14-02-26]

MARYLAND STATE ARTS COUNCIL

Subject: Public Meeting
Date and Time: April 15, 2014, 9:30 a.m. — 5 p.m.; April 15 — 16, 2014
Place: Maryland State Arts Council, Baltimore, MD
Add'l. Info: Grants Panel for Music A/B/C
Contact: Amy Grossmann (410) 767-6536

[14-02-27]

MARYLAND STATE ARTS COUNCIL

Subject: Public Meeting
Date and Time: April 17, 2014, 9:30 a.m. — 5 p.m.; April 17 — 18, 2014
Place: Maryland State Arts Council, Baltimore, MD
Add'l. Info: Grants Panel for Visual Arts/Media
Contact: Carla Dunlap (410) 767-6494

[14-02-29]

MARYLAND STATE ARTS COUNCIL

Subject: Public Meeting
Date and Time: June 6, 2014, 10 a.m. — 1 p.m.
Place: Maryland State Arts Council, Baltimore, MD
Add'l. Info: Annual Council Meeting
Contact: Okeena Stephenson (410) 767-78832

[14-02-23]

CANAL PLACE PRESERVATION AND DEVELOPMENT AUTHORITY

Subject: Public Meeting
Date and Time: February 18, 2014, 1:30 p.m.
Place: 13 Canal St., 3rd Fl. Conf. Rm., Cumberland, MD
Add'l. Info: Meeting of the Board of Directors
Contact: Roxanne Snyder (301) 724-3655

[14-02-37]

CANAL PLACE PRESERVATION AND DEVELOPMENT AUTHORITY

Subject: Public Meeting
Date and Time: March 18, 2014, 1:30 p.m.
Place: 13 Canal St., 3rd Fl. Conf. Rm., Cumberland, MD
Add'l. Info: Meeting of the Board of Directors
Contact: Roxanne Snyder (301) 724-3655

[14-02-38]

CANAL PLACE PRESERVATION AND DEVELOPMENT AUTHORITY

Subject: Public Meeting
Date and Time: April 15, 2014, 1:30 p.m.
Place: 13 Canal St., 3rd Fl. Conf. Rm., Cumberland, MD
Add'l. Info: Meeting of the Board of Directors
Contact: Roxanne Snyder (301) 724-3655

[14-02-39]

CANAL PLACE PRESERVATION AND DEVELOPMENT AUTHORITY

Subject: Public Meeting
Date and Time: May 20, 2014, 1:30 p.m.
Place: 13 Canal St., 3rd Fl. Conf. Rm., Cumberland, MD
Add'l. Info: Meeting of the Board of Directors
Contact: Roxanne Snyder (301) 724-3655

[14-02-40]

CANAL PLACE PRESERVATION AND DEVELOPMENT AUTHORITY

Subject: Public Meeting
Date and Time: June 17, 2014, 1:30 p.m.
Place: 13 Canal St., 3rd Fl. Conf. Rm., Cumberland, MD
Add'l. Info: Meeting of the Board of Directors
Contact: Roxanne Snyder (301) 724-3655

[14-02-41]

CANAL PLACE PRESERVATION AND DEVELOPMENT AUTHORITY

Subject: Public Meeting
Date and Time: July 15, 2014, 1:30 p.m.
Place: 13 Canal St., 3rd Fl. Conf. Rm., Cumberland, MD
Add'l. Info: Meeting of the Board of Directors
Contact: Roxanne Snyder (301) 724-3659

[14-02-42]

**CANAL PLACE PRESERVATION
AND DEVELOPMENT AUTHORITY**

Subject: Public Meeting
Date and Time: August 19, 2014, 1:30 p.m.
Place: 13 Canal St., 3rd Fl. Conf. Rm., Cumberland, MD
Add'l. Info: Meeting of the Board of Directors
Contact: Roxanne Snyder (301) 724-3655
 [14-02-43]

**CANAL PLACE PRESERVATION
AND DEVELOPMENT AUTHORITY**

Subject: Public Meeting
Date and Time: September 16, 2014, 1:30 p.m.
Place: 13 Canal St., 3rd. Fl. Conf. Rm., Cumberland, MD
Add'l. Info: Meeting of the Board of Directors
Contact: Roxanne Snyder (301) 724-3655
 [14-02-44]

**CANAL PLACE PRESERVATION
AND DEVELOPMENT AUTHORITY**

Subject: Public Meeting
Date and Time: October 21, 2014, 1:30 p.m.
Place: 13 Canal St., 3rd Fl. Conf. Rm., Cumberland, MD
Add'l. Info: Meeting of the Board of Directors
Contact: Roxanne Snyder (301) 724-3655
 [14-02-45]

**CANAL PLACE PRESERVATION
AND DEVELOPMENT AUTHORITY**

Subject: Public Meeting
Date and Time: November 18, 2014, 1:30 p.m.
Place: 13 Canal St., 3rd Fl. Conf. Rm., Cumberland, MD
Add'l. Info: Meeting of the Board of Directors
Contact: Roxanne Snyder (301) 724-3655
 [14-02-46]

**CANAL PLACE PRESERVATION
AND DEVELOPMENT AUTHORITY**

Subject: Public Meeting
Date and Time: December 16, 2014, 1:30 p.m.
Place: 13 Canal St., 3rd Fl. Conf. Rm., Cumberland, MD
Add'l. Info: Meeting of the Board of Directors
Contact: Roxanne Snyder (301) 724-3659
 [14-02-47]

**CHILDREN'S ENVIRONMENTAL
HEALTH AND PROTECTION
ADVISORY COUNCIL**

Subject: Public Meeting
Date and Time: February 18, 2014, 9 — 11 a.m.
Place: Lowe House Office Bldg., 6 Bladen St., Rm. 318, Annapolis, MD
Contact: Rachel Hess-Mutinda (410) 767-2196
 [14-02-34]

**CONSUMER COUNCIL OF
MARYLAND**

Subject: Public Meeting
Date and Time: February 7, 2014, 9:15 a.m. — 11 a.m.
Place: 200 St. Paul Pl., 16th Fl., Baltimore, MD
Contact: Stephanie A. Hodge (410) 576-6557
 [14-02-49]

**DEPARTMENT OF HEALTH AND
MENTAL HYGIENE**

Subject: Announcement
Add'l. Info: The Department of Health and Mental Hygiene hereby gives notice to all Maryland hospitals whose rates for hospital services rendered are established by the Maryland Health Services Cost Review Commission, and to all third-party payers (including insurers, nonprofit health service plans, and other entities that reimburse for hospital costs on behalf of beneficiaries in the State of Maryland) who reimburse hospitals on the basis of those rates, that the provisions of Section 1814(b)(3) of the Social Security Act will no longer govern the reimbursement of regulated Maryland hospitals. Instead, effective with the first day of the new Maryland All-Payer Model Agreement entered into by the State of Maryland with the Centers for Medicare and Medicaid Services, and continuing throughout the duration of the Agreement or any extension thereof, reimbursement of Maryland hospitals for hospital services rendered will be governed by the terms and provisions of the All-Payer Model Agreement.
Contact: Diana Kemp (410) 764-2576
 [14-02-54]

**BOARD OF HEATING,
VENTILATION, AIR-
CONDITIONING, AND
REFRIGERATION CONTRACTORS
(HVACR)**

Subject: Public Meeting
Date and Time: February 12, 2014, 10:30 a.m. — 12:30 p.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: John Papavasiliou (410) 230-6160
 [14-02-07]

**FACILITIES ADVISORY BOARD—
JUVENILE SERVICES**

Subject: Public Meeting
Date and Time: February 18, 2014, 6 — 8 p.m.
Place: Western Maryland Children's Center, 18420 Roxbury Rd., Hagerstown, MD
Add'l. Info: Western Maryland Children's Center Facility Advisory Board Meeting
Contact: Mark Bishop (301) 745-6071
 [14-02-14]

**STATE ADVISORY BOARD FOR
JUVENILE SERVICES**

Subject: Public Meeting
Date and Time: February 24, 2014, 2 — 4 p.m.
Place: Annapolis DJS Office, 49 Old Solomons Island Rd., Ste. 300, Annapolis, MD
Contact: Tim Gilbert (410) 230-3488
 [14-02-52]

**PUBLIC SCHOOL LABOR
RELATIONS BOARD**

Subject: Public Meeting on Regulations
Date and Time: February 10, 2014, 10:30 a.m. — 12:30 p.m.
Place: 45 Calvert St., Rm 164 A and B, Annapolis, MD
Contact: Erica Snipes (410) 260-7291
 [14-02-50]

**MARYLAND HEALTH CARE
COMMISSION**

Subject: Public Meeting
Date and Time: February 20, 2014, 1 p.m.
Place: Maryland Health Care Commission, 4160 Patterson Ave., Conf. Rm. 100, Baltimore, MD
Contact: Valerie Wooding (410) 764-3460
 [14-02-06]

GENERAL NOTICES

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MARYLAND HEALTH CARE COMMISSION

Subject: Public Meeting
Date and Time: January 31, 2014, 10 a.m. — 12 p.m.
Place: Maryland Health Care Commission, 4160 Patterson Ave., Conf. Rm. 100, Baltimore, MD
Contact: Christine Karayinopulos (410) 764-3444

[14-02-11]

MARYLAND HEALTH CARE COMMISSION

Subject: Notice of Receipt of Application
Add'l. Info: On January 3, 2014, the Maryland Health Care Commission (MHCC) received a Certificate of Need application submitted by Rockville Eye Surgery Center d/b/a Palisades Eye Surgery Center — Matter No. 14-15-2352 — Relocation of the surgery center within the same office building and the additional of two operating rooms for a total of three operating rooms and two procedure rooms. Proposed Cost: \$3,637,265.

The MHCC shall review the application under Health-General Article, §19-101 et seq., Annotated Code of Maryland, and COMAR 10.24.01.

Any affected person may make a written request to the Commission to receive copies of relevant notices concerning the application. All further notices of proceedings on the application will be sent only to affected persons who have registered as interested parties.

Please refer to the Matter No. listed above in any correspondence on the application. A copy of the applications are available, for review, in the office of the MHCC, during regular business hours by appointment. All correspondence should be addressed to Paul Parker, Deputy Director, Center for Health Care Facilities Planning and Development, MHCC, 4160 Patterson Avenue, Baltimore, Maryland 21215.

Contact: Ruby Potter (410) 764-3276

[14-02-32]

MARYLAND PUBLIC BROADCASTING COMMISSION

Subject: Public Meeting
Date and Time: February 25, 2014, 8:30 a.m.
Place: Maryland Public Television, Owings Mills, MD
Contact: Sharon Abernathy (410) 581-4141

[14-02-03]

DEPARTMENT OF NATURAL RESOURCES/FISHERIES SERVICE

Subject: Public Notice
Add'l. Info: 2014 Recreational Black Sea Bass Fishery
The Secretary of Natural Resources, pursuant to COMAR 08.02.05.21F, announces the season, catch limit, and minimum size for the recreational black sea bass fishery for 2014. The recreational season for catching black sea bass in Maryland waters (Chesapeake Bay and 0-3 miles off the coast) is only open from 12:01 a.m. on May 19, 2014, through 11:59 p.m. on September 18, 2014, and from 12:01 a.m. on October 18, 2014, through 11:59 p.m. on December 31, 2014. The recreational season is closed all other dates. The possession limit will be 15 fish per person. The minimum size will be 12.5 inches.

For federal waters in the Exclusive Economic Zone (EEZ) (3—200 miles off the coast), the National Marine Fisheries Service (NMFS) is expected to open the black sea bass season on May 19, 2014, with a 12.5-inch size limit and a 15-fish possession limit. However, if NMFS fails to publish a final rule by May 19, 2014, the EEZ will open under a 20-fish possession limit. All black sea bass possessed in Maryland would still be required to meet the more conservative 15-fish possession limit.

Joseph P. Gill
Secretary
Maryland Department of Natural Resources

Contact: Tammy O'Connell (410) 260-8271

[14-02-17]

DEPARTMENT OF NATURAL RESOURCES/FISHERIES SERVICE

Subject: Public Notice
Add'l. Info: 2014 Summer Flounder Regulations
The Secretary of Natural Resources, pursuant to COMAR 08.02.05.12F, announces the season, catch limit, and minimum size for the recreational summer flounder fishery for 2014. The season will open at 12:01 a.m. on January 1, 2014. The fishery will remain open through 11:59 p.m. on December 31, 2014. Recreational anglers may keep up to four summer flounder per person per day. The recreational minimum size for summer flounder is 16 inches in all Maryland State waters. The commercial hook and line minimum size is also 16 inches in all Maryland State waters. The commercial minimum size for summer flounder caught

by gear other than hook and line is 14 inches.

The Department may close the recreational season early if projections indicate the recreational harvest target will be caught before December 31, 2014, or may change the minimum size, season, or creel limit in a later notice.

Joseph P. Gill
Secretary
Maryland Department of Natural Resources

Contact: Tammy O'Connell (410) 260-8266

[14-02-18]

BOARD OF OCCUPATIONAL THERAPY PRACTICE

Subject: Public Meeting
Date and Time: February 21, 2014, 8:30 a.m. — 2 p.m.

Place: Spring Grove Hospital Center, 55 Wade Ave., Catonsville, MD

Add'l. Info: Health Occupations Article, Title 10, Annotated Code of Maryland, and COMAR 10.46 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. Sign language interpreters and/or appropriate accommodations for qualified individuals with disabilities will be provided upon request. Please call 1-800-735-2255.

Contact: Marilyn Pinkney (410) 402-8556

[14-02-05]

STATE ADVISORY COUNCIL ON QUALITY CARE AT THE END OF LIFE

Subject: Public Meeting
Date and Time: January 30, 2014, 10 a.m. — 12 p.m.

Place: Dept. of Aging, 301 W. Preston St., Rm. 1007, Baltimore, MD

Contact: Paul Ballard (410) 767-6918

[14-02-01]

BOARD OF PLUMBING

Subject: Public Meeting
Date and Time: February 20, 2014, 10 a.m. — 12:30 p.m.

Place: 500 N. Calvert St., Rm. 302, Baltimore, MD

Contact: Brenda Clark (410) 230-6164

[14-02-09]

**TASK FORCE TO STUDY A POST
LABOR DAY START DATE FOR
MARYLAND PUBLIC SCHOOLS**

Subject: Public Meeting
Date and Time: February 5, 2014, 1 — 3 p.m.
Place: West County Area Library, 1325 Annapolis Rd., Meeting Rm. A, Odenton, MD
Add'l. Info: The Task Force to Study a Post-Labor Day Start Date for Maryland Public Schools is pleased to receive oral public comment at the meeting. In order to allow the Task Force sufficient time to conduct its business, up to 1 hour will be allocated for public comment. Public comment will be taken from 2 to 3 p.m. To ensure the effective use of the time available for public comment, speakers will have 3 minutes to address the Task Force and are encouraged to provide sufficient copies of their comments or any other documents to support their oral comments to share with the Task Force members and observers.

Individuals must contact Dr. Kristine Angelis at (410) 767-0409 or via email at kangelis@msde.state.md.us at least 48 hours prior to the meeting to register to speak. Registration will be accepted on a first-come, first-served basis. Appropriate accommodations for individuals with disabilities will be provided upon request. To allow time to arrange accommodations, 8 business days notice prior to the meetings is requested. This notice is provided pursuant to State Government Article, §10-506 (c), Annotated Code of Maryland.
Contact: Dr. Kristine Angelis (410) 767-0409

[14-02-04]

**STATE ADVISORY COUNCIL ON
QUALITY CARE AT THE END OF
LIFE**

Subject: Public Meeting
Date and Time: January 30, 2014, 10 a.m. — 12 p.m.
Place: Dept. of Aging, 301 W. Preston St., Rm. 1007, Baltimore, MD
Contact: Paul Ballard (410) 767-6918

[14-02-15]

RACING COMMISSION

Subject: Public Meeting
Date and Time: February 18, 2014, 12:30 — 1 p.m.
Place: Laurel Park, Laurel, MD
Contact: J. Michael Hopkins (410) 296-9682

[14-02-19]

REAL ESTATE COMMISSION

Subject: Public Meeting
Date and Time: February 19, 2014, 10:30 a.m.
Place: Dept. of Labor, Licensing, and Regulation, 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Patricia Hannon (410) 230-6199
 [14-02-12]

REAL ESTATE COMMISSION

Subject: Public Hearing
Date and Time: February 19, 2014, 12:30 p.m.
Place: Dept. of Labor, Licensing, and Regulation, 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Patricia Hannon (410) 230-6199
 [14-02-13]

**STATE BOARD OF INDIVIDUAL TAX
PREPARERS**

Subject: Public Meeting
Date and Time: February 10, 2014, 1 — 5 p.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Douglas Blackstone (410) 230-6244
 [14-02-33]

BOARD OF WELL DRILLERS

Subject: Public Meeting
Date and Time: February 26, 2014, 9 a.m. — 4 p.m.
Place: MDE, 1800 Washington Blvd., Gwynn Falls Conf. Rm., Baltimore MD
Add'l. Info: A portion of this meeting may be held in closed session.
Contact: Willie Everett (410) 537-3644
 [14-02-02]

**WORKERS' COMPENSATION
COMMISSION**

Subject: Public Meeting
Date and Time: February 27, 2014, 9 — 11 a.m.
Place: 10 E. Baltimore St., Baltimore, MD
Add'l. Info: Portions of this meeting may be held in closed session.
Contact: Amy S. Lackington (410) 864-5300

[14-02-08]

**YOUTH CAMP SAFETY ADVISORY
COUNCIL**

Subject: Public Meeting
Date and Time: February 11, 2014, 10 a.m. — 12 p.m.
Place: Anne Arundel County Dept. of Rec. and Parks, Kinder Center/Harvest Hall, 100 Kinder Farm Rd., Millersville, MD
Add'l. Info: Snow date is February 13th. Same time and place.
Contact: Linda Rudie (410) 767-8419
 [14-02-57]

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Title 17	Budget and Management	\$38	\$25	_____	_____
Title 18	Assessments and Taxation	\$28	\$18	_____	_____
Title 19A	State Ethics Commission	\$33	\$20	_____	_____
Title 20	Public Service Commission	\$64	\$42	_____	_____
Title 21	State Procurement Regulations	\$65	\$42	_____	_____
Title 22	State Retirement and Pension System	\$33	\$18	_____	_____
Title 23	Board of Public Works	\$26	\$15	_____	_____
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### Title 10

Department of Health and Mental Hygiene: Part & Subtitles

#### Part 1

- 01 Procedures
- 02 Division of Reimbursements
- 03 Health Statistics
- 04 Fiscal
- 05 Freestanding Ambulatory Care Facilities
- 06 Diseases
- 07 Hospitals
- 08 Health Facilities Grants

#### Part 2

- 09 Medical Care Programs

#### Part 3

- 10 Laboratories
- 11 Maternal and Child Health
- 12 Adult Health
- 13 Drugs
- 14 Cancer Control
- 15 Food
- 16 Housing
- 17 Sanitation
- 18 Human Immunodeficiency Virus (HIV) Infection and  
Acquired Immunodeficiency Syndrome (AIDS)
- 19 Dangerous Devices and Substances
- 20 Kidney Disease Program
- 21 Mental Hygiene Regulations
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#### Part 4

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- 28 Board of Examiners in Optometry
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- 39 Board of Nursing – Certified Nursing Assistants
- 40 Board of Podiatric Medical Examiners
- 41 Board of Examiners for Audiologists, Hearing Aid  
Dispensers, and Speech-Language Pathologists
- 42 Board of Social Work Examiners
- 43 Board of Chiropractic and Massage Therapy Examiners
- 44 Board of Dental Examiners
- 45 Maryland Community Health Resources Commission
- 46 Board of Occupational Therapy Practice
- 47 Alcohol and Drug Abuse Administration
- 48 Child Abuse and Neglect Medical Reimbursement Program
- 49 State Anatomy Board
- 50 Tissue Banks
- 51 Forensic Laboratories
- 52 Preventive Medicine
- 53 Board of Nursing—Electrology Practice Committee
- 54 Special Supplemental Nutrition Program for Women,  
Infants, and Children (WIC)
- 55 State Board of Spinal Cord Injury Research
- 56 Board of Dietetic Practice
- 57 Board for Certification of Residential Child Care Program  
Professionals
- 58 Board of Professional Counselors and Therapists
- 59 Catastrophic Health Emergencies
- 60 Board of Environmental Health Specialists

### Title 11

Department of Transportation – Volume & Subtitles

#### Volume 1

- 01 Office of the Secretary
  - 02 Transportation Service Human Resources System
  - 03 Maryland Aviation Administration
  - 04 State Highway Administration
  - 05 Maryland Port Administration
  - 06 Mass Transit Administration
  - 07 Maryland Transportation Authority
  - 08 State Railroad Administration
  - 09 Vacant
  - 10 Vacant
- #### Volume 2 and Volume 3
- 11 Motor Vehicle Administration – Administrative Procedures
  - 12 MVA – Licensing of Businesses and Occupations
  - 13 MVA – Vehicle Equipment
  - 14 MVA – Vehicle Inspections
  - 15 MVA – Vehicle Registration
  - 16 MVA – Vehicle Operations
  - 17 MVA – Driver Licensing and Identification Documents
  - 18 MVA – Financial Responsibility Requirements
  - 19 MVA – School Vehicles
  - 20 MVA – Motorcycle Safety Program
  - 21 MVA – Commercial Motor Vehicles
  - 22 MVA – Preventive Maintenance Program
  - 23 MVA – Drivers' Schools, Instructors, Driver Education Program

### Title 26

Department of the Environment – Part & Subtitles

#### Part 1

- 01 General Provisions
- 02 Occupational, Industrial, and Residential Hazards
- 03 Water Supply, Sewerage, Solid Waste, and Pollution Control  
Planning and Funding
- 04 Regulation of Water Supply, Sewage Disposal, and Solid Waste
- 05 Board of Well Drillers
- 06 Waterworks and Waste Systems Operators
- 07 Board of Environmental Sanitarians

#### Part 2

- 08 Water Pollution
- 09 Maryland CO<sub>2</sub> Budget Trading Program
- 10 Oil Pollution and Tank Management
- 11 Air Quality
- 12 Radiation Management

#### Part 3

- 13 Disposal of Controlled Hazardous Substances
- 14 Hazardous Substance Response Plan
- 15 Disposal of Controlled Hazardous Substances —  
Radioactive Hazardous Substances
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- 17 Water Management
- 18 Susquehanna River Basin Commission

#### Part 4

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- 20 Surface Coal Mining and Reclamation under  
Federally Approved Program
- 21 Mining
- 22 Coastal Facilities Review
- 23 Nontidal Wetlands
- 24 Tidal Wetlands
- 25 Ballast Water Management
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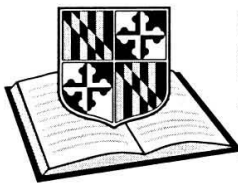
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