


Maryland Register

Issue Date: January 15, 2010

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Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before December 22, 2009, 5 p.m.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 December 22, 2009.

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



Information About the Maryland Register and COMAR

MARYLAND REGISTER

The Maryland Register is an official State publication published every other week throughout the year. A cumulative index is published quarterly. The Maryland Register is the temporary supplement to the Code of Maryland Regulations. Any change to the text of regulations published in COMAR, whether by adoption, amendment, repeal, or emergency action, must first be published in the Register.

The following information is also published regularly in the Register:

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

CITATION TO THE MARYLAND REGISTER

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

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

CODE OF MARYLAND REGULATIONS (COMAR)

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

CITATION TO COMAR REGULATIONS

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

DOCUMENTS INCORPORATED BY REFERENCE

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

HOW TO RESEARCH REGULATIONS

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

publications must always be used together. A Research Guide for Maryland Regulations is available. For further information, call (410) 974-2486.

SUBSCRIPTION INFORMATION

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

CITIZEN PARTICIPATION IN THE REGULATION-MAKING PROCESS

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

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

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

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COMAR Online

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

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

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

Availability of Monthly List of Maryland Documents

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

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

CLOSING DATES and ISSUE DATES through JULY 30, 2010

ISSUE DATE	Emergency and Proposed Regulations* 5:00 p.m.	Final Regulations 10:30 a.m.	Notices, etc. 10:30 a.m.
January 29**	January 11	January 20	January 15
February 12	January 25	February 3	February 1
February 26**	February 8	February 17	February 12
March 12	February 22	March 3	March 1
March 26	March 8	March 17	March 15
April 9	March 22	March 31	March 29
April 23	April 5	April 14	April 12
May 7	April 19	April 28	April 26
May 21	May 3	May 12	May 10
June 4**	May 17	May 25	May 21
June 18**	May 27	June 9	June 7
July 2	June 14	June 23	June 21
July 16**	June 28	July 7	July 2
July 30	July 12	July 21	July 19

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

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

**Note closing date changes

***Note issue date change

The regular closing date for Proposals and Emergencies is Monday.

Pending Proposals

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.

09.12.01.02D(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.

<p>02 OFFICE OF THE ATTORNEY GENERAL</p> <p>02.01.11.01—05 • 36:24 Md. R. 1861 (11-20-09) 02.02.01.09 • 36:22 Md. R. 1727 (10-23-09)</p> <p>05 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT</p> <p>05.04.01.03—18,20 • 37:2 Md. R. 70 (1-15-10) 05.17.01.02—08,13 • 36:26 Md. R. 2000 (12-18-09)</p> <p>07 DEPARTMENT OF HUMAN RESOURCES</p> <p>07.02.01.04 • 37:1 Md. R. 18 (1-4-10) 07.02.05.01—10 • 36:6 Md. R. 493 (3-13-09) 07.02.06.01—07 • 36:6 Md. R. 495 (3-13-09) 07.02.12.21 • 37:1 Md. R. 19 (1-4-10) 07.02.28.01—06 • 37:1 Md. R. 18 (1-4-10) 07.07.01.02 • 36:25 Md. R. 1958 (12-4-09) 07.07.10.04 • 36:22 Md. R. 1730 (10-23-09) 36:24 Md. R. 1860 (11-20-09) (err.)</p> <p>08 DEPARTMENT OF NATURAL RESOURCES</p> <p>08.02.01.05 • 36:25 Md. R. 1959 (12-4-09) 08.02.03.10,14 • 36:25 Md. R. 1959 (12-4-09) 08.02.04.16 • 36:26 Md. R. 2003 (12-18-09) 08.02.05.02 • 37:1 Md. R. 21 (1-4-10) 08.02.05.02,12,21 • 36:26 Md. R. 2003 (12-18-09) 08.02.06.01 • 36:26 Md. R. 2003 (12-18-09) 08.02.08.14 • 36:23 Md. R. 1820 (11-6-09) 08.02.10.01 • 36:26 Md. R. 2003 (12-18-09) 08.02.13.02—04 • 36:26 Md. R. 2006 (12-18-09) 08.02.13.06 • 36:26 Md. R. 2003 (12-18-09) 08.02.15.03 • 37:1 Md. R. 21 (1-4-10) 08.02.18.06 • 36:26 Md. R. 2003 (12-18-09) 08.02.21.03 • 36:26 Md. R. 2003 (12-18-09) 08.03.08.04—09 • 37:2 Md. R. 75 (1-15-10) 08.07.06.02 • 36:22 Md. R. 1730 (10-23-09) 08.08.05.03 • 36:21 Md. R. 1598 (10-9-09)</p>	<p>08.08.05.06 • 36:21 Md. R. 1599 (10-9-09) 08.18.21.03,04 • 37:1 Md. R. 22 (1-4-10)</p> <p>09 DEPARTMENT OF LABOR, LICENSING, AND REGULATION</p> <p>09.01.09.01—09 • 36:24 Md. R. 1863 (11-20-09) 09.03.06.01—04,07,15,17—19 • 36:26 Md. R. 2013 (12-18-09) 09.03.09.01—07 • 36:26 Md. R. 2016 (12-18-09) 09.03.10.01,03 • 36:26 Md. R. 2018 (12-18-09) 09.03.11.01,02 • 36:26 Md. R. 2019 (12-18-09) 09.03.12.01,02 • 36:26 Md. R. 2020 (12-18-09) 09.10.04.04 • 36:13 Md. R. 913 (6-19-09) 09.12.01.16,16-1 • 36:2 Md. R. 126 (1-16-09) 09.12.27.01—04 • 36:24 Md. R. 1863 (11-20-09) 09.12.40.05,06 • 36:26 Md. R. 2021 (12-18-09) 09.16.01.08 • 36:19 Md. R. 1454 (9-11-09) 09.22.01.13 • 36:23 Md. R. 1821 (11-6-09) 09.24.01.09 • 36:13 Md. R. 913 (6-19-09) 09.26.01.04 • 36:26 Md. R. 2023 (12-18-09) 09.26.02.06—08 • 36:26 Md. R. 2023 (12-18-09) 09.26.04.01 • 36:26 Md. R. 2023 (12-18-09) 09.27.01.01—08 • 36:24 Md. R. 1864 (11-20-09) 09.27.02.01—05 • 36:24 Md. R. 1864 (11-20-09) 09.27.03.01,02 • 36:24 Md. R. 1864 (11-20-09) 09.32.01.18-3 • 36:26 Md. R. 2024 (12-18-09) 09.32.09.01—05 • 36:26 Md. R. 2025 (12-18-09) 37:1 Md. R. 45 (1-4-10) (err.) 09.32.10.01—05 • 36:26 Md. R. 2025 (12-18-09) 37:1 Md. R. 45 (1-4-10) (err.)</p> <p>10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE</p> <p>Subtitles 01 — 08 (1st Volume)</p> <p>10.01.04.01—10 • 36:23 Md. R. 1822 (11-6-09) 10.07.01.01—05,07—09,28,32 • 36:14 Md. R. 989 (7-6-09) (ibr) 10.07.05.01—28 • 36:17 Md. R. 1337 (8-14-09)</p>
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- 13A.04.11.01,.02 • 36:24 Md. R. 1891 (11-20-09)
- 13A.07.01.01—.08 • 36:21 Md. R. 1607 (10-9-09) (ibr)
- 13A.12.02.24 • 36:24 Md. R. 1892 (11-20-09)

14 INDEPENDENT AGENCIES

- 14.30.12.01 • 36:26 Md. R. 2053 (12-18-09)
- 14.32.05.02 • 37:1 Md. R. 33 (1-4-10)
- 14.33.01.01,.02 • 37:2 Md. R. 102 (1-15-10)
- 14.33.02.01,.12 • 37:2 Md. R. 102 (1-15-10)

15 DEPARTMENT OF AGRICULTURE

- 15.01.08.01—.08 • 36:22 Md. R. 1761 (10-23-09)

20 PUBLIC SERVICE COMMISSION

- 20.31.01.02 • 36:19 Md. R. 1478 (9-11-09)
36:25 Md. R. 1956 (12-4-09)

23 BOARD OF PUBLIC WORKS

- 23.03.02.06 • 36:26 Md. R. 2054 (12-18-09)

25 OFFICE OF THE STATE TREASURER

- 25.02.07.01—.04 • 36:26 Md. R. 2056 (12-18-09)

26 DEPARTMENT OF THE ENVIRONMENT

Subtitles 01—07 (Part 1)

- 26.04.04 • 36:23 Md. R. 1819 (11-6-09) (err.)
- 26.04.04.01—.39 • 36:22 Md. R. 1765 (10-23-09)
36:25 Md. R. 1971 (12-4-09)
- 26.04.10.09,.10 • 36:20 Md. R. 1552 (9-25-09)
- 26.05.02.10 • 37:2 Md. R. 103 (1-15-10)

Subtitles 08 — 12 (Part 2)

- 26.08.01.01 • 36:9 Md. R. 660 (4-24-09)
- 26.08.02.02,.03-2,.03-3,.05-1,.08 • 36:9 Md. R. 660 (4-24-09) (ibr)
- 26.09.01.02,.03,.05 • 37:2 Md. R. 104 (1-15-10) (ibr)
- 26.09.02.05 • 37:2 Md. R. 104 (1-15-10)
- 26.09.03.04,.06,.07 • 37:2 Md. R. 104 (1-15-10)
- 26.09.04.03,.08,.09 • 37:2 Md. R. 104 (1-15-10)
- 26.10.01.04,.12 • 36:26 Md. R. 2057 (12-18-09) (ibr)
- 26.10.02.03-2,.06 • 36:26 Md. R. 2058 (12-18-09) (ibr)
- 26.10.04.01 • 35:21 Md. R. 1851 (10-10-08)
- 26.10.14.03 • 36:26 Md. R. 2059 (12-18-09)
- 26.10.16.01—.08 • 36:26 Md. R. 2060 (12-18-09)
- 26.11.01.01 • 37:2 Md. R. 108 (1-15-10)
- 26.11.14.07 • 37:2 Md. R. 108 (1-15-10)
- 26.11.19.07 • 36:26 Md. R. 2064 (12-18-09)

Pending Proposals

26.11.19.09-1 • 36:26 Md. R. 2066 (12-18-09)
 26.11.19.10,10-1 • 36:26 Md. R. 2068 (12-18-09)
 26.11.19.11 • 36:26 Md. R. 2070 (12-18-09)
 26.11.19.15 • 36:26 Md. R. 2073 (12-18-09)
 26.11.19.32,33 • 36:26 Md. R. 2074 (12-18-09) (ibr)

Subtitles 13—18 (Part 3)

26.14.02.02,02-1,02-2,02-3 • 36:22 Md. R. 1782 (10-23-09)

27 CHESAPEAKE BAY CRITICAL AREA COMMISSION

27.01 • 36:25 Md. R. 1973 (12-4-09) (err.)
 27.01.01.01 • 36:19 Md. R. 1480 (9-11-09)
 27.01.01,02 • 36:24 Md. R. 1895 (11-20-09)
 27.01.02.03—05 • 36:19 Md. R. 1480 (9-11-09)
 27.01.05.01,02,03 • 36:24 Md. R. 1895 (11-20-09)
 27.01.09.01—01-7 • 36:24 Md. R. 1895 (11-20-09)
 27.01.09.01,02 • 36:19 Md. R. 1480 (9-11-09)
 27.02.01.01 • 36:19 Md. R. 1480 (9-11-09)
 27.02.05.03,09,10 • 36:19 Md. R. 1480 (9-11-09)

28 OFFICE OF ADMINISTRATIVE HEARINGS

28.02.01.01—28 • 37:1 Md. R. 34 (1-4-10)

29 MARYLAND STATE POLICE

29.06.06.01—07 • 36:20 Md. R. 1554 (9-25-09)
 29.08.01.01—05 • 36:26 Md. R. 2076 (12-18-09)

31 MARYLAND INSURANCE ADMINISTRATION

31.04.20.01—10 • 36:26 Md. R. 2078 (12-18-09)
 31.08.12 • 37:2 Md. R. 111 (1-15-10) (err.)
 31.08.12.01—06 • 36:18 Md. R. 1406 (8-28-09)
 37:1 Md. R. 41 (1-4-10)
 31.09.14.01—05 • 36:23 Md. R. 1835 (11-6-09)
 31.10.38.02,03 • 36:26 Md. R. 2081 (12-18-09)
 31.12.08.01—06 • 36:26 Md. R. 2081 (12-18-09)
 31.14.03.04,05,07,09 • 36:26 Md. R. 2083 (12-18-09)
 31.17.03.02,14 • 36:17 Md. R. 1365 (8-14-09)

32 MARYLAND DEPARTMENT OF AGING

32.02.01.05,07,13,14,28 • 37:1 Md. R. 42 (1-4-10)

33 STATE BOARD OF ELECTIONS

33.17.03.01 • 36:25 Md. R. 1971 (12-4-09)
 33.17.04.01—05 • 36:25 Md. R. 1971 (12-4-09)
 33.17.05.01—03 • 36:25 Md. R. 1971 (12-4-09)

35 DEPARTMENT OF VETERANS AFFAIRS

35.05.01.01—04 • 36:21 Md. R. 1622 (10-9-09)
 36:22 Md. R. 1799 (10-23-09) (err.)

EXECUTIVE ORDER 01.01.2009.20**One Maryland — One Map: Maryland Integrated Map (MD iMap)**

WHEREAS, The Maryland Integrated Map (MD iMap) is a statewide basemap that will serve Maryland agencies and be a model for other states;

WHEREAS, MD iMap will enable State agencies to better implement and coordinate policies and programs across the State;

WHEREAS, The Maryland GIS community, working through the Maryland State Geographic Information Committee and led by the Departments of Transportation, Environment, Natural Resources and Planning, has developed plans for the key elements of MD iMap, including transportation features, imagery, elevations, parks and other protected lands, feature/place names and boundaries;

WHEREAS, A collaborative effort has been made by multiple levels of government (State, regional, county and municipal) to construct the MD iMap program, and representatives from each level of government are participating in the development of MD iMap policies, procedures, standards and guidance; and

WHEREAS, To fully implement an effective MD iMap program, it is necessary to establish an organizational structure to guide and coordinate interagency and intergovernmental efforts.

NOW, THEREFORE, I, MARTIN O'MALLEY, GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, HEREBY PROCLAIM THE FOLLOWING EXECUTIVE ORDER, EFFECTIVE IMMEDIATELY:

A. Established. There is an Executive Committee to implement the Maryland Integrated Map (MD iMap).

B. Composition. The Executive Committee consists of the following members:

- (1) The Secretary of the Department of Agriculture or a designee;
- (2) The Secretary of the Department of Environment or a designee;
- (3) The Secretary of the Department of Natural Resources or a designee;
- (4) The Secretary of the Department of Planning or a designee;
- (5) The Secretary of the Department of Transportation or a designee;
- (6) The Secretary of the Department of Housing and Community Development or a designee;
- (7) The Secretary of the Department of Business and Economic Development or a designee;

(8) The Secretary of the Department of General Services or a designee;

(9) The State Superintendent of Education or a designee;

(10) The Secretary of the Department of Health and Mental Hygiene or a designee;

(11) The Secretary of the Department of Information Technology;

(12) The Secretary of the Department of Public Safety and Correctional Services or a designee;

(13) The Superintendent of the Maryland State Police or a designee;

(14) The Director of Assessments and Taxation or a designee;

(15) The Secretary of Aging or a designee;

(16) The Secretary of the Department of Disabilities or a designee;

(17) The Secretary of Budget and Management or a designee;

(18) The Secretary of Veterans Affairs or a designee;

(19) The Secretary of Higher Education or a Designee;

(20) The Adjutant General of the Military Department or a designee;

(21) The Director of the Maryland Emergency Management Agency or a designee;

(22) The Secretary of the Department of Labor, Licensing and Regulations or a designee;

(23) The Secretary of the Department of Human Resources or a designee;

(24) The Secretary of the Department of Juvenile Services or a designee;

(25) The Director of the Governor's StateStat Office;

(26) The Executive Director of the Maryland Institute for Emergency Medical Services Systems or a designee; and

(27) The Director of the Governor's Delivery Unit or a designee.

C. Executive Committee Leadership and Status.

(1) The Governor shall provide strategic direction to the Executive Committee.

(2) The Secretary of the Department of Information Technology shall chair the Executive Committee.

(3) The Director of the Governor's StateStat Office shall serve as vice-chair for the Executive Committee.

(4) The Executive Committee is a subcabinet and shall advise the Governor on issues relating to MD iMap.

D. Executive Committee Duties. The Executive Committee shall:

(1) Approve MD iMap policies, procedures and guidance;

(2) Resolve issues identified by the Technical Committee;

(3) Provide recommendations and technical support to the budget approving authority;

(4) Identify and obtain funding to support the MD iMap program;

(5) Appoint and assign appropriate staff to oversee the development, maintenance, use and promotion of the MD iMap program;

Governor

(6) Provide guidance to the Technical Committee on MD iMap policies, standards and other deliverables;

(7) Promote, advertise and market the applications, capabilities, benefits and results of the MD iMap program; and

(8) Advise the Governor on issues relating to MD iMap.

E. State Geographic Information Officer.

(1) There is a State Geographic Information Officer (GIO).

(2) The GIO shall be appointed by, and serve at the pleasure of the Secretary of the Department of Information Technology.

(3) The GIO shall report to, and be supervised by, the Secretary of the Department of Information Technology.

(4) The GIO shall:

(a) Ensure that the MD iMap program supports the Governor’s 15 Strategic Policy Goals;

(b) Facilitate and coordinate the planning, implementation and maintenance of the MD iMap program (including MD iMap policies, procedures, standards and applications);

(c) Recruit the Technical Committee membership;

(d) Appoint Technical Committee Chair(s);

(e) Provide oversight for the development of the MD iMap program;

(f) Monitor MD iMap metrics;

(g) Establish and manage a MD iMap communications plan;

(h) Provide MD iMap education;

(i) Maintain a liaison relationship with State, regional, county and municipal organizations;

(j) Promote, advertise and market applications, capabilities, benefits and results of the MD iMap program; and

(k) Assist in the identification and capturing of funding to support the MD iMap program.

F. Technical Committee.

(1) The Executive Committee shall appoint a Technical Committee.

(2) The Technical Committee shall consist of State agency personnel responsible for using and implementing MD iMap, local government representatives in the field of geographical information systems, and private and non-profit representatives in the field of geographical information systems.

(3) The Technical Committee shall:

(a) Facilitate the development of MD iMap contents, policies and procedures;

(b) Establish and monitor MD iMap metrics;

(c) Staff work groups;

(d) Provide MD iMap program status reports to the Executive Committee;

(e) Resolve issues identified by any work groups that have been established;

(f) Ensure consistency in any work group-developed contents, policies and procedures;

(g) Submit MD iMap resources to the Executive Committee;

(h) Submit recommendations to the Executive Committee for changes, additions or exceptions to MD iMap system infrastructure or data sets;

(i) Identify MD iMap-related issues and submit them to the Executive Committee;

(j) Ensure the quality and currency of MD iMap resources;

(k) Review and provide advice on GIS-related projects to the Executive Committee or the GIO;

(l) Provide planning and oversight support for MD iMap GIS projects;

(m) Provide advice on GIS-related issues associated with MD iMap projects;

(n) Review MD iMap GIS projects to ensure they conform to the MD iMap program policies; and

(o) Promote, advertise and market the applications, capabilities, benefits and results of MD iMap.

G. Cooperation of State Agencies. All State departments, agencies, commissions, and boards are directed to cooperate with the Executive Committee, the GIO, and the Technical Committee in implementing the provisions of this Executive Order.

GIVEN Under My Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 18th day of December, 2009.

MARTIN O’MALLEY
Governor

ATTEST:

JOHN P. MCDONOUGH
Secretary of State

[10-02-33]

EXECUTIVE ORDER 01.01.2009.21

Declaration of Emergency

WHEREAS, Maryland is subject to a great variety of natural hazards or disasters including but not limited to severe winter storms and power outages;

WHEREAS, Having been advised and informed by the Maryland Emergency Management Agency that there is the anticipation of severe winter weather, flooding and subsequent power outages, an emergency exists in the State of Maryland and that resources may be requested;

WHEREAS, In order to facilitate the deployment of requisite resources within provisions of Maryland law;

WHEREAS, Use of resources of the Maryland National Guard may be required; and

WHEREAS, In order to implement the emergency powers of the Governor, an Executive Order of the Governor is appropriate.

MARTIN O'MALLEY
Governor

NOW, THEREFORE, I, MARTIN O'MALLEY, GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND THE LAWS OF MARYLAND, INCLUDING BUT NOT LIMITED TO TITLE 14 OF THE PUBLIC SAFETY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, DECLARE THAT A STATE OF EMERGENCY EXISTS IN MARYLAND. I CALL THE MARYLAND NATIONAL GUARD INTO STATE SERVICE AND HEREBY AUTHORIZE THE MARYLAND EMERGENCY MANAGEMENT AGENCY OR OTHER APPROPRIATE STATE AUTHORITY, DURING THIS EMERGENCY PERIOD, TO ENGAGE, DEPLOY AND COORDINATE AVAILABLE RESOURCES.

ATTEST:

JOHN P. MCDONOUGH
Secretary of State

[10-02-35]

GIVEN Under My Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 19th day of December, 2009.

MARTIN O'MALLEY
Governor

ATTEST:

JOHN P. MCDONOUGH
Secretary of State

[10-02-34]

EXECUTIVE ORDER 01.01.2009.22

Rescission of Executive Order 01.01.2009.21

WHEREAS, I, Martin O'Malley, Governor of the State of Maryland, having declared a State of Emergency by Executive Order 01.01.2009.21 due to the threat to the public health and safety caused by the impact of severe weather; and

WHEREAS, The emergency conditions caused by the storm no longer exist.

NOW, THEREFORE, I, MARTIN O'MALLEY, GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND THE LAWS OF MARYLAND, DO HEREBY PROCLAIM THAT THE STATE OF EMERGENCY IN THE STATE OF MARYLAND IS HEREBY TERMINATED EFFECTIVE AT 1900 PM ON THIS DATE.

GIVEN Under My Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 21st day of December, 2009.

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.

APPROVED INSTITUTIONS

(Revised January 6, 2010)

Adams National Bank
 Advance Bank
 Alliance Bank
 American Bank
 AmericasBank
 Baltimore County Savings Bank, FSB
 BankAnnapolis
 Bank of America
 Bank of Delmarva
 Bank of the Eastern Shore
 Bank of Georgetown
 Bank of Glen Burnie
 Bank of Ocean City
 Bay First Bank
 Bay National Bank
 Bay Vanguard Federal Savings Bank
 Blue Ridge Bank
 BB&T Bank
 Burke & Herbert Bank & Trust Company
 Business Bank
 Calvin B. Taylor Banking Company of Berlin, MD
 Capital Bank
 Carrollton Bank
 Cecil Bank
 Centra Bank
 Centreville National Bank of Maryland
 Chesapeake Bank & Trust Company
 Chesapeake Bank of Maryland
 Chevy Chase Bank
 Citibank, F.S.B.
 ColomboBank
 Columbia Bank
 CommerceFirst Bank
 Community Bank of Tri-County
 Community First Bank
 Congressional Bank
 County First Bank
 Damascus Community Bank
 Denton Bank & Trust
 EagleBank
 Eastern Savings Bank
 Easton Bank & Trust
 Farmers Bank of Willards
 Farmers & Merchants Bank
 Fidelity & Trust Bank
 First Citizens Bank & Trust Company

First Mariner Bank
 First Shore Federal Savings & Loan Association
 First United Bank & Trust
 Frederick County Bank
 Graystone Bank
 Greater Atlantic Bank
 Hagerstown Trust Company
 Harbor Bank of Maryland
 Harford Bank
 Harvest Bank of Maryland
 Hebron Savings Bank
 Hopkins Federal Savings Bank
 Howard Bank
 HSBC National Bank
 Industrial Bank
 Jefferson Security Bank
 John Marshall Bank
 K Bank
 Madison Square Federal Savings Bank
 MainStreet Bank
 M & T Bank
 Maryland Bank & Trust Company
 Middletown Valley Bank
 Mid State Federal Savings & Loan Association
 Monument Bank
 National Bank of Cambridge
 National Capital Bank of Washington
 NBRF Financial Bank
 National Penn Bank
 New Windsor State Bank
 Northwest Savings Bank
 OBA Bank
 Old Line Bank
 Orrstown Bank
 Patapsco Bank
 Peoples Bank
 PNC Bank
 Presidential Bank
 Prince George's Federal Savings Bank
 Provident State Bank
 Queenstown Bank of Maryland
 Regal Bank & Trust
 Revere Bank
 Sandy Spring Bank
 Severn Savings Bank, FSB
 Shore Bank
 Sovereign Bank
 Standard Bank
 SunTrust Bank
 Susquehanna Bank
 Sykesville Federal Savings Association
 Talbot Bank of Easton, Maryland
 TD Bank
 United Bank
 Vigilant Federal Savings Bank
 Virginia Commerce Bank
 Wachovia Bank
 WashingtonFirst Bank
 Wilmington Trust, FSB

Woodsboro Bank

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

- Bradford Bank
- People's Bank of Elkton
- Provident Bank of Maryland
- Summit Community Bank

[10-02-23]

COURT OF APPEALS OF MARYLAND

SCHEDULE

Thursday, February 4, 2010

Bar Admissions

- AG 31 Attorney Grievance Commission of Maryland v. Jeffrey Keith Gordon
- AG 6 Attorney Grievance Commission of Maryland v. David E. Fox
- No. 68 Kenneth Longus v. State of Maryland
- No. 74 Carmen Dickerson, Personal Representative of the Estate of Carter Bradley v. Ricardo Longoria, et al.
- No. 71 Prince George's County, Maryland, et al. v. Cleveland Brent

Friday, February 5, 2010

- AG 12 Attorney Grievance Commission of Maryland v. Isaiah Dixon, III
- No. 85 Washington Suburban Sanitary Commission v. Shaaron Phillips
- No. 154 James K. Sillers v. Washington Suburban Sanitary Commission
(2008 T.) *****
Allen W. Cartwright, Jr. v. Washington Suburban Sanitary Commission
- No. 72 Michael S. Rudman v. Maryland State Board of Physicians
- No. 79 Talbot County, Maryland, et al. v. Miles Point Property, LLC et al.

Talbot County Council, et al. v. Shorelands, LLC

Monday, February 8, 2010

- AG 13 Attorney Grievance Commission of Maryland v. Frank M. Costanzo
- No. 73 William J. Blondell, Jr., et al. v. Diane M. Littlepage, et al.
- No. 69 Motor Vehicle Administration v. Brittany Faith Aiken
- No. 76 William Pease et al. v. Wachovia SBA Lending, Inc.

Tuesday, February 9, 2010

- AG 23 Attorney Grievance Commission of Maryland v. Barry Kent Downey
- No. 65 Edy Sanchez v. Potomac Abatement, Inc. and A.I.U. Insurance Company
- No. 67 Eduardo Escobar Martinez v. State of Maryland
- No. 75 Norman C. Usiak v. State of Maryland
- No. 92 Rubin Paz-Rubio v. The Honorable Janice R. Ambrose

On the day of argument, counsel are instructed to register in the Clerk's Office not later than 9:30 a.m. unless otherwise notified.

After February 9, 2010 the Court will recess until March 4, 2010.

BESSIE M. DECKER
Clerk

[10-01-57]

COURT OF SPECIAL APPEALS

Schedule for February 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 16, 2010

Monday, February 1, 2010

Courtroom No. 1

- No. 02118/08 Farmers Bank of Maryland vs. Chicago Title Insurance Co. et al.
- No. 01449/08 Lisa M. Harris vs. State of Maryland
- No. 02611/08 Carolyn V. Henderson vs. Carole Ann Langrall et al.
- No. 01389/08 Stephen Nivens vs. State of Maryland
- No. 02667/08 Eyrania Smith vs. Michael Bortner
- No. 02628/08 Tiffany Chabot vs. Pamela A. Wright et al.

JudiciaryCourtroom No. 2

- No. 02769/08 Catocin Concrete, Inc. et al. vs. Thomas Valek
 No. 02232/08 Dean Carter vs. State of Maryland
 No. 01074/08 Linda Jones vs. Department of Health and Mental Hygiene
 No. 02855/08 State of Maryland vs. Michael James
 No. 02814/08 Richard Tapanes vs. International Procurement Specialists, Inc.
 No. 02816/08 Alcoa Concrete & Masonry, Inc. vs. Stalker Brothers, Inc.
 No. 00274/09 Edward Rice, Jr. vs. State of Maryland

Tuesday, February 2, 2010Courtroom No. 1

- No. 02281/08 Meldon S. Hollis, Jr. vs. The Client Protection Fund of the Bar of Maryland
 No. 02813/08 Edmonston Properties, LLC vs. KAMB, Ltd.
 No. 00008/09 Edmonston Properties, LLC vs. Mayor and Council of Rockville et al.
 No. 02523/08 David L. Washington vs. The Moorings at Canton, LLC
 No. 02692/08 Jeffrey R. Beck vs. Maryland State Board of Physicians
 No. 01951/08 Robert Earl Hall, Sr. vs. State of Maryland
 No. 02140/08 Larry Lee Fout vs. State of Maryland

Courtroom No. 2

- No. 02601/08 MBC Realty, LLC et al. vs. Mayor & City Council of Baltimore et al.
 No. 01547/08 Shahid P. Iqbal et al. vs. Amran Pasha et al.
 No. 01644/09* In Re: Johnathan M., Jada M. and Julian M.
 No. 01771/08 William Gregory Biniak vs. Cara F. Biniak
 No. 02823/08 Accokeek, Mattawoman, Piscataway Creeks Communities Council et al. vs. Prince George's County Planning Board of the Maryland-National Capital Park and Planning Commission et al.
 No. 02650/08 Jeffrey LeCronier vs. United Parcel Service et al.
 No. 02734/08 Dowvikeo Melton vs. State of Maryland
 *8-207(a)

Wednesday, February 3, 2010Courtroom No. 1

- No. 02064/08 Herman T. Dove vs. Peter R. Maignan et al.
 No. 02718/08 Fred F. Blanken vs. Washington Suburban Sanitary Commission et al.
 No. 00548/09* Donaldson C. Cole, III vs. Kristen R. Cole
 No. 02728/08 Irene Williams vs. Hospice of Baltimore, Inc. et al.
 No. 02209/08 Shalita Scott vs. State of Maryland
 No. 02754/08 Melvyn Lieberman et al. vs. Mayavision, Inc.
 *8-207(a)

Courtroom No. 2

- No. 02681/08 Salisbury Mall Associates, LLC vs. K. Hovnanian Homes of Maryland, LLC

- No. 02805/08 Sandra C. Williams vs. Dennis Dobay et al.
 No. 02486/08 James Robinson et ux. vs. Comptroller of the Treasury
 No. 02607/08 Scott Buckner vs. Annella Bank f/k/a Annella Buckner
 No. 00673/09 Alhassana M. Sall et ux. vs. Jeffrey B. Fisher et al.
 No. 00588/09 Leonard C. Harris vs. D. Kenneth Horning, Warden et al.
 No. 02419/08 Isa Abdullah Stephens vs. State of Maryland

Thursday, February 4, 2010Courtroom No. 1

- No. 02767/08 Richard Biggers et ux. vs. Melvin D. Patterson et ux.
 No. 02495/08 Melony Wheeler vs. James McIlwaine et al.
 No. 02612/08 Robert William Hoffman vs. State of Maryland
 No. 02524/08 Linda Freilich et al. vs. Upper Chesapeake Health System, Inc. vs.
 No. 01151/08 Laura Jean Moore vs. State of Maryland
 No. 02755/08 George Wanjiku vs. Erin Benton

Courtroom No. 2

- No. 00004/09 Tri-County Unlimited, Inc. vs. Kids First Swim School, Inc. et al.
 No. 01603/09 Mark Cawood et al. vs. Potomac Electric Power Company
 No. 02713/08 Dreyfuss Management, LLC vs. H.T. Harrison & Sons, Inc.
 No. 01923/08 Frank Mark Cordero vs. State of Maryland
 No. 02477/08 724-7th Street, LLC et al. vs. Maria Taylor et al.
 No. 02456/08 Karen N. Klauber vs. Amica Mutual Insurance Company et al.

Friday, February 5, 2010Courtroom No. 1

- No. 02588/08 Shannon M. Wilson vs. Shady Grove Adventist Hospital et al.
 No. 02865/08 Germaine M. Vadas et al. vs. Hopkins Property LLC
 No. 02483/08 Washington Metro. Area Transit Authority vs. Rayfield W. Walker
 No. 02763/08 AGV Sports Group, Inc. vs. Cleopatra Delight, Inc. et al.
 No. 02227/08 Anthony Royster vs. State of Maryland
 No. 02800/08 Prime Rate Premium Finance Corporation, Inc. vs. Maryland Insurance Administration

Courtroom No. 2

- No. 02793/08 Peggy Brewer-Fancey vs. The Board of Education of Montgomery County, Maryland
 No. 02853/08 Jamie Anderson vs. Board of Education of Montgomery County, Maryland
 No. 00604/09 Brenda O. Robinson vs. Montgomery County, Maryland
 No. 02445/08 Coralie Kurstin vs. Bromberg Rosenthal, LLP

No. 01722/08 In Re: Odell A.
 No. 02801/08 Stanislaus Idzi, Jr. vs. Wendy Crites f/k/a
 Wendy Idzi

Monday, February 8, 2010

Courtroom No. 1

No. 02453/08 Jeffrey S. Simpson et ux. vs. Barber General
 Contracting, Inc.
 No. 02777/08 Kevin Willes Construction Co., Inc. vs.
 Southern Management Corporation
 No. 00899/08 Monti Mantrice Fleming vs. State of
 Maryland
 No. 02614/08 Raymond Drumgoole a/k/a Raymond
 Drumgoole a/k/a Eric Green vs. State of Maryland
 No. 02405/08 Armando Antonio Green vs. State of
 Maryland
 No. 02690/08 Sandro Baiza vs. City of College Park,
 Maryland

Courtroom No. 2

No. 02762/08 Carol Boerio-Croft vs. Paul Luttner
 No. 02595/08 3500 Old Court, LLC vs. The Dumbarton
 Development Co., Inc.
 No. 02702/08 Montgomery County Planning Board of the
 Maryland-National Capital Park and Planning Commission
 vs. Oxbridge Development at Batchellors Forest, LC
 No. 02680/08 Lanre Banjo et al. vs. Sheldon Chan et al.
 No. 02155/08 Bryant Newmuis vs. State of Maryland

Tuesday, February 9, 2010

Courtroom No. 1

No. 02652/08 Brian Blamberg et ux. vs. Council of Owners
 of Saltaire at Annapolis Condominiums et al.
 No. 01701/09* In Re: Michael H., Jr.
 No. 01896/08**Rommell Fedel Porter vs. State of Maryland
 No. 00575/08**Rommell Fedel Porter vs. State of Maryland
 No. 02664/08 John T. Enoch vs. Goodman, Meagher &
 Enoch, LLP et al.
 No. 02191/08 Louis Diammonddus Joe vs. State of
 Maryland
 No. 00152/09 Calvin Almeida King vs. State of Maryland
 No. 02161/08 Samuel James O'Malley vs. State of
 Maryland
 *8-207(a)
 **Consolidated Cases

Courtroom No. 2

No. 02621/08 Montgomery County Planning Board of the
 Maryland-National Capital Park and Planning Commission
 vs. Shirley Dufresne et al.
 No. 00271/08 Jose Antonio Bassat vs. State of Maryland
 No. 02666/08 Henry E. Chadwick vs. Chesapeake Bank of
 Maryland
 No. 02760/08 Chang K. Yim et al. vs. Mayor and City
 Council of Baltimore et al.
 No. 02660/08 Housing Authority of Baltimore City vs.
 Nornita Hyman
 No. 00857/08 Maurice Bryant Mills vs. State of Maryland

Wednesday, February 10, 2010

Courtroom No. 1

No. 02590/08 Mark Smith vs. Jennifer Smith
 No. 02672/08 Uninsured Employers' Fund vs. William H.
 Blake, III
 No. 02766/08 Vera Carroll vs. Kimberly Pace et al.
 No. 02117/09 Omar Parker vs. State of Maryland
 No. 02874/08 Barbara A. Young et al. vs. Advanta Bank
 Corporation
 No. 02489/08 Marc Dulaney Norwood vs. State of
 Maryland

Courtroom No. 2

No. 01938/08 Jacquon Lakeem Collins vs. State of
 Maryland
 No. 00060/09 Margaret McHale et al. vs. DCW Dutchship
 Island, LLC et al.
 No. 02149/08 Leonard Campbell vs. State of Maryland
 No. 02467/08 Michael P. Chelf vs. North East Plaza
 Associates L.P. et al.
 No. 02556/08**The Metropolitan Washington Orthopaedic
 Association, Chtd., et al. vs. Christina L. Cervieri
 No. 00988/09**Metropolitan Washington Orthopaedic
 Association, Chtd. et al. vs. Christina L. Cervieri, M. D.
 No. 02661/08 Gang-Ming Zou vs. Zhongyuan Yang
 **Consolidated Cases

Thursday, February 11, 2010

All cases submitted on brief

Courtroom No. 1

No. 01167/09* In Re: Evangeline B.
 No. 02428/08 Phillip Mark Shafer vs. Nancy Forster et al.
 No. 01913/08 Lee Andrew Coleman-Fuller vs. State of
 Maryland
 No. 01935/08 Jeffrey Edward Allen vs. State of Maryland
 No. 01942/08**Elizabeth Ann Starnes-Hord a/k/a Elizabeth
 Starneshord vs. State of Maryland
 No. 01943/08**Sylvester Shaft Green, Jr. vs. State of
 Maryland
 *8-207(a)
 **Consolidated Cases

Courtroom No. 2

No. 00260/09 Rudolph McNeil vs. State of Maryland
 No. 00315/08 Jeff Jackson vs. State of Maryland
 No. 02133/08 Joanna Anthony vs. Peter Garrity
 No. 01013/08 Kenneth Jefferson vs. State of Maryland
 No. 01621/08 Theresa Lynn Collins vs. State of Maryland
 No. 01647/08 Charles Henry Gentner, Jr. vs. State of
 Maryland
 No. 01720/08 Carlos Bustamante-Mendieta a/k/a Carlos
 Baustamante-Medieta vs. State of Maryland
 No. 01984/08 Jimmy Morgan Brown vs. State of Maryland

Friday, February 12, 2010

All cases submitted on brief

Courtroom No. 1

No. 02806/08 Thomas W. Furlow, Jr. et ux. vs. Cypress
 Utilities, Inc.

Judiciary

No. 02818/08 Charles P. Thompson vs. R. Ray Patrylak
 No. 02222/08 Jamal Smith vs. State of Maryland
 No. 02224/08 Lorne Baylor vs. State of Maryland
 No. 02229/08 Ralph Pulley vs. State of Maryland
 No. 02322/08 Rodney W. Edwards vs. State of Maryland
 No. 02334/08 Guy Vivian Butler vs. State of Maryland
 No. 02518/08 Robert Dent vs. State of Maryland
 No. 02717/08 South Village Homes Corporation vs. Adam Falcon et al.

Courtroom No. 2

No. 01027/08 Blaine Robert Savage vs. State of Maryland
 No. 01362/09* In Re: Adoption/Guardianship of James P.
 No. 02655/08 Idris Ibn Jamil Abdus-Shahid vs. John Yahya Cason
 No. 01117/08 Leon Renardo White vs. State of Maryland
 No. 01947/08 Kendall Cherod Byrd vs. State of Maryland
 No. 01949/08 John Leroy Kroll vs. State of Maryland
 No. 02074/08 Phillip Dorsey vs. State of Maryland
 *8-207(a)

Tuesday, February 16, 2010

All cases submitted on brief

Courtroom No. 1

No. 00528/09 Joseph Thomas Patrick vs. Office of the State's Attorney for Prince George's County, Md.
 No. 02052/08 Tyrone Thomas vs. State of Maryland
 No. 01402/08 George Woodrow Mathis vs. State of Maryland
 No. 01433/08 Michael Francis Distefano, Jr. vs. State of Maryland
 No. 01505/08 Dexter Tyson a/k/a Bert Tyson vs. State of Maryland
 No. 02175/08 Robert Hilton vs. State of Maryland
 No. 02184/08 Mervin G. Corbin vs. State of Maryland
 No. 02187/08 Steven Petteway vs. State of Maryland
 No. 01751/08 Bernard Thompson, Jr. vs. State of Maryland

Courtroom No. 2

No. 02821/08 Veronica M. Potter et vir vs. Supervisor of Assessments of Worcester County, Maryland
 No. 02822/08 William H. Garcia vs. Hazel L. Perez et al.
 No. 01241/08 Anthony Arness Conyer vs. State of Maryland
 No. 01391/08 Charles Michael Redfearn vs. State of Maryland
 No. 01392/08 Robert Lee Norris vs. State of Maryland
 No. 02077/08 Joel Hunt vs. State of Maryland
 No. 02151/08 Jeffrey Maurice Thompson vs. State of Maryland
 No. 02168/08 Edward George Foit, III vs. State of Maryland

On the day of argument, counsel are instructed to register in the Office of the Clerk **not later than 9 a.m.** The Court is located at 361 Rowe Boulevard, in the Robert C. Murphy Courts of Appeals Building. After February, 2010, the Court will recess until March, 2010.

LESLIE D. GRADET
 Clerk

ADMINISTRATIVE ORDER

Pursuant to Maryland Rule 8-522(a), I hereby direct that oral argument in the month of February be limited to 20 minutes per side, subject to the discretion of the hearing panel to allow additional argument, not exceeding a total of 30 minutes per side.

This directive applies only to cases scheduled in February, 2010.

Acting Chief Judge's signature appears on original
 Administrative Order

Dated: December 21, 2009

[10-02-25]

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 09

**DEPARTMENT OF LABOR,
LICENSING, AND
REGULATION**

Subtitle 10 RACING COMMISSION

09.10.01 Thoroughbred Rules

Authority: Business Regulation Article, §11-210, Annotated Code of Maryland

Notice of Final Action
[09-320-F]

On December 15, 2009, the Maryland Racing Commission adopted amendments to Regulation .17 under **COMAR 09.10.01.17 Thoroughbred Rules**. This action, which was proposed for adoption in 36:20 Md. R. 1540 (September 25, 2009), has been adopted as proposed.

Effective Date: January 25, 2010.

J. MICHAEL HOPKINS
Executive Director
Maryland Racing Commission

Title 10

**DEPARTMENT OF HEALTH
AND MENTAL HYGIENE**

**Subtitle 09 MEDICAL CARE
PROGRAMS**

**10.09.46 Home and Community-Based Services
Waiver for Adults with Traumatic Brain
Injury**

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

Notice of Final Action
[09-346-F]

On January 5, 2010, the Secretary of Health and Mental Hygiene adopted amendments to Regulation .02 under **COMAR 10.09.46 Home and Community-Based Services Waiver for Adults with Traumatic Brain Injury**. This action, which was proposed for adoption in 36:22 Md. R. 1733—1734 (October 23, 2009), has been adopted as proposed.

Effective Date: January 25, 2010.

JOHN M. COLMERS
Secretary of Health and Mental Hygiene

**Subtitle 09 MEDICAL CARE
PROGRAMS**

Notice of Final Action
[09-338-F]

On January 5, 2010, 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**.

This action, which was proposed for adoption in 36:22 Md. R. 1734—1737 (October 23, 2009), has been adopted as proposed.

Effective Date: January 25, 2010.

JOHN M. COLMERS
Secretary of Health and Mental Hygiene

**Subtitle 09 MEDICAL CARE
PROGRAMS**

**10.09.68 Maryland Medicaid Managed Care
Program: School-Based Health Centers**

Authority: Health-General Article, §15-103(b)(19)(i), Annotated Code of Maryland

Notice of Final Action
[09-357-F]

On January 5, 2010, the Secretary of Health and Mental Hygiene adopted amendments to Regulations .01—.03 under **COMAR 10.09.68 Maryland Medicaid Managed Care Program: School-Based Health Centers**. This action, which was proposed for adoption in 36:23 Md. R. 1827—1829 (November 6, 2009), has been adopted with the nonsubstantive changes shown below.

Effective Date: January 25, 2010.

Attorney General's Certification

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

Regulation .02A(13): Corrects a cross-reference.

Final Action on Regulations

.02 Designation as a School-Based Health Center.

A. On application to the Department, a provider that is located on school grounds may be designated as a school-based health center if it demonstrates that it meets the following criteria:

(1)—(12) (proposed text unchanged)

(13) *Requires any physician assistant employed or contracted by the provider to be under direct supervision as defined in COMAR [[10.09.02.01B(7)]] 10.32.03.02B.*

B. (proposed text unchanged)

JOHN M. COLMERS
Secretary of Health and Mental Hygiene

Subtitle 33 BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

10.33.01 Nursing Home Administrators

Authority: Health Occupations Article, §§1-212 and 9-101 - 9-502; State Government Article, §10-617(h)(3); Annotated Code of Maryland

Notice of Final Action

[09-369-F]

On January 6, 2010, the Secretary of Health and Mental Hygiene adopted amendments to Regulations .02, .04—10, .12—15, .17, and .18 under COMAR 10.33.01 Nursing Home Administrators. This action, which was proposed for adoption in 36:24 Md. R. 1865—1869 (November 20, 2009), has been adopted with the nonsubstantive changes shown below.

Effective Date: January 25, 2010.

Attorney General's Certification

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

Regulation .13H(2) and (3): The proposed changes concern the credit an administrator-in-training (“AIT”) may receive for prior related work experience. The proposed changes are not substantive because they merely maintain that part of the existing regulations that set out the required minimum experience for the AITs described by proposed Regulation .13H(2)(g) and (h). Without the nonsubstantive changes, the proposed text would not accurately reflect the prior work experience of these AITs. The proposed changes, therefore, facilitate the Statement of Purpose of the proposed regulations by clarifying the AIT requirements for employment credit.

Regulation .15A(9) and (10): The proposed change concerns a ground for a Board disciplinary action against a nursing home administrator. The proposed change is not substantive, because the proposed change and the proposed text both allow a disciplinary action for the nursing home administrator’s failure to ensure an oversight system that results in endangering a nursing facility resident. The

proposed change clarifies that the nursing home administrator is responsible for overseeing the nursing facility’s quality improvement processes, which was the intention of the proposed text of the regulation.

.13 Administrator-in-Training.

A.—G. (proposed text unchanged)

H. *Credit for Prior Experience.*

(1) (proposed text unchanged)

(2) *Qualifying Experience for Healthcare Related Professions in §H(1)(a)—(f) of this regulation. The following requirements set the minimum experience required for receiving credit:*

(a)—(b) (proposed text unchanged)

(3) *Qualifying Experience for Healthcare Related or Non-Healthcare Related Senior Management Official in §H(1)(g) and (h) of this regulation. The following requirements set the minimum experience required for receiving credit:*

(a) *Minimum of 18 months as a full-time senior management official of a single facility or entity; and*

(b) *Administrative responsibility for the total operation of the facility or entity and its multiple departments, as applicable.*

[[(3)]] (4) (proposed text unchanged)

I.—L. (proposed text unchanged)

.15 Suspension and Revocation of Licenses.

A. Pursuant to Health Occupations Article, §9-314(b)(3), Annotated Code of Maryland, the Board may deny a license or limited license to any applicant, suspend or revoke a license of a nursing home administrator, or reprimand or otherwise discipline an applicant or a licensee after due notice and an opportunity to be heard at a formal hearing, upon evidence that the applicant or licensee:

(1)—(8) (proposed text unchanged)

(9) Has *[[failed to act to promote the safety, health, and life of a resident, or]]* endangered or sanctioned the endangerment of the safety, health, and life of any patient;

(10) *Has failed to oversee and facilitate the nursing facilities quality improvement processes to the extent that the safety, health, or life of any patient has been endangered;*

[[(10)]] (11)—[[(14)]] (15) (proposed text unchanged)

B. (proposed text unchanged)

JOHN M. COLMERS
Secretary of Health and Mental Hygiene

Title 11 DEPARTMENT OF TRANSPORTATION

Subtitle 04 STATE HIGHWAY ADMINISTRATION

11.04.07 Control and Use of Rest Areas

Authority: Transportation Article, §§2-103(b)(2), 8-202(b)(2)(i), 8-203(a), and 8-204(b), (c), (h), and (i), Annotated Code of Maryland

Notice of Final Action
[09-336-F]

On December 8, 2009, the Administrator of the State Highway Administration adopted amendments to Regulations **.06, .09, .10, .12, .13, .16, and .18** under **COMAR 11.04.07 Control and Use of Rest Areas**. This action, which was proposed for adoption in 36:22 Md. R. 1740 — 1741 (October 23, 2009), has been adopted as proposed.

Effective Date: January 25, 2010.

NEIL J. PEDERSEN
Administrator
State Highway Administration

Title 14
INDEPENDENT AGENCIES

Subtitle 01 STATE LOTTERY
AGENCY

Notice of Final Action
[09-365-F]

On December 29, 2009, the Maryland State Lottery adopted:

- (1) Amendments to Regulations **.02** and **.05** and new Regulations **.13** and **.14** under **COMAR 14.01.10 Video Lottery Terminals**; and
- (2) New Regulations **.01—07** under a new chapter, **COMAR 14.01.12 Video Lottery Terminal Machines**.

This action, which was proposed for adoption in 36:23 Md. R. 1832—1834 (November 6, 2009), has been adopted as proposed.

Effective Date: January 25, 2010.

GINA M. SMITH
Interim Director
Maryland State Lottery

Title 17
DEPARTMENT OF BUDGET
AND MANAGEMENT

Subtitle 04 PERSONNEL SERVICES
AND BENEFITS

17.04.13 State Employees' Health Benefits

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

Notice of Final Action
[09-383-F]

On January 5, 2010, the Secretary of Budget and Management adopted new Regulation **.09** under **COMAR 17.04.13 State Employees' Health Benefits**. This action, which was proposed for adoption in 36:24 Md. R. 1893—1895 (November 20, 2009), has been adopted as proposed.

Effective Date: January 25, 2010.

T. ELOISE FOSTER
Secretary of Budget and Management

Title 22
STATE RETIREMENT AND
PENSION SYSTEMS

Subtitle 01 GENERAL REGULATIONS

22.01.13 Member Services Unit — Telephone
Recording or Monitoring

Authority: State Personnel and Pensions Article, §21-110, Annotated Code of Maryland

Notice of Final Action
[09-358-F]

On December 23, 2009, the Maryland State Retirement and Pension System adopted Regulations **.01** and **.02** under **COMAR 22.01.13 Member Services Unit — Telephone Recording or Monitoring**. This action, which was proposed for adoption in 36:23 Md. R. 1835 (November 6, 2009), has been adopted as proposed.

Effective Date: January 25, 2010.

R. DEAN KENDERDINE
Executive Director
State Retirement Agency

Proposed Action on Regulations

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

Symbol Key

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

Promulgation of Regulations

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

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

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

Title 05 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Subtitle 04 SPECIAL LOAN PROGRAMS

05.04.01 Maryland Housing Rehabilitation Program—Regular Rehabilitation Program

Authority: Housing and Community Development Article, Title 4, Subtitles 5 and 9, §§4-704—4-706, Annotated Code of Maryland; Executive Order 01.01.1992.27C

Notice of Proposed Action

[10-025-P]

The Secretary of Housing and Community Development proposes to amend Regulations **.03—****.17** and **.20** and repeal Regulation **.18** under **COMAR 05.04.01 Maryland Housing Rehabilitation Program — Regular Rehabilitation Program**.

Statement of Purpose

The purpose of this action is to provide for changes related to recent statutory amendments; delete obsolete provisions; streamline the regulations; and recodify existing provisions of the chapter.

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 Tonna Phelps, Director of Single Family Housing Programs, Department of Housing and Community Development, 100 Community Place, Crownsville, Maryland 21032, or call 410-514-7509, or email to phelps@mdhousing.org, or fax to 410-987-3231. Comments will be accepted through February 16, 2010. A public hearing has not been scheduled.

.03 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(13) (text unchanged)

(14) "Director" means the Director of [the Division of Development Finance] *Single Family Housing Programs* of the Department.

(15) "Elderly" means [62 years old or older] *the age limit specified by the Secretary that is 55 years old or older*.

(16) *Family of Limited Income*.

(a) "Family of limited income" means one or more individuals permanently residing as a household in a dwelling unit in an eligible building whose combined annual income does not exceed an amount established by the Secretary in accordance with Housing and Community Development Article, §4-915, Annotated Code of Maryland.

(b) "*Family of limited income*" includes a trust described in 42 U.S.C. §1396P(D)(4), or a trust established for the benefit of an individual with a disability by an individual other than the beneficiary and that is funded with the assets that were never owned or controlled by the beneficiary, if:

(i) *The income of the trust does not exceed an amount established by the Secretary in accordance with Housing and Community Development Article, §4-915, Annotated Code of Maryland; and*

(ii) *The beneficiary of the trust is an individual who resides in the residential building owned by the trust.*

(17) *Family of Lower Income.*

(a) "Family of lower income" means one or more individuals residing as a household in a dwelling unit in an eligible building, whose combined annual income does not exceed an amount established by the Secretary in accordance with Housing and Community Development Article, §4-916(b), Annotated Code of Maryland.

(b) "Family of lower income" includes a trust described in 42 U.S.C §1396P(D)(4), or a trust established for the benefit of an individual with a disability by an individual other than the beneficiary and that is funded with the assets that were never owned or controlled by the beneficiary, if:

(i) The income of the trust does not exceed an amount established by the Secretary in accordance with Housing and Community Development Article, §4-916(b), Annotated Code of Maryland; and

(ii) The beneficiary of the trust is an individual who resides in the residential building owned by the trust.

(18) *Family of Very Low Income.*

(a) "Family of very low income" means one or more individuals residing as a household in a dwelling unit, whose combined total income does not exceed an amount determined by the Secretary in accordance with Housing and Community Development Article, §4-916(b), Annotated Code of Maryland, which income limits shall be lower than those established for families of lower income.

(b) "Family of very low income" includes a trust described in 42 U.S.C §1396P(D)(4), or a trust established for the benefit of an individual with a disability by an individual other than the beneficiary and that is funded with the assets that were never owned or controlled by the beneficiary, if:

(i) The income of the trust does not exceed an amount established by the Secretary in accordance with Housing and Community Development Article, §4-916(b), Annotated Code of Maryland; and

(ii) The beneficiary of the trust is an individual who resides in the residential building owned by the trust.

(19)—(28) (text unchanged)

(29) "Program Director" means the Assistant Director of Special Loan Programs in the Division of Development Finance of the Department.

(30) ["Rehabilitation plan" means the written statement prepared by a political subdivision and submitted to the Department for review and approval which:

(a) Specifies the manner in which the funds allocated to that political subdivision are to be used; and

(b) Contains any additional information that the Department considers necessary or desirable to determine a political subdivision's capability to administer rehabilitation loans.] *Repealed.*

(31)—(32) (text unchanged)

(33) *Single Family Owner-Occupant.*

(a) "Single family owner-occupant" means an eligible borrower residing or intending to reside in an eligible building which contains one residential unit and which may contain one accessory dwelling unit financed

under the Program, but which contains no other units, either commercial or residential.

(b) "Single family owner-occupant" includes a trust described in 42 U.S.C §1396P(D)(4), or a trust established for the benefit of an individual with a disability by an individual other than the beneficiary and that is funded with the assets that were never owned or controlled by the beneficiary, if:

(i) The income of the trust does not exceed an amount established by the Secretary in accordance with Housing and Community Development Article, §4-916(b), Annotated Code of Maryland; and

(ii) The beneficiary of the trust is an individual who resides in the residential building owned by the trust.

(34)—(38) (text unchanged)

.04 Eligible Borrowers.

A.—B. (text unchanged)

C. Sponsors and nonprofit sponsors shall:

(1)—(5) (text unchanged)

(6) Agree in writing that all of the dwelling units rehabilitated with the proceeds of a loan shall[:

(a) Be] *be* occupied by families of limited income until the later of:

[(i)] (a) (text unchanged)

[(ii)] (b) [10] 15 years after completion of the rehabilitation; [or

(b) If the loan has the very preferential terms permitted for projects which are occupied entirely by families of lower income, be occupied by families of lower income until the later of:

(i) The date on which all principal and interest due on the loan is paid, or

(ii) 15 years after completion of the rehabilitation;]

(7)—(11) (text unchanged)

D. (text unchanged)

.05 Eligible Uses.

A. (text unchanged)

B. A manufactured housing unit is eligible if it is intended for residential use by a single household, and:

(1)—(2) (text unchanged)

(3) Is not independently capable of movement and is installed permanently on an engineered foundation in conformance with [the BOCA National Building Code (1987), or the standards set by the American National Standards Institute, Inc. which are incorporated by reference under COMAR 05.02.02] *COMAR 05.02.04*;

(4)—(8) (text unchanged)

C. [Mobile] *Manufactured* homes which are taxed as personal property may be eligible for loans in amounts of \$5,000 or less. Applications for [mobile] *manufactured* homes shall be reviewed and approved by the Department on a case-by-case basis.

D. Condominiums *and cooperative units* may be eligible buildings and shall be reviewed by the Department on a case-by-case basis before loan approval.

E. [Cooperative units or other] *Other* types of property are not eligible buildings.

Proposed Action on Regulations

F. All of the dwelling units in sponsor-owned or nonprofit sponsor-owned residential properties shall be occupied upon completion[:

(1) By] by families of limited income until the later of the date:

[(a)](1) (text unchanged)

[(b)] (2) [10] 15 years after completion of rehabilitation]; or

(2) If the loan is for preferential financing for families of lower income, by families of lower income until the later of the date:

(a) All interest and principal due on the loan is paid,

or

(b) 15 years after completion of rehabilitation].

.06 Loan Terms and Conditions—General.

A. (text unchanged)

B. Interest Rate.

(1)—(2) (text unchanged)

[(3)] Loans to single family owner-occupants who are families of limited income, and loans to sponsors of buildings when the units financed are occupied by tenants who are families of limited income, shall have interest rates of not less than 4.5 percent and not more than private lending rates for comparable loans.

(4) Loans to single family owner-occupants who are families of lower income, and loans to sponsors of buildings when the rental units financed are occupied by tenants who are families of lower income and families of very low income, shall have interest rates as low as 4.5 percent or less so that the resulting payment is affordable to the single family owner-occupant or results in a rent affordable to the families of lower income or families of very low income.]

(3) *The Department may establish different interest rates available on loans serving occupants who are families of:*

(a) *Limited income;*

(b) *Lower income; and*

(c) *Very low income.*

(4) *The interest rates charged on loans may not be more than private lending rates for comparable loans.*

(5) (text unchanged)

C. (text unchanged)

D. Maximum Loan Amount.

(1)—(2) (text unchanged)

[(3)] Deferred loans in amounts greater than or equal to \$25,000 may not exceed an amount which, when added to any prior secured debts or relating to the eligible building or property, or both, would equal 85 percent of the market value of the eligible building and property after rehabilitation as determined by the Department or the local administrator unless, in the written determination of the Program Director, extraordinary or emergency circumstances justify an amount up to 95 percent of the after rehabilitation value.]

[(4)](3) If, in the determination of the Program Director, a loan increase is necessary to assure completion of the building and protect the Department's interest, an increase in the mortgage [not to exceed 10 percent] may be

made to cover extraordinary and unforeseen construction problems provided the increase can be made within the limits on maximum loan amounts set forth in D(1)—[(3)](2), [above] of this regulation.

[(5)](4) Closing costs may be included in loans on owner-occupied dwellings, provided the loan does not exceed the limits on the maximum loan amount set forth in D(1)—(2), [above] of this regulation.

E.—F. (text unchanged)

G. Security for Loans.

(1) (text unchanged)

(2) [Loans] *Except as provided in §G(3)—(4) of this regulation, loans in excess of \$5,000 and loans providing for deferred payments shall be secured by a mortgage or deed of trust, in the form required by the Department, which shall be recorded in the land records of the county in which the property is located.*

(3) *A loan to a trust described in 42 U.S.C §1396P(D)(4), may be secured by a mortgage or deed of trust on real property, or other security device acceptable to the Department.*

(4) *A loan in excess of \$5,000 to a borrower in a housing cooperative unit may be secured by another security device acceptable to the Department.*

H.—K. (text unchanged)

.07 Loan Terms and Conditions—Deferred Loans.

A. (text unchanged)

B. Eligibility. [Single family owner-occupants who are families of very low income and sponsors or nonprofit sponsors of buildings occupied entirely by tenants who are families of very low income may be eligible for loans with deferred payments of principal or interest or both principal and interest.] *The Department may make loans with deferred payments of principal or interest or both principal and interest to:*

(1) *Single family owner-occupants who are families of very low income and sponsors or nonprofit sponsors of buildings occupied entirely by tenants who are families of very low income; or*

(2) *As determined by the Secretary, any category of borrowers necessary to achieve the purposes of the Act.*

C.—E. (text unchanged)

.08 Loan Terms and Conditions—Secured Loans.

A.—B. (text unchanged)

C. Escrow Account. If there is no prior mortgage or deed of trust requiring the payment of expenses to the mortgagee, the rehabilitation mortgage [shall] *may* require expense payments to the Department in escrow, consisting of 1/12 of annual real estate taxes, ground rent, property insurance premiums, and, when appropriate, other items for which payments are required by the Department. Interest need not be paid to the borrowers on escrows.

D. Insurance.

(1) (text unchanged)

(2) The insurance policy or policies shall:

(a) (text unchanged)

[(b)] Be written by companies which are financially sound, as determined by the Department;]

[(c)](b)—[(e)](d) (text unchanged)

E. Title Insurance. [For all loans in excess of \$30,000, the] *The Department*, in its discretion, may require the borrower to provide a standard American Land Title Association (ALTA) Loan policy, with the Environmental Endorsement 8.1, or other form of title policy approved by the Department and the Office of the Attorney General for an amount equal to the maximum principal amount of the loan, insuring the Department, evidencing that title to the building on the date of closing is vested in the borrower, and containing only standard exceptions and encumbrances acceptable to the Department and the Office of the Attorney General.

F. Appraisals.

(1) At the discretion of the Program Director or the local administrator, a borrower may be required to obtain an appraisal in a form and manner acceptable to the Department from an acceptable independent fee appraiser showing a building's value before and after the proposed rehabilitation. [Alternatively, the Program, or the local administrator, may prepare a comparable appraisal and may charge a fee not to exceed the current private market costs for an appraisal.]

(2) (text unchanged)

.09 Loan Application.

A.—C. (text unchanged)

D. Documentation.

(1) (text unchanged)

(2) An applicant shall submit supporting documentation specified in the checklist attached to the application, [including] *which may include any of the following*:

(a)—(d) (text unchanged)

(e) Verification of the total *assets and* annual income of each person in the household of a single-family owner-occupant applicant, and for sponsor applicants or nonprofit sponsors, a list of tenants in a building showing household name, address, number of persons in household, combined annual household income, and current monthly rent;

(f) For each of the immediately preceding [3] 2 years, copies of the applicant's:

(i)—(iii) (text unchanged)

(g) (text unchanged)

(3) In addition, all sponsor and nonprofit sponsor applicants shall submit the following documentation:

(a)—(g) (text unchanged)

(h) Preliminary plans and specifications or a detailed description of the proposed improvements and an estimate of the improvement costs[;

(i) A list of credit references for sponsors that are neither corporations nor local governments].

.10 Loan Approval and Disapproval.

A.—B. (text unchanged)

C. Loan Approval.

(1)—(2) (text unchanged)

(3) Approval to make a loan is as follows:

(a) Loans in amounts of \$60,000 or less may be approved by the:

(i) Level II local administrator, when a level II local administrator originates the loan[.]; *or*

(ii) Program Director, when a level I local administrator or the Department originates a loan [for the rehabilitation of a one-unit building, or

(iii) Director, when a level I local administrator or the Department originates a loan for the rehabilitation of a two to four unit building];

(b) Loans in amounts over \$60,000 and [under \$100,000] *up to \$250,000* may be approved by the Director;

(c) [For loans in amounts of \$100,000 or more the following procedures apply:

(i) Loan proposals shall be submitted to the Housing Finance Review Committee established under Housing and Community Development Article, §4-208, Annotated Code of Maryland, and the Housing Finance Review Committee shall review the loan proposal and make a recommendation to the Secretary,

(ii) For loans in amounts greater than or equal to \$100,000 but less than \$250,000 the recommendation of the Housing Finance Review Committee constitutes approval unless the loan is specifically disapproved by the Secretary,

(iii) For loans in amounts of \$250,000 or more, the Secretary shall determine in writing whether the loan is approved and under what loan terms after receiving the recommendation of the Housing Finance Review Committee,] *Loans in amounts over \$250,000 shall be submitted to the Housing Finance Review Committee in accordance with COMAR 05.01.07.*

[(iv)] (d) (text unchanged)

(4) Before a level II local administrator gives final approval and issues a loan commitment for a loan in the amount of \$60,000 or less, the level II local administrator shall contact the Program and receive confirmation that funds for the loan are available [from the local administrator's fund allocation].

D. (text unchanged)

E. Rejection. If a loan application is rejected, the Department[, or the self-administering or locally administering jurisdiction,] or the local administrator, as the case may be, shall notify the applicant in writing. The rejection letter shall state the reason the loan is rejected.

F.—G. (text unchanged)

H. Cancellation of Application.

(1)—(2) (text unchanged)

(3) A cancelled application may be reinstated upon the applicant's written request within 60 days following the date of the cancellation. Any time after 60 days following cancellation, a new application with supporting documents [shall] *may* be required.

.11 Loan Closing.

A.—D. (text unchanged)

E. Mortgageable Items.

(1) [At the discretion of the Department, or the level II local administrator for loans in amounts of \$60,000 or less, closing] *Closing* costs, program charges, and fees may be allowed as mortgageable items for owner-occupants or for nonprofit sponsors [to the extent the owner-occupant or nonprofit sponsor borrower does not have sufficient financial resources to pay for them].

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(2) [To ensure that sponsors provide a cash equity contribution to the project, sponsors] *Sponsors that are not nonprofit organizations* are required to pay for closing costs, program charges, and fees.

F. (text unchanged)

.12 Rehabilitation Requirements.

A.—C. (text unchanged)

D. Eligible Work—General Property Improvements.

(1) General property improvements may:

(a) Only be financed under the Program if the loan for the general property improvement is made in:

(i) Connection with a loan to bring a building into conformance with the applicable codes and standards as set forth in §[A]B of this regulation, and

(ii) Accordance with the restrictions in [§B(2)] §D(2) and (3) of this regulation;

(b)—(c) (text unchanged)

(d) Include, but are not limited to:

(i)—(v) (text unchanged)

[(vi) The purchase and installation of energy saving devices,] and

[(vii) (vi) (text unchanged)]

(2)—(3) (text unchanged)

E.—G. (text unchanged)

.13 Contractor Requirements.

A. General Requirements. Contractors and subcontractors:

(1) Shall be licensed by the Maryland Home Improvement Commission or meet other State and local licensing requirements necessary to do the rehabilitation [for non-owner-occupied buildings].

(2)—(4) (text unchanged)

(5) Shall agree in the contract to:

(a)—(e) (text unchanged)

(f) Agree to complete all specifications of the work write-up within the completion date *as specified in the contract*, which may not exceed 12 months from the date of loan closing unless a longer period is approved in writing by the:

(i) Program Director; or

(ii) Local administrator if the extension is for not more than 3 months].

(6) Shall indemnify and hold the Department and any [self-administering or locally administering jurisdiction] *local administrator* harmless from all liability and loss because of injury to or death of any individual or damage to any property which may occur or be alleged to occur during performance of the contract as a direct or indirect result of any act or omission, whether intentional, negligent or otherwise, by the contractor, subcontractors, or their agents, servants, and employees. The contractor shall defend all suits or claims involving those in this subsection at the contractor's sole cost and expense.

B. (text unchanged)

C. Identity of Interest.

(1) Sponsors or nonprofit sponsors may act as general contractors only with the prior written approval of *the Department* or the local administrator. Application forms shall be provided upon request and shall be submitted and

approved before submission of the proposal. Approval is conditioned on an assurance of completion acceptable to the Department.

(2) (text unchanged)

D. Assurance of Completion. [For loans financing rehabilitation costs in excess of \$50,000, either the] *The Department* or the local administrator, at its discretion, may require:

(1)—(3) (text unchanged)

E. (text unchanged)

F. Contractors performing work covered by a rehabilitation loan may not be on the unacceptable risk determination list of the Department of Housing and Urban Development or the [Farmer's Home Administration] *Unites States Department of Agriculture Rural Development*, and any previous experience with the Program shall have been satisfactory. Contractors that do not perform up to program requirements may be suspended or debarred under COMAR 05.01.05.

.14 Construction Process.

A. (text unchanged)

B. Contract Documents.

(1)—(2) (text unchanged)

(3) There shall be no modification of any contract documents without the prior written consent of the Department or the local administrator, as evidenced by an approved change order, executed by:

(a) The contractor; *and*

(b) The *property* owner]; and

(c) Either the;

(i) Department in the case of a loan for more than \$60,000, or

(ii) Local administrator in the case of a loan for \$60,000 or less].

C.—E. (text unchanged)

.15 Loan Disbursements.

A. (text unchanged)

B. Payments Generally.

(1) (text unchanged)

(2) The local administrator or the subcontractor shall disburse the loan proceeds in accordance with the requirements of §B(3)—[(6)](5) of this regulation.

(3)—(5) (text unchanged)

[(6) Payment of draws shall be requested by the borrower. Loan funds may be disbursed to the borrower upon request except for final draws or as otherwise provided for in §E of this regulation.]

C. Loan Accounts.

(1) Loan funds shall be held in a non-interest-bearing account established by the local administrator or the subcontractor and approved by the Department. The account may be:

(a)—(b) (text unchanged)

(c) An escrow account or attorney's trust account held and managed by an escrow agent if the escrow agent meets the following minimum criteria to the satisfaction of the Department:

(i) (text unchanged)

(ii) The escrow agent shall provide the local administrator or the subcontractor, if any, and the Department with [the quarterly] *any* statements required under §C(2) of this regulation, and

(iii) (text unchanged)

(d) (text unchanged)

(2) [The local administrator or the subcontractor shall provide the Department with quarterly statements of all loan funds in a loan account. The Department shall review these quarterly statements and shall reconcile the loan balances in the records of the local administrator or the subcontractor with the loan balances in the records of the Department.] *The Department may require the local administrator or the subcontractor to provide periodic statements to the Department of all loan funds in an account.* If the [quarterly] statements do not correspond with the Department's records of loan funds in the account, the local administrator or the subcontractor shall work with the Department to reconcile the differences.

(3) (text unchanged)

D.—H. (text unchanged)

.16 Loan Administration—Certification of Local Governments as Local Administrator.

A. (text unchanged)

B. Certification of Level I Local Administrators. The Department may certify a political subdivision to originate and administer loans when the political subdivision meets the following minimum criteria to the satisfaction of the Department:

(1) (text unchanged)

(2) The rehabilitation staff or the political subdivision shall be capable of:

(a) Determining local rehabilitation needs evidenced by completion of a [housing assistance plan] *consolidated plan*, a local comprehensive plan, or a local housing plan,

(b)—(d) (text unchanged)

(3) (text unchanged)

C. (text unchanged)

D. Subcontracting Program Administration.

(1) (text unchanged)

(2) A political subdivision may not subcontract the holding and disbursement of loan funds described in Regulation .15B and H of this chapter except to a subcontractor which meets the following criteria to the satisfaction of the Department:

(a)—(b) (text unchanged)

(c) [The] *If required by the Department, the subcontractor provides the local administrator and the Department with [quarterly] periodic statements of:*

(i)—(ii) (text unchanged)

(d)—(e) (text unchanged)

(3) (text unchanged)

E. (text unchanged)

F. Special Requirements for Certified Local Administrators and Their Subcontractors.

(1)—(2) (text unchanged)

[(3) Periodically, at the request of the Department, each local administrator shall submit a rehabilitation plan

satisfactory to the Department as outlined in Regulation .18 of this chapter, and shall agree in writing to administer the Program in conformance with these regulations and with any other procedures prescribed by the Department.]

G.—H. (text unchanged)

.17 Allocation of Funds.

A. Annual Allocation.

(1)—(4) (text unchanged)

(5) At the end of each calendar quarter, the Department may evaluate the allocations in relation to demand for loans as evidenced by applications for loans, and may reallocate the funds among the counties in accordance with demand. The Department [shall] *may* notify a county in writing of any reallocations of funds.

B. The chief elected official of any political subdivision which has been notified of an allocation and which desires to participate in the Program shall, as a condition precedent to disbursement of funds from its allocation, submit a letter to the Department within 45 days after receipt of notice of its allocation indicating the intent of the political subdivision to participate in the program[, along with an initial or updated rehabilitation plan if required to comply with Regulation .18 of this chapter].

C. (text unchanged)

.20 Books and Accounts.

A.—B. (text unchanged)

[C. Books, accounts, and records of a borrower shall be maintained and made available for inspection for 3 years past the date of termination of the contractual relationship between the borrower and the Department. Books, accounts, and records of contractors and subcontractors shall be maintained and made available for inspection for 3 years past the date of termination of the contractual relationships between them and the borrower.]

RAYMOND A. SKINNER

Secretary of Housing and Community Development

**Title 08
DEPARTMENT OF
NATURAL RESOURCES**

Subtitle 03 WILDLIFE

08.03.08 Threatened and Endangered Species

Authority: Natural Resources Article, §§4-2A-04 and 10-2A-04, Annotated Code of Maryland

Notice of Proposed Action

[10-012-P]

The Secretary of Natural Resources proposes to amend Regulations .04 — .09 under **COMAR 08.03.08 Threatened and Endangered Species.**

Proposed Action on Regulations

Statement of Purpose

The purpose of this action is to list 16 new species of animals and plants in need of conservation, or which are endangered, threatened, or endangered extirpated, and reclassify 12 species which are currently listed as threatened, endangered or endangered extirpated, by changing the status of four species and removing eight listed species.

A proposal to list a species may occur if it is determined that the species meets the criteria for endangered species, threatened species, or species in need of conservation, as stated in Regulation .01 under COMAR 08.03.08. Legal protection may be warranted due to any of the following factors: present or threatened alterations of the species' habitat or range; overutilization; disease or predation; inadequacy of existing regulatory mechanisms; or other natural or manmade factors affecting its continued existence in the State.

The Department of Natural Resources (DNR) is proposing to add three crustacean, one insect, one butterfly, four dragonfly, and one plant species to the list as endangered, two dragonfly species to the list as threatened, and one dragonfly species as in need of conservation. These species warrant increased legal protection because populations are isolated, limited in number, and may be habitat specific; population declines have been documented; and/or habitat alterations threaten the species' continued existence in the State. The completion of field inventories for species known to be rare, some of which have been discovered recently in the State, support the proposed listing of these species at this time.

A change in status may occur if there is an increase in the population of a listed species or additional populations are found in the State for a given species. Conversely, a change in status may also occur if there is a decrease in the population of a listed species or known populations have gone extinct locally.

Intensive field inventories of one endangered dragonfly species document enough new populations to propose it as in need of conservation. Three endangered plant species no longer warrant endangered or threatened species protection. Recent survey indicates that one endangered plant species is no longer an appropriate conservation target. We propose to remove one plant species from the State's endangered list because it is the more common variety found in the State and voucher specimens of one plant species listed as endangered were found to be misidentified. Maryland's Bald Eagle (*Haliaeetus leucocephalus*) breeding population reached 300 nesting pairs in 2001, 400 nesting pairs in 2005, and remains at over 400 nesting pairs today. Maryland's breeding population alone has met the federal recovery goals for Bald Eagle in the Chesapeake Bay region, including Maryland, Virginia, Delaware, New Jersey, and southeastern Pennsylvania combined. We propose to remove the Bald Eagle from the State's threatened list.

Endangered extirpated species are those species that were once a viable component of the flora and fauna of the State

but for which no naturally occurring populations were known since 1950. DNR is proposing to list one butterfly species, three dragonfly species, and one fish species as endangered extirpated because of loss of specialized habitat, disturbance, or changes in water quality. Upon the discovery of a viable, naturally occurring population or populations of a listed endangered extirpated species, the status of the species is evaluated. DNR rediscovered five species of plants in the State. Field studies confirm that one species occurs at a single location, with DNR proposing it as endangered. DNR proposes to remove the other four plant species from the endangered extirpated list due to additional field inventories and an unconfirmed record that was likely misidentified.

Fish species designated as endangered or threatened appear both in lists maintained by the Fisheries Service and by the Wildlife and Heritage Service. The Fisheries Service's list appears under COMAR 08.02.12 and the Wildlife and Heritage Service's list appears under COMAR 08.03.08. In order to clarify that both the Fisheries Service and the Wildlife and Heritage Service maintain lists, reference to the Fisheries Service's list is included in this amendment.

The scientific community changed the scientific names of two plant species and the common names of nine reptiles and amphibians, and DNR proposes to change these names to conform to the new names.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The administrative costs to the Department of Natural Resources will be neutral. More staff time will be needed to address the species being added to the list, but this increase will be offset by staff time reductions for those species being removed from the list.

	Revenue (R+/R-)	
II. Types of Economic Impact.	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(+)/(-)	Insignificant
B. On other State agencies:	(-)	Insignificant
C. On local governments:	(-)	Insignificant
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(+)/(-)	Indeterminable

- E. On other industries or trade groups: (+)/(-) Indeterminable
- F. Direct and indirect effects on public: (+) Indeterminable

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

A. The Department of Natural Resources will experience an insignificant economic impact since the increase in staff time devoted to those species being added to the list will be balanced by the reduction in staff time devoted to those species being removed from threatened or endangered species protection.

B. State agencies currently review projects for impact on listed species; therefore, the economic impact of the proposed changes will be insignificant.

C. Local agencies currently review projects for impacts on listed species; therefore, the economic impact of the proposed changes will be insignificant.

D. and E. Some development projects have been modified to mitigate impact to listed species. Adding to or upgrading the species on the list may increase the number of instances when projects are modified to accommodate the listed species. Some development projects that would have required modification for those species being proposed for delisting will not be subject to mitigation once the currently listed species are removed. The magnitude of the economic impact is indeterminable.

F. There will be a long-term, positive, but incalculable benefit to the people of Maryland by protecting the diversity of native species of the State.

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 Glenn Therres, Associate Director, Natural Heritage Program, Department of Natural Resources, 580 Taylor Avenue E-1, Annapolis, MD 21401, or call 410-260-8572, or email to gtherres@dnr.state.md.us, or fax to 410-260-8596. Comments will be accepted through February 16, 2010. A public hearing has not been scheduled.

.04 Endangered Species of Wildlife, Reptiles, Amphibians, Mollusks, Crustaceans, and Finfish.

A.—B. (text unchanged)

C. Except for the smaller range which is indicated in §C(7)(e) and (8)(a) of this regulation, the following wildlife, reptile, amphibian, mollusk, crustacean, and finfish species are considered endangered throughout Maryland:

- (1)—(2) (text unchanged)
- (3) Crustaceans:
 - (a) (text unchanged)

- (b) *Maus' isopod* (*Caecidotea mausi*), [(b)] (c)—[(c)] (d) (text unchanged)
- [(d)] (e) Greenbrier cave amphipod (*Stygobromus emarginatus*), [and] [(e)] (f) (text unchanged)
- (g) *Rock Creek groundwater amphipod* (*Stygobromus kenki*), and
- (h) *A groundwater amphipod* (*Stygobromus sextarius*);
- (4) Insects:
 - (a) (text unchanged)
 - [(b)] Sooty azure (*Celastrina nigra*),] (b) *Hoary elfin* (*Callophrys polios*), (c)—(l) (text unchanged)
 - [(m)] Sable clubtail (*Gomphus rogersi*),] [(n)] (m)—[(o)] (n) (text unchanged)
 - (o) *White corporal* (*Ladona exusta*), (p) *Eastern sedge barrens planthopper* (*Limotettix minuendus*), [(p)] (q) (text unchanged)
 - (r) *Elfin skimmer* (*Nannothemis bella*), [(q)] (s) (text unchanged)
 - (t) *Appalachian snaketail* (*Ophiogomphus incurvatus incurvatus*), [(r)] (u)—[(x)] (aa) (text unchanged)
 - [(y)] (bb) King's hairstreak (*Satyrrium kingi*), [and] [(z)] (cc) A tenebrionid beetle (*Schoenicus puberulus*);, and (dd) *Treetop emerald* (*Somatochlora provocans*);
 - (5) Finfish:
 - (a)—(c) (text unchanged)
 - [(d)] Bridle shiner (*Notropis bifrenatus*),] [(e)] (d)—[(g)] (f) (text unchanged)
 - (6) Amphibians:
 - (a)—(b) (text unchanged)
 - (c) [Hellbender] *Eastern hellbender* (*Cryptobranchus alleganiensis*), (d)—(f) (text unchanged)
 - (7) Reptiles:
 - (a) [Atlantic leatherback] *Leatherback sea turtle* (*Dermodochelys coriacea*), (b) Atlantic hawksbill sea turtle (*Eretmodochelys imbricata*), (c)—(d) (text unchanged)
 - (e) [Map] *Northern map turtle* (*Graptemys geographica*)—Susquehanna River watershed only, (f) [Atlantic] *Kemp's ridley sea turtle* (*Lepidochelys kempii*), and (g) Mountain [earth snake] *earthsnake* (*Virginia valeriae pulchra*); (8)—(9) (text unchanged)

.05 Endangered Species of Plants.

A.—B. (text unchanged)

C. The following plant species are considered endangered throughout Maryland unless a smaller range is indicated:

- (1)—(4) (text unchanged)
- [(5)] Fascicled gerardia (*Agalinis fasciculata*);] [(6)] (5)—[(85)] (84) (text unchanged)

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(85) *Clinton's wood-fern (Dryopteris clintoniana)*;
 (86)—(174) (text unchanged)
 (175) *Evergreen bayberry (Morella carolinensis)*;
 [(175)] (176)—[(176)] (177) (text unchanged)
 [(177) Evergreen bayberry (*Myrica heterophylla*);]
 (178)—(199) (text unchanged)
 [(200) Dense-flowered knotweed (*Polygonum densiflorum*);]
 [(201)] (200)—[(210)] (209) (text unchanged)
 (210) *Long-stalked crowfoot (Ranunculus hederaceus)*;
 (211)—(254) (text unchanged)
 [(255) Pale manna grass (*Torreyochloa pallida*);]
 [(256)] (255)—[(272)] (271) (text unchanged)

.06 Endangered Extirpated Species.

A.—B. (text unchanged)
 C. The following plant species are considered endangered extirpated throughout Maryland:
 (1)—(6) (text unchanged)
 [(7) Big carpet grass (*Axonopus furcatus*);]
 [(8)] (7)—[(13)] (12) (text unchanged)
 [(14) Fringed brome (*Bromus ciliatus*);]
 [(15) Nottoway's brome (*Bromus nottowanus*);]
 [(16)] (13)—[(58)] (55) (text unchanged)
 [(59) Glandular lobelia (*Lobelia glandulosa*);]
 [(60)] (56)—[(81)] (77) (text unchanged)
 [(82) Long-stalked crowfoot (*Ranunculus hederaceus*);]
 [(83)] (78)—[(105)] (100) (text unchanged)
 D. (text unchanged)
 E. The following insect species are considered endangered extirpated throughout Maryland:
 (1)—(2) (text unchanged)
 (3) *Dusky azure (Celestrina nigra)*;
 (4) *Piedmont clubtail (Gomphus parvidens)*;
 (5) *Skillet clubtail (Gomphus ventricosus)*;
 [(3)] (6) (text unchanged)
 [(4)] (7) Tawny crescent spot (*Phyciodes batesii*); [and]
 [(5)] (8) Regal fritillary (*Speyeria idalia*); and
 (9) *Riverine clubtail (Stylurus amnicola)*.
 F. The following finfish species are considered endangered extirpated throughout Maryland:
 (1) (text unchanged)
 (2) *Bridle shiner (Notropis bifrenatus)*;
 [(2)] (3)—[(3)] (4) (text unchanged)
 G. The following amphibian species is considered endangered extirpated throughout Maryland—[mud puppy] *common mudpuppy (Necturus maculosus)*.
 H.—I. (text unchanged)

.07 Threatened Species of Wildlife, Reptiles, Amphibians, Mollusks, Crustaceans, and Finfish.

A.—B. (text unchanged)
 C. The following species are considered to be threatened throughout Maryland unless a smaller range is indicated:
 (1) Insects:
 (a)—(b) (text unchanged)
 (c) *Superb jewelwing (Calopteryx amata)*,
 [(c)] (d) (text unchanged)
 (e) *Selys' sunfly (Helocordulia selysii)*,
 [(d)] (f)—[(e)] (g) (text unchanged)

(2) (text unchanged)
 (3) Reptiles:
 (a) [Atlantic loggerhead] *Loggerhead sea turtle* (*Caretta caretta*),
 (b) [Atlantic green] *Green sea turtle* (*Chelonia mydas*), and
 (c) (text unchanged)
 (4) Birds:
 (a) (text unchanged)
 (b) Blackburnian warbler (*Dendroica fusca*), and
 [(c) Bald eagle (*Haliaeetus leucocephalus*), and]
 [(d)] (c) (text unchanged)

.08 Threatened Species of Plants.

A.—B. (text unchanged)
 C. The following plant species are considered threatened throughout Maryland unless a smaller range is indicated:
 (1)—(35) (text unchanged)
 [(36) Black-fruited mountain rice (*Oryzopsis racemosa*);]
 [(37)] (36) (text unchanged)
 (37) *Black-fruited mountain rice (Piptatherum racemosum)*;
 (38)—(74) (text unchanged)

.09 Species in Need of Conservation.

A.—B. (text unchanged)
 C. The following species are considered to be in need of conservation throughout Maryland unless a smaller range is indicated:
 (1)—(2) (text unchanged)
 (3) Insects:
 (a)—(b) (text unchanged)
 (c) Silvery blue (*Glaucopsyche lygdamus*), [and]
 (d) *Rapids clubtail (Gomphus quadricolor)*,
 (e) *Sable clubtail (Gomphus rogersi)*, and
 [(d)] (f) (text unchanged)
 (4)—(8) (text unchanged)

JOHN R. GRIFFIN
 Secretary of Natural Resources

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.06 Hospital Services

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

Notice of Proposed Action [10-013-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .04 under **COMAR 10.09.06 Hospital Services**.

Statement of Purpose

The purpose of this action is to clarify the Department’s criteria for finding that chronic hospital services are medically necessary and therefore reimbursable by Medicaid program funds.

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 proposal clarifies the care and service needs of persons requiring a chronic hospital level of care, rather a nursing facility or lesser level of care.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499, or email to regs@dhhm.state.md.us, or fax to 410-333-7687. Comments will be accepted through February 16, 2010. A public hearing has not been scheduled.

.04 Covered Services.

A. The Program covers the following inpatient hospital services:

(1)—(10) (text unchanged)

(11) *Admissions to a chronic hospital that are medically necessary for a recipient:*

(a) *Whose medical condition is not stabilized subsequent to a course of treatment at an acute general hospital, or whose deteriorating medical condition has resulted in a readmission to acute or chronic care from a nursing facility or community setting; and*

(b) *Whose service and care needs require medical intervention at an intensity and frequency not provided in a nursing facility, as defined at COMAR 10.09.10.01B, such as:*

(i) *24-hour availability of a physician, and associated medical and nursing staff; and*

(ii) *Direct patient intervention by a physician at least three times a week.*

B.—D. (text unchanged)

JOHN M. COLMERS
Secretary of Health and Mental Hygiene

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.08 Free-Standing Clinics

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

Notice of Proposed Action

[10-015-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .04 under **COMAR 10.09.08 Free-Standing Clinics**.

Statement of Purpose

The purpose of this action is to increase the weekly rate of reimbursement for methadone treatment services in drug abuse clinics.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. Based on historical claims data, the proposed action will increase the expenditure for Methadone services by approximately \$1,078,222. This is based on the number of visits for the prior fiscal year (21,564), times the difference in the reimbursement amount of the rate.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	(E+)	\$1,078,222
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(+)	\$1,078,222
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 expenditure for methadone services will increase due to the increase in the rate of reimbursement for those services. The increase in the rate for methadone services will produce increased revenue for drug abuse clinics.

Economic Impact on Small Businesses

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

August 1, 2009 through November 30, 2009, rather than by 4.618 percent as was established under preexisting regulatory provisions, resulting in Program savings averaging \$4.34 per day. Effective December 1, 2009, reimbursement for hospital leave and light care days of care will be reduced, and the reduction in net payments in the administrative/routine, other patient care, and capital cost centers will be revised to 7.796 percent, in order to maintain Program savings averaging \$4.34 per day. Based upon a projected 5,342,854 days of service during the period August 1, 2009 through June 30, 2010, payments will be reduced by approximately \$23,200,000. Approximately 62 percent of this amount is federal funds.

Economic Impact on Small Businesses

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

Thirty-eight nursing homes, which qualify as small businesses, are expected to account for 708,600 Medicaid days during the period August 1, 2009 through June 30, 2010. At an average impact of \$4.34 per day, the impact on small businesses during this 11-month period is estimated at \$3,075,000.

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 W. Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499, or email to regs@dhhm.state.md.us, or fax to 410-333-7687. Comments will be accepted through February 16, 2010. A public hearing has not been scheduled.

.07 Payment Procedures — Maryland Facilities.

A.—C. (text unchanged)

C-1. With the exception of interim rate changes allowed in accordance with [§A] §§A and A-1 of this regulation, for services provided during the period July 1, 2009 through [June 30, 2010] *July 31, 2009*, interim and maximum reimbursement rates shall remain unchanged from those in effect for the period November 1, 2008 through June 30, 2009.

C-2. *With the exception of interim rate changes allowed in accordance with §§A and A-1 of this regulation, for services provided during the period August 1, 2009 through November 30, 2009, interim and maximum reimbursement rates shall remain unchanged from those in effect for the period November 1, 2008 through June 30, 2009, except that rates calculated under the provisions of Regulations .08, .09, and .10 of this chapter shall be reduced by 8.681 percent rather than by the percentage indicated under §A-4 of this regulation.*

C-3. *With the exception of interim rate changes allowed in accordance with §§A and A-1 of this regulation, for services provided during the period December 1, 2009*

through June 30, 2010, interim and maximum reimbursement rates shall remain unchanged from those in effect for the period November 1, 2008 through June 30, 2009, except that rates calculated under the provisions of Regulations .08, .09, and .10 of this chapter shall be reduced by 7.796 percent rather than by the percentage indicated under §A-4 of this regulation.

D. (text unchanged)

.11 Rate Calculation—Nursing Service Costs.

A.—F. (text unchanged)

G. The resident-specific standard reimbursement rates shall be determined by the following steps:

(1)—(7) (text unchanged)

(8) Multiply the Nursing Service unadjusted standard per diem reimbursement rates by the factors in the following table, *effective December 1, 2009*:

ADL Classification and Procedure Type	Adjustment Factor
Light care	[1.00] .97
Moderate care—end (text unchanged)	

(9) (text unchanged)

H.—U. (text unchanged)

.16 Selected Costs—Allowable.

The following costs are allowable in establishing interim and final per diem payment rates:

A.—C. (text unchanged)

D. Hospital Leave. [The] *Effective December 1, 2009, the Department will reimburse at 50 percent of the interim per diem rates for the Administrative and Routine, Other Patient Care, and Capital cost centers, less patient resources up to 15 days for the cost of reserving beds for patients hospitalized for an acute condition, subject to the following conditions:*

(1)—(5) (text unchanged)

E.—F. (text unchanged)

JOHN M. COLMERS
Secretary of Health and Mental Hygiene

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.18 Oxygen and Related Respiratory Equipment and Supplies Program

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

Notice of Proposed Action

[10-014-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .01 and .03—.07 under **COMAR 10.09.18 Oxygen and Related Respiratory Equipment Services.**

Statement of Purpose

The purpose of this action is to:

Proposed Action on Regulations

- (1) Eliminate the usage of form DHMH-1219 and procedures which are no longer used by the Department;
- (2) Reduce Maryland Medicaid Provider's reimbursement from 100 percent of the current Medicare reimbursement rate to 98 percent of the current Medicare reimbursement rate effective October 1, 2009;
- (3) Require Maryland Medicaid providers to contact Medicaid recipients before delivering prescribed and approved services; and
- (4) Establish payment method for reimbursement of rented respiratory equipment and repairs to purchased oxygen and respiratory equipment.

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 will reduce the Department's expenditures for fee-for-service oxygen and respiratory equipment and supplies by \$47,322 during FY2010.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(E-)	\$47,322
B. On other State agencies:	NONE	
C. On local governments:	NONE	

	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(-)	\$47,322
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 FY 2010 projected Departmental expenditure for oxygen and respiratory related equipment and supplies is \$3,154,831. The proposed action will reduce reimbursement rates by 2 percent during the period October 1, 2009 through June 30, 2010, resulting in Program savings of \$47,322. Approximately 62 percent of this amount is federal funds.

Economic Impact on Small Businesses

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

Departmental reimbursement for oxygen and related respiratory equipment and supplies will be reduced by this

proposal by 2 percent. Revenue to small businesses for the provision of oxygen and related respiratory equipment and supplies will therefore be reduced by 2 percent.

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 W. Preston Street, Room 512, Baltimore, Maryland 21201, or call 410-767-6499, or email to regs@dhhm.state.md.us, or fax to 410-333-7687. Comments will be accepted through February 16, 2010. A public hearing has not been scheduled.

.01 Definitions.

- A. (text unchanged)
- B. Terms Defined.
 - (1) (text unchanged)
 - (2) "Current stable arterial blood gas results" means stable arterial blood gas results on room air [produced] within 1 month before the *requested* date of submission [of the DHMH 1219 for an outpatient, or within 48 hours of discharge for a hospitalized patient. Stable means the patient should not be acutely ill] *of the form designated by the Department.*
 - (3)—(13) (text unchanged)
 - (14) ["Preauthorization"] "*Prepayment authorization*" means the approval required from the Department or its designee before services can be rendered.
 - (15)—(19) (text unchanged)

.03 Conditions for Participation.

- To participate in the Program, the provider shall:
 - A.—C. (text unchanged)
 - D. Maintain for a minimum of [5] 6 years adequate records which are sufficient in detail to support the invoices submitted for payment, and make these records available upon request to the Department or its designee;
 - E.—P. (text unchanged)

.04 Covered Services.

- A. (text unchanged)
- B. The items in §A(1), (2), and (3)(a) and (b) of this regulation are covered when:
 - (1) (text unchanged)
 - (2) *The patient's saturation level is 88 percent on room air; or*
 - [(2)] (3) (text unchanged)
 - C.—E. (text unchanged)
 - F. The items in §A(1)—(5) of this regulation are covered when they are ordered in writing by a physician as follows:
 - (1) The physician's initial order and plan of treatment [as indicated on the DHMH 1219] shall include:
 - (a)—(d) (text unchanged)
 - (2) The physician's subsequent orders [as indicated on the DHMH 1219] shall include:
 - (a) When prescribing oxygen for other than sleep apnea[

(i) An], *an* update of the items listed in §F(1)(a) of this regulation if the patient’s condition regarding [his] *the* need for oxygen has changed since the previous orders [, or];

[(ii) At a minimum, current stable arterial blood gas results on room air at rest on the second and third preauthorization requests and after that as requested by the Program, if the patient’s condition has remained the same.]

(b)—(e) (text unchanged)

[(3) The physician’s subsequent orders for oxygen when prescribing for other than sleep apnea shall be made within:

- (a) 60 days of the effective date of the initial preauthorization;
- (b) 180 days of the effective date of the second preauthorization;
- (c) 365 days for subsequent preauthorization.]

[(4)] (3) (text unchanged)

.05 Limitations.

A. (text unchanged)

B. The Program places the following limitations upon covered services:

(1) Reimbursement for aerosol equipment will only be [authorized] *provided* if a hand held nebulizer has been tried and is not successful, as indicated in the clinical summary;

(2) (text unchanged)

[(3) When a NCPAP system is prescribed, the system shall be rented for 1 month before approval for purchase can be given;]

[(4)] (3) Reimbursement may not be made for:

(a)—(e) (text unchanged)

(f) Oxygen and related respiratory equipment and services provided in a facility or by a group when reimbursement is covered by another segment of the Program; *and*

[(5)] (4) Payment for portable oxygen will be made only when:

(a) (text unchanged)

(b) The medical necessity [for this type of system is indicated on the DHMH 1219] *is indicated for this type of system.*

[(6) Payment for tracheostomy trays will be limited to one per week.]

.06 [Preauthorization] Prepayment Authorization Requirements.

A. The following items require a written [preauthorization] *prepayment authorization*:

(1)—(3) (text unchanged)

B. [Preauthorization] *Prepayment authorization* is issued when:

(1)—(3) (text unchanged)

C. The prescriber shall submit requests for [preauthorization] *prepayment authorization* in writing using the format and procedures designated by the Department.

D. [Preauthorization,] *Prepayment authorization*, when required, may be requested via a facsimile machine to expedite hospital, nursing facility, or other medical institutional discharge or in emergency situations approved

by the Program. In this case, the facsimile of the completed [preauthorization] *prepayment authorization* form shall be followed by a written request [for preauthorization], using the original of the form, which shall be submitted immediately to the Department.

E. Written [preauthorization] *prepayment authorization* is valid for a period to be determined by the Program but not to exceed a maximum of 365 days beginning with the date of issue by the Program, and is contingent on the recipient's continuing eligibility.

F. [Preauthorization] *Prepayment authorization* normally required by the Program is waived when the services are covered and approved by Medicare. However, if the entire or any part of a claim is rejected by Medicare, and the claim is referred to the Program for payment, payment will be made for services covered by the Program only if authorization for those services has been obtained before billing. Non-Medicare claims require [preauthorization] *prepayment authorization* according to §§A—E of this regulation.

.07 Payment Procedures.

A.—C. (text unchanged)

[D. Incorporation by Reference. In this chapter, the following documents are incorporated by reference:

(1) Medical Assistance Provider Fee Manual dated October 1, 1986;

(2) Maryland Medical Assistance Program Oxygen and Related Respiratory Equipment Services Provider Fee Schedule, Revision 2003.]

D. *The Department shall reimburse providers for the purchase of covered services at the lowest of the provider’s customary charge:*

(1) *For items that Medicare has established a rate:*

(a) *Effective October 1, 2009, the Department shall pay providers 98 percent of the current Medicare rate for oxygen and respiratory equipment and supplies, which shall include all fitting, dispensing, and follow-up care;*

(b) *For respiratory equipment for which Medicare has established a capped rental rate, the purchase price shall be ten times the current Medicare monthly rental rate less 2 percent; and*

(2) *For items for which Medicare has not established a rate:*

(a) *Oxygen and respiratory supplies at the provider’s choice of the manufacturer’s suggested retail price minus 41.2 percent or the provider’s wholesale cost plus 37.2 percent;*

(b) *Customized equipment or supplies at the provider’s choice of the manufacturer’s suggested retail price minus 30 percent or the provider’s wholesale cost plus 40 percent; and*

(c) *Other oxygen and respiratory equipment at the provider’s choice of the manufacturer’s suggested retail price minus 41.2 percent or of the provider’s wholesale cost plus 27.4 percent.*

[E. The Department will pay for covered services at the lower of:

(1) The provider’s customary charge to the general public;

Proposed Action on Regulations

(2) The Department’s fee schedule.]

[F.] E. The Department shall pay for repairs to purchased oxygen and respiratory equipment in accordance with the following:

(1) [Wholesale] *The provider’s choice of wholesale cost plus [40] 37.2 percent [to the provider] or manufacturer’s suggested retail price minus 31.4 percent for all materials; and*

(2)—(3) (text unchanged)

[G.] F. The Department shall only pay separately for the following replacement items for purchased respiratory equipment, and all other replacement items shall be included in repairs and will be reimbursed according to [§F] §E of this regulation:

(1)—(3) (text unchanged)

[H.] G. When any individual item or combination of items are provided as part of a complete setup, they may not be invoiced in the Program separately, but under complete setup procedure codes as listed in the fee schedule, except for replacement items as listed in [§G] §F, above, of this regulation.

[I.] H.— [O.] N. (text unchanged)

O. *Oxygen and respiratory equipment and disposable medical supply rates may be increased at the Program’s discretion, when the Program determines in its sole discretion that the Medicare rate creates a barrier to accessing oxygen and respiratory equipment and supplies.*

P. Refills.

(1) *For oxygen and respiratory equipment and supplies that are supplied as refills to the original order, providers shall contact the recipient or designee before dispensing the refill in order to ensure that the refilled item is necessary and to confirm any changes and modifications to the order.*

(2) *The provider shall contact recipient or designee regarding the refills no earlier than 7 days before the delivery and shipping date.*

(3) *For subsequent deliveries of refills, the provider shall deliver the items no earlier than 5 days before the end of usage for the current product.*

JOHN M. COLMERS

Secretary of Health and Mental Hygiene

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.29 Residential Treatment Center Services

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

Notice of Proposed Action

[10-018-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .01, .05, and .07 under COMAR 10.09.29 Residential Treatment Center Services.

Statement of Purpose

The purpose of this action is to define children’s residential treatment center as well as establish a method for setting reimbursement rates and to allow for reimbursement for bedhold days in residential treatment centers.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. **Summary of Economic Impact.** From the establishment of a higher per diem rate for children’s residential treatment center, there is a State and federal fiscal impact, from the extension of reimbursement to bedhold days during a residential treatment center stay, there is no fiscal impact because the total per diem cost will be spread over both days of care and the bedhold days.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	(E+)	\$500,910
B. On other State agencies:	NONE	
C. On local governments:	NONE	

	Benefit (+)	Magnitude
	Cost (-)	
D. On regulated industries or trade groups:	(+)	\$500,910
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 fiscal impact on the issuing agency of the increased per diem for children’s residential treatment center services was derived using the projected cost increase per day (\$35.21) and the number of Medicaid days in the single provider of these services from the December 1, 2009 effective date of the new rate to the end of the State fiscal year (14,226). Approximately 62 percent of this amount is federal funds.

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 W. Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499, or email to regs@dhhm.state.md.us, or fax to 410-333-7687.

Comments will be accepted through February 16, 2010. A public hearing has not been scheduled.

Subtitle 09 MEDICAL CARE PROGRAMS

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(3) (text unchanged)

(3-1) “Children’s residential treatment center” means a residential treatment center that admits patients 12 years old and younger.

(4)—(18) (text unchanged)

.05 Limitations.

The Program does not cover the following:

A.—E. (text unchanged)

[F. Leaves of absence beyond the period of the census check of the same day;]

[G.] F.—[H.] G. (text unchanged)

.07 Payment Procedures.

A. Reimbursement Principles.

(1)—(2) (text unchanged)

(3) For days occurring on or after November 1, 1995, the Department shall pay the residential treatment center, *except after October 1, 2009 to an in-State children’s residential treatment center, as described in §A(3) of this regulation*, the lesser of:

(a)—(c) (text unchanged)

(4) *An in-State children’s residential treatment center shall be reimbursed the lesser of:*

(a) *The provider’s usual and customary charge;*

(b) *The provider’s per diem cost for covered services established in accordance with Medicare principles of reasonable cost reimbursement as described in 42 CFR 413; or*

(c) *\$600 per day, effective October 1, 2009.*

[(4)] (5) For purposes of §A(3)(b) and (4) of this regulation, the percentage increase in the Department’s cost reimbursement to the provider, per inpatient day for each cost reporting year over the cost-settled payment rate for the previous cost reporting year, may not exceed the Centers for Medicare and Medicaid Services’ published federal fiscal year market basket index relating to hospitals excluded from the prospective payment system, plus 1 percent.

[(5)] (6) The rate stated in §A(3)(c) and (4) of this regulation shall be updated annually for each provider’s cost reporting period by the Centers for Medicare and Medicaid Services’ published federal fiscal year market basket index relating to hospitals excluded from the prospective payment system.

[(6)] (7) (text unchanged)

B.—I. (text unchanged)

JOHN M. COLMERS
Secretary of Health and Mental Hygiene

10.09.42 Free-Standing Medicare-Certified Ambulatory Surgical Centers

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

Notice of Proposed Action

[10-028-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .01 and .03—.06 under **COMAR 10.09.42 Free-Standing Medicare-Certified Ambulatory Surgical Centers.**

Statement of Purpose

The purpose of this action is to update the services and revise the payment methodology for Ambulatory Surgical Centers and to comply with the Deficit Reduction Act of 2005.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. This proposed action will save the Department of Health and Mental Hygiene \$40,000.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	(E-)	\$40,000
B. On other State agencies:	NONE	
C. On local governments:	NONE	

	Benefit (+)	Magnitude
	Cost (-)	
D. On regulated industries or trade groups:	(-)	\$40,000
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 agency will save \$40,000 annually. This was calculated based on a 2 percent decrease in the current Ambulatory Surgical Centers rate methodology of 100 percent of 2007 Medicare approved rates.

Proposed Action on 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 Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 512, Baltimore, Maryland 21201, or call 410-767-6499, or email to regs@dhmh.state.md.us, or fax to 410-333-7687. Comments will be accepted through February 16, 2010. A public hearing has not been scheduled.

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) "Covered surgical procedures" means those surgical and other medical procedures which meet the criteria specified in 42 CFR Part 416 Subpart, [B] F, [§416.65 (a) and (b)] §416.166(a) and (b) and which are published by [HCFA] the Centers for Medicare and Medicaid Services (CMS) in the Federal Register.

(3)—(7) (text unchanged)

(8) "Medicare-certified facility" means a facility which:

(a) Is certified for Medicare by the regional office of the [Health Care Financing Administration (HCFA)] Centers for Medicare and Medicaid Services (CMS) to furnish ambulatory surgical services directly to patients;

(b) Has an agreement with [HCFA] (CMS) under Medicare to participate as an ASC; and

(c) Meets the conditions set forth by [HCFA] (CMS) in 42 CFR Part 416, Subpart [B] F, [§§416.25—416.49] §§416.164—416.167.

(9)—(14) (text unchanged)

.03 Conditions for Participation.

A. (text unchanged)

B. Specific requirements for participation in the Program as a free-standing Medicare-certified ambulatory surgical center include all of the following:

(1) Be approved by Medicare to furnish ambulatory surgical services to patients and maintain documentation of certification by the Department of Health and Human Services and the [Health Care Financing Administration] Centers for Medicare and Medicaid Services;

(2) (text unchanged)

(3) Maintain adequate documentation of each recipient visit as part of the plan of care, which [documentation,] at a minimum, shall include:

(a)—(d) (text unchanged)

(4)—(7) (text unchanged)

.04 Covered Services.

The Program covers the following:

A.—B. (text unchanged)

C. Surgical procedures which meet the standards described in 42 CFR Part 416, Subpart [B] F, [§416.65] §416.75, and as [may be included in the list] published by the [Health Care Financing Administration,] Centers for Medicare and Medicaid Services [and which:

(1) Are commonly performed on an inpatient basis in hospitals, but may be safely performed in an ASC;

(2) Are not of a type that are commonly performed, or that may be safely performed, in physicians' offices,

(3) Are limited to those requiring a dedicated operating room or suite, and generally requiring a post-operative recovery room or short-term, but not overnight, convalescent room,

(4) Are not otherwise excluded under 42 CFR § 405.310

(5) Do not generally exceed 90 minutes operating time,

(6) Do not generally require more than 4 hours of recovery or convalescent time, and

(7) Are performed by a physician as set forth in COMAR 10.09.02.04 or a podiatrist as set forth in COMAR 10.09.15.02].

.05 Limitations.

The Program does not cover the following:

A.—D. (text unchanged)

E. Separate billing of services which are included in the composite Medicare rate for an ambulatory surgical center; [and]

F. Surgical procedures which:

(1) Generally result in extensive blood loss[,] ;

(2) Require major or prolonged invasion of body cavities[,] ;

(3) Directly involve major blood vessels[, or] ;

(4) Are generally emergency or life-threatening in nature[,] ;

(5) Commonly require systemic thrombolytic therapy;

(6) Are designated as requiring inpatient care (overnight);

(7) Can only be reported using a CPT unlisted surgical procedure code; or

(8) Are otherwise excluded under 42 CFR §411.15;

G. Physicians' services, including surgical procedures and all preoperative and postoperative services performed by a physician;

H. Anesthesia services;

I. Radiology services other than those integral to performance of a covered surgical procedure;

J. Diagnostic procedures other than those directly related to a covered surgical procedure;

K. Ambulance services;

L. Leg, arm, back, and neck braces other than those that serve the function of a cast or splint;

M. Artificial limbs; or

N. Non-implantable prosthetic devices and durable medical equipment (DME).

.06 Payment Procedures.

A. Reimbursement by the Program is for facility services provided by a free-standing ambulatory surgical center in

connection with covered surgical procedures, [including] include but are not limited to:

- (1)—(3) (text unchanged)
- (4) Administrative costs; [and]
- (5) Materials [for] including supplies and equipment for the administration and monitoring of anesthesia[.];
- (6) Radiology services for which separate payment is not allowed and other diagnostic tests or interpretive services that are integral to a surgical procedure;
- (7) Supervision of the services of a nurse anesthetist by the operating surgeon; and
- (8) Ancillary items and services that are integral to a covered surgical procedure as defined in 42 CFR §416.166.

B. Reimbursement [Fees.] Methodology:

(1) Reimbursement fees equal [100] 98 percent of the [current] 2007 [HCFA] Medicare-approved [prospective] ASC facility fee for [the HCFA group of surgical procedures in which the specific procedure included] services furnished to Medicaid recipients in connection with covered surgical procedures.

[(2)] (proposed for repeal)

(2) For those procedure codes with reimbursement rates capped by the Deficit Reduction Act of 2005 (DRA), reimbursement is at 100 percent of the Medicare approved ASC facility fee.

C. If one covered surgical procedure is furnished to a recipient, payment is at the Maryland Medicaid Program payment amount which is [100] 98 percent of the [prospectively determined rate] 2007 Medicare approved facility fee for that procedure.

D. If more than one covered surgical procedure is provided to a recipient in a single operative session, payment is made at 100 percent of the [prospectively determined rate] Maryland Medicaid Program payment amount for the procedure with the highest reimbursement rate. Other covered surgical procedures furnished in the same session are reimbursed at 50 percent of the [prospectively determined rate] Maryland Medicaid Program payment amount for each of those procedures.

D-1. When a covered surgical procedure is terminated before the completion due to extenuating circumstances or circumstances that threaten the well-being of the patient, the Medicaid Program payment amount is based on one of the following:

(1) If the procedure for which the anesthesia is planned is discontinued after the induction of anesthesia or after the procedure is started, the reimbursement amount is 98 percent of the 2007 Medicare approved facility fee;

(2) One-half of the 2007 Medicare approved facility fee will be reimbursed if the procedure for which anesthesia is planned is discontinued after the patient is prepared for surgery and taken to the room where the procedure is to be performed, but before the anesthesia is induced or if a covered surgical procedure for which anesthesia was not planned is discontinued after the patient is prepared for surgery and taken to the room where the procedure is to be performed.

E.—M. (text unchanged)

JOHN M. COLMERS
Secretary of Health and Mental Hygiene

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.55 Living at Home Waiver Program

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

Notice of Proposed Action
[10-022-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .29 under **COMAR 10.09.55 Living at Home Waiver Program**.

Statement of Purpose

The purpose of this action is to reduce provider reimbursement rates by 2 percent effective October 1, 2009 consistent with the Department’s budget for Fiscal Year 2010.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. In accordance with the Department’s budget for Fiscal Year 2010, rates will be reduced by 2 percent effective October 1, 2010, reducing Program expenditures by \$345,753.

	Revenue (R+/R-)	
II. Types of Economic Impact.	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(E-)	\$345,753
B. On other State agencies:	NONE	
C. On local governments:	NONE	

	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(-)	\$345,753
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. Medicaid expenditures for provider reimbursement are currently projected to total \$23,050,200 during Fiscal Year 2010, or \$17,278,650 during the period October 1, 2009 through June 30, 2010. A 2 percent

Proposed Action on Regulations

reduction in this amount will result in a decrease in Program expenditures of \$345,753. Approximately 62 percent of this amount is federal funds.

Economic Impact on Small Businesses

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

Provider rates will be reduced by 2 percent effective October 1, 2009, therefore small businesses that provide waiver services will have a decrease in revenue.

Impact on Individuals with Disabilities

The proposed action has an impact on individuals with disabilities as follows:

The proposed action will affect rates to providers of services to individuals with disabilities, but no impact on access or availability of services is anticipated.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Department of Health and Mental Hygiene, 201 W. Preston Street, Baltimore, MD 21201, or call 410-767-6499, or email to regs@dnhm.state.md.us, or fax to 410-333-7687. Comments will be accepted through February 16, 2010. A public hearing has not been scheduled.

.29 Payment Procedures.

A.—B. (text unchanged)

C. Payments.

(1)—(4) (text unchanged)

(5) The Program's rates as specified in §C(4) of this regulation shall be effective July 1, 2009 [, and] *through September 30, 2009. The rates shall be reduced by 2 percent effective October 1, 2009 and the resulting rates shall increase on July 1 of each year beginning July 1, 2010, subject to the limitations of the State budget, by the lesser of:*

(a)—(b) (text unchanged)

JOHN M. COLMERS

Secretary of Health and Mental Hygiene

Subtitle 09 MEDICAL CARE PROGRAMS

Notice of Proposed Action

[10-027-P]

The Secretary of Health and Mental Hygiene proposes to:

(1) Amend Regulation .01 under **COMAR 10.09.62 Maryland Medicaid Managed Care Program: Definitions;**

(2) Amend Regulations .01 and .06 under **COMAR 10.09.63 Maryland Medicaid Managed Care Program: Eligibility and Enrollment;**

(3) Repeal Regulation .08 and amend Regulation .09 under **COMAR 10.09.64 Maryland Medicaid Managed Care Program: MCO Application;**

(4) Amend Regulations .03, .08, .11, .15, .19-5, .20, and .21 and repeal Regulation .24 under **COMAR 10.09.65**

Maryland Medicaid Managed Care Program: Managed Care Organizations;

(5) Amend Regulations .04—.07 under **COMAR 10.09.66 Maryland Medicaid Managed Care Program: Access;**

(6) Amend Regulations .03, .04, .10, .21, .27, and .28 and repeal Regulation .06 under **COMAR 10.09.67 Maryland Medicaid Managed Care Program: Benefits;**

(7) Amend Regulation .02 under **COMAR 10.09.71 Maryland Medicaid Managed Care Program: MCO Dispute Resolution;**

(8) Amend Regulation .04 under **COMAR 10.09.75 Maryland Medicaid Managed Care Program: Corrective Managed Care;** and

(9) Amend Regulations .10, .11, .13, .14-1, and .16 under **COMAR 10.09.76 Primary Adult Care Program.**

Statement of Purpose

The purpose of this action is to:

(1) Remove references to dental services, as dental was carved out effective 7/1/09;

(2) Allow HealthChoice enrollees to access certain substance abuse services on a self-referred basis;

(3) Update MCO stop loss criteria;

(4) Remove the annual reporting requirement that MCOs submit services incurred for the period of January 1 – March 31;

(5) Add substance abuse as a benefit, including access to certain services on a self-referred, basis, under the PAC program;

(6) Change the timeframe to appeal enrollment in corrective managed care to 30 days; and

(7) Add emergency department facility services to PAC benefits.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Department of Health and Mental Hygiene, 201 W. Preston St., Room 512, Baltimore, MD 21201, or call 410-767-6499, or email to regs@dnhm.state.md.us, or fax to 410-333-7687. Comments will be accepted through February 16, 2010. A public hearing has not been scheduled.

10.09.62 Maryland Managed Care Program: Definitions

Authority: Health-General Article, §15-101, Annotated Code of Maryland

.01 Definitions.

- A. (text unchanged)
- B. Terms Defined.
 - (1)—(31) (text unchanged)
 - (31-1) "Community-based substance abuse program" means a program that:
 - (a) Is certified by the Office of Health Care Quality (OHCQ); and
 - (b) Provides services in community settings not regulated by the Health Services Cost Review Commission.
 - [(31-1)] (31-2)—(193) (text unchanged)
 - (194) "Systems performance review (SPR)" means an assessment, as a component of the annual quality assurance (QA) audit, of quality assurance operations taking place in the MCO [by measuring the operations' consistency with:
 - (a) HCQIS standards; and
 - (b) The MCO's health education plan].
 - (195)—(202) (text unchanged)

10.09.63 Maryland Medicaid Managed Care Program: Eligibility and Enrollment

Authority: Health-General Article, §15-103, Annotated Code of Maryland

.01 Eligibility.

- A. Criteria. Except as provided in §B of this regulation, a Program recipient shall be enrolled in the Maryland Medicaid Managed Care Program, described in this chapter, if the recipient is eligible for receipt of Medical Assistance benefits by qualifying:
 - (1) As categorically needy or medically needy under COMAR 10.09.24, unless the recipient is:
 - (a) 65 years old or older;
 - [(a)] (b)—[(c)] (d) (text unchanged)
 - (2)—(3) (text unchanged)
- B. (text unchanged)

.06 Disenrollment.

- A. (text unchanged)
- B. Department-Initiated Disenrollment. The Department shall disenroll from an MCO an enrollee:
 - (1) Subject to the MCO obtaining the Department's determination that the enrollee's institutionalization has been medically necessary, who has been continuously institutionalized for a period of more than 30 successive days in [
 - (a) A] a long-term care facility[, or
 - (b) An IMD];
 - [(2) Institutionalized for more than a total of 60 days in a calendar year in an IMD;]
 - [(3)] (2)—[(8)] (7) (text unchanged)
 - [(9)] (8) Who is 65 years old or older; [or]
 - [(10)] (9) Who is an inmate of a public institution, including a State operated institution or facility; or
 - (10) Who is eligible to receive Medicare benefits.

- C.—E. (text unchanged)
- F. Effective Date of Disenrollment.
 - (1)—(5) (text unchanged)
 - (6) In the case of an enrollee's death [or relocation outside the service area], the Department has the right to recover any capitation payments made on behalf of an enrollee for the period beginning on the date of death [or relocation].
- G. (text unchanged)

10.09.64 Maryland Medicaid Managed Care Program: MCO Application

Authority: Health-General Article, §§15-102 and 15-103, Annotated Code of Maryland

.09 Quality Assurance System—General.

- [Unless an applicant satisfies the requirements of Regulation .08 of this chapter, it] An applicant shall include in its application the following information or descriptions:
 - A.—P. (text unchanged)

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

.03 Quality Assessment and Improvement.

- A. (text unchanged)
- B. An MCO shall participate in all quality assessment activities required by the Department in order to determine if the MCO is providing medically necessary enrollee health care. These activities include, but are not limited to:
 - (1)—(2) (text unchanged)
 - (3) The annual collection and evaluation of a set of performance measures with targets as determined by the Department as follows:
 - (a)—(g) (text unchanged)
 - (h) Starting with the 2009 performance measures, the Department shall implement the following methodology for imposing penalties and incentives:
 - (i)—(iv) (text unchanged)
 - (v) On any of the measures in §B(3)(g) of this regulation for which the MCO meets or exceeds the incentive target, as determined by the Department, the MCO shall be paid an incentive payment of up to 1/10 of 1 percent of the total capitation paid to the MCO during that measurement year;
 - (vi)—(vii) (text unchanged)
 - (i)—(k) (text unchanged)
 - (4)—(6) (text unchanged)
 - C. (text unchanged)

.08 Special Needs Populations—Pregnant and Postpartum Women.

- A.—L. (text unchanged)
- [M. An MCO shall provide dental services for pregnant enrollees in accordance with COMAR 10.09.67.06.]

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.11 Special Needs Populations—Individuals in Need of Substance Abuse Treatment.

A.—E. (text unchanged)

F. When the substance abuse screening described in §D of this regulation confirms the probability of substance abuse, the MCO shall provide the enrollee with:

(1) A comprehensive substance abuse assessment, which shall:

(a) Be administered by a qualified provider; and

(b) Include application of [one of the following] *age appropriate ADA-approved* assessment instruments [, as appropriate:

(i) For enrollees younger than 20 years old, the Problem Oriented Screening Instrument for Teenagers (POSIT); and

(ii) For enrollees 20 years old or older, the Addiction Severity Index (ASI)]; and

(2) (text unchanged)

G.—I. (text unchanged)

.15 Data Collection and Reporting.

A.—D. (text unchanged)

E. Annual Reports. Except as provided in §E(5) of this regulation, an MCO shall submit to the Department annually, within 90 days after the end of the calendar year:

(1)—(4) (text unchanged)

(5) HealthChoice Financial Monitoring Reports (HFMRs), including any supplemental schedules required by the Department:

(a)—(b) (text unchanged)

(c) Submitted according to the following schedule:

[(i) Services incurred January 1—March 31 of the current year, reported through June 30 of the current year—due on August 15 of the current year;]

[(ii) (i)—[(iii)] (ii) (text unchanged)

F.—L. (text unchanged)

.19-5 MCO Loss Ratio.

A.—F. (text unchanged)

G. Insufficient Loss Ratio.

(1) (text unchanged)

(2) [The] *Starting with the implementation of the January 2010 capitation rates, the Secretary, in consultation with the Commissioner [may] shall* adjust an MCO's capitation payments according to §H of this regulation, if the MCO is determined to have]:

(a) A] *a* loss ratio for the service year of less than 85 percent.]; and

(b) An average annual loss ratio for the 3-year period ending with the service year of less than 85 percent.].

(3) [The] *Starting with the implementation of the January 2010 capitation rates, the Secretary, in consultation with the Commissioner, may waive a capitation adjustment based on loss ratio if[, in the calendar year corresponding to the year for which an adjustment is considered]:*

(a) [The] In the calendar year corresponding to the year for which an adjustment is considered:

(i) *The* loss ratio of the MCO is less than 85 percent but equal to or more than 80 percent; and

[(b)] (ii) All of the MCO's scores on the Department's core performance measures are in the top two levels of performance; *or*

(b) *The MCO's average annual loss ratio for the 3 year period ending with the service year is more than 85 percent.*

H. Adjustment Amount.

(1) [The] *Starting with the implementation of the January 2010 capitation rates, the Secretary, in consultation with the Commissioner, may adjust an MCO's capitation payments in the amounts specified in §H of this regulation:*

(a) (text unchanged)

(b) For the second *consecutive* year in which an adjustment is made pursuant to this regulation, the adjustment may not exceed 75 percent of the difference between the capitation amount:

(i)—(ii) (text unchanged)

(c) For the third *consecutive* year in which an adjustment is made pursuant to this regulation and thereafter, the adjustment may not exceed 100 percent of the difference between the capitation amount:

(i)—(ii) (text unchanged)

(2) (text unchanged)

I. (text unchanged)

.20 MCO Payment for Self-Referred, Emergency, and Physician Services.

A. MCO Payment for Self-Referred Services.

(1) (text unchanged)

(2) An MCO shall reimburse out-of-plan providers to whom enrollees have self-referred for school-based services *as described in COMAR 10.09.68.03* and family planning services including office visits (CPT codes 99201—99205 and 99211—99215), preventive medicine office visits (CPT codes 99383—99386 and 99393—99396), and all FDA-approved contraceptive devices, methods and supplies, at the established Medicaid rates.

(3)—(9) (text unchanged)

(10) *An MCO shall reimburse out-of-plan providers at the Medicaid fee-for-service rate for the substance abuse services described in COMAR 10.09.67.28.*

B. For emergency services, [if the claim is submitted to the MCO within 9 months of the date of service,] an MCO shall reimburse a hospital emergency facility and provider, which is not required to obtain prior authorization or approval for payment from an MCO in order to obtain reimbursement under this regulation, for:

(1)—(4) (text unchanged)

C. (text unchanged)

.21 Payments to Federally Qualified Health Centers (FQHC).

A. (text unchanged)

B. For any FQHC choosing not to participate in the APS for dates of service on or after January 1, 2005, the MCO shall reimburse the contracted FQHC as follows:

(1) (text unchanged)

[(2) At least the current calendar year's dental FQHC market rate per visit for dental services to recipients younger than 21 years old and to pregnant women;]

[(3)] (2)—[(5)] (4) (text unchanged)
 C. (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

.04 Access Standards: Information for Providers.

A. An MCO shall develop and [issue] *make available either electronically or by hard copy* to all of its PCP and specialty care providers a Medicaid requirements manual, including periodic updates as appropriate, and shall:

(1)—(4) (text unchanged)

B.—C. (text unchanged)

.05 Access Standards: PCPs and MCO's Provider Network.

A. (text unchanged)

B. Adequacy of Provider Network.

(1)—(6) (text unchanged)

(7) Capacity.

(a)—(d) (text unchanged)

[(e) The Department may not approve a ratio of the number of enrollees younger than 21 years old to the number of dental providers that is higher than 2,000:1.]

(8) (text unchanged)

.06 Geographical Access.

A. An MCO shall develop and maintain a provider network that ensures that enrollees have reasonable travel times to the sites at which they receive the following services:

(1)—(2) (text unchanged)

(3) OB/GYN; *and*

[(4) Dental for enrollees younger than 21 years old; and]

[(5)] (4) (text unchanged)

B.—E. (text unchanged)

.07 Access Standards: Clinical and Pharmacy Access.

A. Appointments.

(1)—(2) (text unchanged)

(3) Appointment Guidelines.

(a) (text unchanged)

(b) An MCO shall effect procedures that result in an interval between the enrollee's request for an appointment and the actual appointment time being consistent with the following standards:

[(i) When the MCO has been notified that the Maryland Department of Human Resources has sanctioned a family for failure to secure the service in a timely manner, the well-child assessments for the children in that family shall be scheduled to be completed within 15 business days of the request for an appointment;]

[(ii)] (i)—[(ix)] (viii) (text unchanged)

B.—E. (text unchanged)

10.09.67 Maryland Medicaid Managed Care Program: Benefits

Authority: Health-General Article, Title 15, Subtitle 1, Annotated Code of Maryland

.03 Benefits—Physician and Advanced Practice Nurse Specialty Care Services.

A. An MCO shall provide to its enrollees medically necessary specialty care services that are outside of the enrollee's PCP's scope of practice, or, in the judgment of the enrollee's PCP, are not services that the PCP customarily provides, is specifically trained for, or is experienced in and are provided by:

(1)—(2) (text unchanged)

(3) A clinic that furnishes health care services by or under the direction of a physician [or dentist]; or

(4) (text unchanged)

B. (text unchanged)

.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)—(10) (text unchanged)

(11) Latex condoms; [and]

(12) Nonlegend ergocalciferol liquid (Vitamin D); *and*

(13) *Emergency contraceptives for female recipients.*

B.—C. (text unchanged)

D. Drug Formulary.

(1)—(3) (text unchanged)

(4) [An] *Effective July 1, 2009, an MCO shall include in its formulary the following drugs:*

[(a) Carbamazepine;

(b) Gabapentin;

(c) Lamotrigine;

(d) Topiramate;

(e) Midazolam;

(f) Droperidol;]

[(g)] (a)—[(m)] (g) (text unchanged)

(5) (text unchanged)

E.—F. (text unchanged)

.10 Benefits—Substance Abuse Treatment Services.

A. An MCO shall provide to its enrollees medically necessary comprehensive substance abuse treatment services in accordance with the standards set forth in COMAR 10.09.65.11—11-2, including but not limited to:

(1) Evaluations, performed by a provider that is qualified under §B of this regulation, to determine the nature and severity of an enrollee's substance abuse problem and the appropriate level and intensity of care, including:

(a) A comprehensive substance abuse assessment using [either the ASI or POSIT] *an age appropriate ADAA-approved assessment instrument* [, as appropriate]; and

(b) (text unchanged)

(2) Outpatient substance abuse treatment *including individual, group, and family counseling and intensive outpatient;*

(3)—(6) (text unchanged)

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B. (text unchanged)

.21 Benefits—Pregnancy-Related Services.

A. An MCO shall provide to its pregnant and postpartum enrollees medically necessary pregnancy-related services, including:

(1)—(2) (text unchanged)

(3) Enriched maternity services, including:

(a)—(d) (text unchanged)

(e) High-risk nutrition counseling services for nutritionally high-risk pregnant women; *and*

(f) Appropriate levels of inpatient care, including emergency transfer of pregnant women and newborns to tertiary care centers [; *and*].

[(g) Medically necessary dental services for pregnant enrollees who are 21 years old or older, as specified in Regulation .06 of this chapter.]

B.—D. (text unchanged)

.27 Benefits—Limitations.

A. (text unchanged)

B. The benefits or services not required to be provided under §A of this regulation are as follows:

(1)—(31) (text unchanged)

(32) Physical therapy, speech therapy, occupational therapy, [*and*] audiology services, *and speech generating devices* when:

(a)—(b) (text unchanged)

(33) (text unchanged)

(34) Except for those listed in Regulation .04D(4) of this chapter, drugs that are included in the SMHS formulary; [*and*]

(35) Effective January 1, 2008, reimbursement to pharmacies for antiretroviral drugs in American Hospital Formulary Service therapeutic class 8:18:08 used in the treatment of HIV/AIDS will be paid directly by the Department; *and*

(36) *Effective July 1, 2009, reimbursement for dental services for enrollees younger than 21 years old and pregnant women shall be paid directly by the Department.*

.28 Benefits—Self-Referral Services.

An MCO shall be financially responsible for reimbursing, in accordance with COMAR 10.09.65.20, an out-of-plan provider chosen by the enrollee for the following services:

A.—G. (text unchanged)

H. [A] *Effective January 1, 2010, comprehensive substance abuse assessment (CSAA), as described in COMAR 10.09.65.11, once within a 12 month period per recipient per provider, unless there is more than a 30 day break in substance abuse treatment, if the following conditions are met:*

(1) The recipient is not *currently* in substance abuse treatment;

[(2) The recipient has not received a self-referred CSAA that calendar year; *and*]

[(3)] (2) The assessment provider is [an Alcohol and Drug Abuse Administration] certified [substance abuse provider] *by the Office of Health Care Quality (OHCQ) and meets the requirements established by the Alcohol and Drug*

*Abuse Administration (ADAA) as described in COMAR 10.47; [*and*]*

(3) *The assessment is reviewed and approved by a licensed physician or licensed practitioner of the healing arts, within the scope of his or her practice under State law;*

I. Effective January 1, 2010, substance abuse services:

(1) *That are provided by providers who meet the requirements specified in §H(2) of this regulation;*

(2) *That the MCO determines are medically necessary for the enrollee according to the American Society of Addiction Medicine (ASAM) Patient Placement Criteria or are in accordance with the requirements established in §I(4) of this regulation;*

(3) *When the substance abuse provider requests authorization within the notification requirements established by the Department; and*

(4) *That include but are not limited to:*

(a) *A minimum of 3 days of inpatient detoxification in an acute care hospital if authorized as medically necessary by the MCO, or the number of days rendered before notification of denial based on medical necessity by the MCO;*

(b) *A minimum of 5 days of ambulatory detoxification if authorized as medically necessary by the MCO or the number of days rendered before notification of denial based on medical necessity by the MCO;*

(c) *Partial hospitalization as follows:*

(i) *A minimum of 2 days shall be covered automatically; and*

(ii) *If authorized as medically necessary by the MCO, additional days shall be covered;*

(d) *Methadone maintenance as follows:*

(i) *26 weeks of out-of-plan methadone maintenance if authorized as medically necessary by the MCO or the number of weeks rendered before notification of denial based on medical necessity by the MCO; and*

(ii) *If authorized as medically necessary by the MCO, additional weeks of methadone maintenance shall be covered either in-plan or out-of-plan;*

(e) *30 sessions of outpatient substance abuse treatment in a community-based substance abuse program, including individual, family, or group counseling within a 12 month period with additional sessions covered if authorized as medically necessary by the MCO;*

(f) *Intensive outpatient treatment provided in a community-based setting as follows:*

(i) *30 days if authorized as medically necessary by the MCO or the number of days rendered before notification of denial based on medical necessity by the MCO; and*

(ii) *If authorized as medically necessary by the MCO, additional days or intensive outpatient treatment shall be covered either in-plan or out-of-plan; and*

(g) *For recipients younger than 21 years old, a minimum of 3 days provided in an Intermediate Care Facility-Addictions (ICF-A) if authorized:*

(i) *As medically necessary by the MCO or the number of days rendered before notification of denial based on medical necessity by the MCO;*

(ii) *As medically necessary by the MCO, additional days shall be covered; and*
 [L.] J. (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

.02 Internal Complaint Process for Enrollees.

A.—B. (text unchanged)

C. An MCO shall include in the internal complaint process the procedures for registering and responding to appeals and grievances in a timely fashion, which:

(1)—(6) (text unchanged)

(7) Include a procedure for immediate [notice] response to the [Department] Department’s request of all disputed actions in emergency medical situations;

(8) Include a procedure for notice of all disputed [nonemergency] non-emergency medical care actions to the Department within 3 business days of request of the determination to deny;

(9)—(12) (text unchanged)

10.09.75 Maryland Medicaid Managed Care Program—Corrective Managed Care

Authority: Health-General Article, §§15-102.1(b)(9) and 15-103, Annotated Code of Maryland

.04 Enrollment in Corrective Managed Care.

A.—C. (text unchanged)

D. Enrollee Appeal.

(1) An individual placed into corrective managed care may appeal the decision *within 30 days of the MCO’s notification to the individual.*

(2) *Except for the time frame specified in §D(1) of this regulation, appeals shall be handled as specified in COMAR 10.09.71.05 and 10.09.72.05.*

[2)] (3) (text unchanged)

10.09.76 Primary Adult Care Program

Authority: Health-General Article, §§15-101 and 15-103, Annotated Code of Maryland

.10 MCO Covered Services.

A.—E. (text unchanged)

F. *Substance Abuse Services in Community-Based Substance Abuse Programs. Effective January 1, 2010, an MCO shall include:*

(1) *A comprehensive substance abuse assessment (CSAA), as described in COMAR 10.09.65.11, if the following conditions are met:*

(a) *The recipient is not currently in substance abuse treatment;*

(b) *The recipient has not received a self-referred CSAA in the previous 12 month period;*

(c) *The assessment provider:*

(i) *Is certified by the Office of Health Care Quality (OHCQ); and*

(ii) *Meets the requirements established by the ADAA as described in COMAR 10.47; and*

(d) *The assessment is reviewed and approved by a licensed physician or licensed practitioner of the healing arts, within the scope of his or her practice under State law;*

(2) *Substance abuse services:*

(a) *That are provided by providers who meet the requirements specified in §G of this regulation;*

(b) *That the MCO determines are medically necessary for the enrollee according to the American Society of Addiction Medicine (ASAM) Patient Placement Criteria; and*

(c) *That include:*

(i) *Individual, family, or group counseling;*

(ii) *Methadone maintenance; and*

(iii) *Intensive outpatient treatment provided in a community-based setting.*

G. *Effective January 1, 2010, an MCO shall reimburse out-of-plan providers at the Medicaid fee-for-service rate for the following substance abuse services:*

(1) *A comprehensive substance abuse assessment (CSAA), as described in COMAR 10.09.65.11, if the following conditions are met:*

(a) *The recipient is not currently in substance abuse treatment;*

(b) *The recipient has not received a self-referred CSAA in the previous 12 month period;*

(c) *The assessment provider is certified by the Office of Health Care Quality (OHCQ) and meets the requirements established by the ADAA as described in COMAR 10.47; and*

(d) *The assessment is reviewed and approved by a licensed physician or licensed practitioner of the healing arts, within the scope of his or her practice under State law.*

(2) *Substance abuse services:*

(a) *That are provided by a provider who meets the requirements in §G(1)(c) of this regulation;*

(b) *That the MCO determines are medically necessary for the enrollee according to the American Society of Addiction Medicine (ASAM) patient placement criteria or are in accordance with the requirements established in §G(2)(d) of this regulation;*

(c) *When the substance abuse provider requests authorization within the notification requirements established by the Department and*

(d) *Including but are not limited to:*

(i) *30 sessions of outpatient substance abuse treatment in a community-based substance abuse program, including individual, family, or group counseling within a 12 month period with additional sessions covered if authorized as medically necessary by the MCO;*

(ii) *26 weeks of methadone maintenance, provided in an out-of-plan community-based setting, if authorized as medically necessary by the MCO or the number of weeks rendered before notification of denial based on medical necessity by the MCO;*

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(iii) *If authorized as medically necessary by the MCO, additional weeks beyond 26 weeks of methadone maintenance shall be covered either in-plan or out-of-plan; and*

(iv) *30 days of intensive outpatient treatment provided in a community-based setting if authorized as medically necessary by the MCO or the number of days rendered before notification of denial based on medical necessity by the MCO.*

H. Effective January 1, 2010, if authorized as medically necessary by the MCO, additional days of intensive outpatient treatment as described in §G(2)(d) of this regulation shall be covered either in-plan or out-of-plan.

I. Emergency Facility Services. Effective January 1, 2010, when:

(1) *Rendered in an emergency department of a hospital; and*

(2) *The emergency department visit does not result in an admission to the hospital.*

.11 MCO Diagnostic and Laboratory Services.

A. (text unchanged)

B. Laboratory Services. An MCO shall cover the following medically necessary laboratory services:

(1)—(2) (text unchanged)

(3) *Urinalysis including toxicology screenings;*

(4)—(13) (text unchanged)

C. (text unchanged)

.13 Limitations.

A. The following services are not covered:

(1)—(2) (text unchanged)

(3) *Services delivered in a hospital, hospital outpatient services, or ambulatory surgical center other than those described in Regulation .10H of this chapter;*

(4) *Services covered by an MCO as specified in COMAR 10.09.67 other than those listed in Regulations .09—.11 of this chapter; [and]*

(5) *Any Medical Assistance service not specified in Regulations .09—.12 of this chapter including services such as:*

(a)—(f) (text unchanged)

[(g) *Substance abuse services, except for buprenorphine and buprenorphine and naloxone combination;*

[(h)] (g)—[(i)] (h) (text unchanged)

[(j)](i) *Partial hospitalization or day treatment services accessed through the specialty mental health system[.]; and*

(6) *Professional services rendered during a covered emergency department visit as described in COMAR 10.09.76.*

B.—D. (text unchanged)

.14-1 MCO Loss Ratio.

A.—C. (text unchanged)

D. After reviewing the accounting contractor's report, the Department may adjust the PFMR-reported expenses and revenues in accordance with the opinion of the accounting and rate setting contractor.

E. Components of Medical Loss.

(1) *An MCO's total medical expense consists of the costs incurred by the MCO in providing health care services, including adjustments to include only reasonable allowable costs, but excluding accruals for medical loss ratio calculations, to its enrollees during the service year.*

(2) (text unchanged)

F. Annual Loss Ratio Calculation.

(1) (text unchanged)

(2) To calculate an MCO's annual loss ratio, the Department shall:

(a) (text unchanged)

(b) *Divide the result of the computation specified in §F(2)(a) of this regulation by the MCO's net revenues, excluding accruals associated with the medical loss ratio calculations, for the service year.*

G. *If an MCO's annual loss ratio for CY [2008] 2009, determined according to §F of this regulation, is less than 80 percent, the Secretary may adjust an MCO's capitation payment according to §H of this regulation.*

H. Adjustment Amount.

(1) (text unchanged)

(2) *For CY [2008] 2009, the adjustment may not exceed 75 percent of the difference between the capitation amount:*

(a)—(b) (text unchanged)

.16 Data Collection and Reporting.

A.—D. (text unchanged)

E. Annual Reports. Except as provided in §E(3) of this regulation, an MCO shall submit to the Department annually, within 90 days after the end of the calendar year:

(1)—(2) (text unchanged)

(3) *Financial monitoring reports (FMRs) and any supplemental schedules required by the Department in the format required by the Department according to the following schedule:*

[(a) *Services incurred January 1—March 31 of the current year, reported through June 30 of the current year: due on August 15 of the current year;*

[(b)] (a)—[(c)] (b) (text unchanged)

F.—G. (text unchanged)

JOHN M. COLMERS

Secretary of Health and Mental Hygiene

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.80 Community-Based Substance Abuse Services

Authority: Health-General Article, §§8-204(c)(1) and 15-103(a)(1), Annotated Code of Maryland

Notice of Proposed Action

[10-011-P]

The Secretary of Health and Mental Hygiene proposes to adopt new Regulations **.01—.09** under a new chapter,

COMAR 10.09.80 Community-Based Substance Abuse Services.

Statement of Purpose

The purpose of this action is to increase access to substance abuse services. Additional covered services will include Comprehensive Substance Abuse Assessment, Level I Group and Individual Substance Abuse Counseling Services, and Level II Intensive Outpatient Services.

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 will increase access to substance abuse services by adding more services to the Maryland Medical Assistance benefit package. This action will cost approximately \$1,100,000 for the 6-month period beginning July 1, 2010. Approximately 62 percent of this amount is federal funds. This cost will result in a benefit on regulated industries or trade groups.

	Revenue (R+/R-)	
II. Types of Economic Impact.	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(R+)	\$1.1 million
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(+)	\$1.1 million
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 amounts above are estimated for a 6-month period, based on current utilization rates of similar services within the HealthChoice Program, and assuming a certain percentage of increase in rates.

Economic Impact on Small Businesses

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

The regulations will provide additional reimbursement to substance abuse providers.

Impact on Individuals with Disabilities

The proposed action has an impact on individuals with disabilities as follows:

The regulations will provide increased benefits to disabled adults with substance abuse problems.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499, or email to regs@dhmh.state.md.us, or fax to 410-333-7687. Comments will be accepted through February 16, 2010. A public hearing has not been scheduled.

.01 Definitions.

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

B. Terms Defined.

(1) "Alcohol and Drug Abuse Administration" means the administration within the Department that establishes regulatory requirements which substance abuse providers are to maintain in order to become certified by the Office of Health Care Quality.

(2) "American Society of Addiction Medicine (ASAM) Patient Placement Criteria" means an instrument designed to indicate patient placement guidelines for admission, continued stay, and discharge.

(3) "Certification" means the approval issued to a program by the Office of Health Care Quality.

(4) "Community-based substance abuse program" means a program that provides services in community settings not regulated by the Health Services Cost Review Commission.

(5) "Comprehensive substance abuse assessment" means the process of gathering data about an individual's biopsychosocial problems to determine whether substance abuse treatment is needed and, if so, at what level of care.

(6) "Department" means the Department of Health and Mental Hygiene.

(7) "Discharge plan" means a written description of specific goals and objectives to assist the recipient upon leaving treatment.

(8) "Documentation" means the written medical record.

(9) "Individualized treatment plan" means a written plan of action that is developed and periodically updated and revised to address a recipient's specific service needs.

(10) "Medical Assistance Program" has the meaning stated in COMAR 10.09.36.01.

(11) "Medically necessary" means the service or benefit is:

(a) Directly related to diagnostic, preventive, curative, palliative, rehabilitative, or ameliorative 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 consumer, family, or provider.

Proposed Action on Regulations

(12) "Office of Health Care Quality" means the office within the Department responsible for certification and inspection of programs for the Alcohol and Drug Abuse Administration.

(13) "Program" means the Maryland Medical Assistance Program.

(14) "Progress note" means an objective documentation of the recipient's progress in relation to specific treatment goals and objectives.

(15) "Recipient" means an individual who is eligible for Program benefits.

(16) "Recovery support services" means community-based services provided to people and their families during the initiation, on-going, and post-acute stages of their recovery from substance abuse.

(17) "Substance abuse" means a maladaptive pattern of substance use leading to clinically significant impairment or distress and manifested by recurrent and significant adverse consequences related to the repeated use of substances.

(18) "Treatment plan" means a written plan that address the individual's biopsychosocial needs through goals and objectives and is updated as needed according to the treatment modality.

.02 Conditions for Program Participation.

A. A community-based substance abuse program shall meet and comply with all requirements set forth in COMAR 10.09.36.

B. A community-based substance abuse program shall:

(1) Receive certification by the Office of Health Care Quality in accordance with COMAR 10.47.01; and

(2) Meet the requirements established by the Alcohol and Drug Abuse Administration as described in COMAR 10.47.01.

.03 Covered Services.

A. The Program covers the following medically necessary community-based substance abuse services when rendered to a recipient by a qualified program as described in Regulation .02 of this regulation:

(1) Comprehensive substance abuse assessment as described in §B of this regulation;

(2) Level I Group and Individual Substance Abuse Counseling Services as described in §C of this regulation;

(3) Level II Intensive Outpatient Services as described in §D of this regulation; and

(4) Methadone services as described in COMAR 10.09.08.04.

B. Comprehensive substance abuse assessment as referenced in §A of this regulation at a minimum shall:

(1) Be reviewed and approved by a licensed physician or licensed practitioner of the healing arts, within the scope of his or her practice under State law; and

(2) Include:

(a) An assessment of the following areas:

(i) Drug and alcohol use; and

(ii) Substance abuse treatment history;

(b) Referrals for physical and mental health services; and

(c) Recommendation for the appropriate level of substance abuse treatment.

C. Level I Group and Individual Substance Abuse Counseling Services.

(1) Level I Group and Individual Substance Abuse Counseling Services as referenced in §A of this regulation provide services for recipients who require services for less than 9 hours weekly for adults and 6 hours weekly for adolescents.

(2) Recipients who are appropriate for this level of treatment shall:

(a) At a minimum meet eligibility criteria, using guidelines such as the American Society of Addiction Medicine Patient Placement Criteria for Level I, or other guidelines approved by the Program; and

(b) Have a physical and emotional status that allows them to function in their usual environment.

(3) Before providing Level I services described in this section, the provider shall develop a written individualized treatment plan, with the participation of the recipient based on the comprehensive assessment and placement recommendation as described in §A of this regulation. This plan shall:

(a) Be updated every 90 days;

(b) Be reviewed and approved by a licensed physician or licensed practitioner of the healing arts, within the scope of his or her practice under State law; and

(c) Include:

(i) An assessment of the recipient's individual needs;

(ii) Long-range and short-range treatment plan goals;

(iii) Specific interventions for meeting the treatment plan goals;

(iv) Target dates for completion of treatment plan goals;

(v) Criteria for successful completion of treatment;

(vi) Referrals to ancillary services, if needed; and

(vii) Referrals to recovery support services, if needed.

(4) Each individual and group counseling session shall be documented in the recipient's record through written progress notes after each counseling session.

(5) Before discharge, the provider shall give the recipient a discharge plan which includes written recommendations to assist the recipient with continued recovery efforts, as well as appropriate referral services.

D. Level II Intensive Outpatient Services.

(1) Level II Intensive Outpatient Services as referenced in §A of this regulation provides services for recipients who require 9 to 20 hours weekly for an adult and 6 to 20 hours weekly for an adolescent.

(2) Recipients who are appropriate for this level of treatment shall:

(a) At a minimum meet eligibility criteria, using guidelines such as the American Society of Addiction Medicine Patient Placement Criteria for Level II, or other guidelines approved by the Program; and

(b) Have a physical and emotional status that allows them to function in their usual environment;

(3) Before providing Level II Intensive Outpatient Services as described in this section, the provider shall develop a written individualized treatment plan, with the participation of the recipient based on the comprehensive assessment and recipient placement recommendation as described in §A of this regulation. This plan shall:

- (a) Be updated every 30 days;
- (b) Be reviewed and approved by a licensed physician or licensed practitioner of the healing arts, within the scope of his or her practice under State law; and

- (c) Include:
 - (i) The recipient's individual needs;
 - (ii) Long-range and short-range treatment plan goals;

(iii) Specific interventions for meeting the treatment plan goals which includes at least one group counseling session a week and at least one individual session every 2 weeks;

(iv) Target dates for completion of treatment plan goals;

(v) Criteria for successful completion of treatment;

- (vi) Referrals to ancillary services, if needed; and
- (vii) Referrals to recovery support services.

(4) Although it is expected that each Intensive Outpatient Service will typically last 3 or more hours, it shall last at least 2 hours in order to be billed.

(5) A recipient progress note shall be added to the recipient's record after each session.

(6) Before discharge, the provider shall give the recipient a discharge plan which includes written recommendations to assist the recipient with continued recovery efforts, as well as appropriate referral services.

.04 Limitations.

A. The Program under this chapter does not cover the following:

(1) Community-based substance abuse services not specified in Regulation .04 of this chapter;

(2) Community-based substance abuse services not approved by a licensed physician or other licensed practitioner of the healing arts, within the scope of his or her practice under State law;

(3) Services not medically necessary, including court-ordered assessments and services which are deemed to not be medically necessary;

(4) Investigational and experimental drugs and procedures;

(5) Services that are provided in a hospital inpatient or outpatient setting or in an intermediate care facility; and

(6) Services beyond the provider's scope of practice.

B. Providers may not bill for:

(1) Services provided at no charge to the general public;

(2) More than one comprehensive substance abuse assessment for a recipient per provider per 12-month period

unless the patient was discharged from treatment with that provider for more than 30 days;

(3) More than one Level I group counseling session per day per recipient;

(4) More than six Level I individual counseling units as measured in 15 minute increments per day per recipient;

(5) More than four sessions of Intensive Outpatient treatment per week;

(6) Services rendered but not appropriately documented;

(7) Services rendered by mail, telephone, or otherwise not one-to-one, in person;

(8) Completion of forms or reports;

(9) Broken or missed appointments; and

(10) Travel to and from site of service.

C. The provider shall meet the requirement of §B(1) of this regulation by:

(1) Charging the individual in full for service rendered;

(2) Using a sliding fee scale based on the individual's income;

(3) Waiving all or part of the fee for a specific individual; or

(4) Agreeing to accept what a third party pays as payment in full, whether or not the provider bills individuals who lack this coverage.

.05 Payment Procedures.

A. General policies for payment procedures that are applicable to all providers are set forth in COMAR 10.09.36.04.

B. Billing time limitations for claims submitted under this chapter are set forth in COMAR 10.09.36.06.

C. Providers shall bill the Program their usual and customary charge to the general public.

D. Rates for the services outlined in this regulation shall be as follows:

(1) Comprehensive substance abuse assessment — \$142;

(2) Level I group substance abuse counseling — \$39 per session;

(3) Level I individual substance abuse counseling — \$20 per 15-minute increment with a maximum of six 15-minute increments per day;

(4) Intensive outpatient treatment — \$125 per diem; and

(5) Methadone maintenance — See COMAR 10.09.08.04.

E. In order to bill an individual for intensive outpatient treatment as described in §D(4) of this regulation, the per diem shall include a minimum of 2 hours, but more frequently be composed of 3-hour sessions. A maximum of 4 per diems may be billed per week.

.06 Recovery and Reimbursement.

Recovery and reimbursement shall be as set forth in COMAR 10.09.36.07.

Proposed Action on Regulations

.07 Cause for Suspension or Removal and Imposition of Sanctions.

A. Causes for suspension or removal and imposition of sanctions shall be as set forth in COMAR 10.09.36.08.

B. If the Department determines that a provider, any agent or employee of the provider, or any person with an ownership interest in the provider has failed to comply with applicable federal or State laws or regulations, the Department may initiate one or more of the following actions against the responsible party:

- (1) Suspension from the Program;
- (2) Withholding of payment by the Program;
- (3) Removal from the Program; or
- (4) Disqualification from future participation in the Program, either as a provider or as a person providing services for which Program payment will be claimed.

C. If the Secretary of Health and Human Services suspends or removes a provider from participation in Medicare, the Department shall take similar action.

D. A provider who voluntarily withdraws from the Program or is removed or suspended from the Program according to this regulation shall notify recipients that it no longer honors medical assistance cards before it renders additional services.

.08 Appeal Procedures.

Appeals procedures shall be as set forth in accordance with COMAR 10.09.36.09.

.09 Interpretive Regulation.

This chapter shall be interpreted as set forth in COMAR 10.09.36.10.

JOHN M. COLMERS
Secretary of Health and Mental Hygiene

Subtitle 34 BOARD OF PHARMACY

10.34.18 Continuing Education for Pharmacists

Authority: Health Occupations Article, §12-309, Annotated Code of Maryland

Notice of Proposed Action [10-019-P]

The Secretary of Health and Mental Hygiene proposes to adopt new Regulations .02 and .07, amend and recodify existing Regulations .02—.04 and .07 to be Regulations .03—.05 and .08, repeal existing Regulations .05 and .08, and amend Regulation .06 under **COMAR 10.34.18 Continuing Education for Pharmacists.**

This action was considered by the Board of Pharmacy at a public meeting held October 21, 2009, notice of which was given by publication on the Board of Pharmacy website www.mdbop.org from October 15, 2009—October 21, 2009, pursuant to the State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to update and revise COMAR 10.34.18 Continuing Education for Pharmacists

pursuant to the Regulatory Review and Evaluation Act, State Government Article, §§10-130—10-139, Annotated Code of Maryland.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The economic impact on the Board would be minimal because the proposed revisions would only require the Board to revise forms and databases which it does routinely. The economic impact on pharmacists is indeterminable because the Board has no way of knowing which pharmacists would have to take additional courses to comply with the proposed revisions. Many pharmacists may already comply.

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

	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(-)	Indeterminable
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

A. The Board would have to revise renewal forms and some databases to accommodate the proposed revisions. Since the Board updates forms and databases as a matter of course, the impact would be minimal.

D. Some pharmacists may need to take continuing education courses through live instruction or courses of 1 hour in duration on medication errors to comply with the proposed regulations. Many pharmacists already comply with this requirement. The Board does not currently track live instruction or courses on medication errors per se, so the Board is not able to determine the number of pharmacists that would have to take these courses. The number of continuing education credits required for renewal has not changed, so no additional continuing education is required.

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 W. Preston Street, Room 512, Baltimore, Maryland 21201, or call 410-767-6499, or email to regs@dnhm.state.md.us, or fax to 410-333-7687. Comments will be accepted through February 16, 2010. A public hearing has not been scheduled.

.02 Exceptions.

A. This chapter does not apply to pharmacists applying for renewal for the first renewal period following the issuance of the original license, if the pharmacist obtains a license within 1 year of the completion of the pharmacist's pharmaceutical education.

B. The Board may grant an exception from the continuing education requirements if the pharmacist presents evidence that failure to comply was due to circumstances beyond the pharmacist's control.

[.02] .03 Requirements for Pharmacists Practicing in Maryland.

A. A pharmacist license expires on the last day of the pharmacist's birth month every other year.

B. Before the expiration date of the pharmacist's license, the pharmacist shall:

- (1) File a renewal application;
- (2) Pay any applicable fees; and
- (3) Earn continuing pharmaceutical education (CE) credits required by this chapter.

[A.] C. CE Requirements.

(1) A pharmacist licensed to practice in Maryland applying for renewal shall [earn]:

(a) Earn 30 hours of approved [continuing pharmaceutical education] CE within the 2-year period immediately preceding the [licensee's renewal application.] license expiration date that include:

- (i) 1 hour on the topic of preventing medication errors; and
 - (ii) 2 hours of CE obtained through live instruction;
- (b) Attest

[B. A pharmacist shall attest] to the fact that the pharmacist has completed the [continuing pharmaceutical education] CE requirement on a [verified] Board approved form; and [The licensee shall retain]

(c) Retain supporting documents for inspection by the Board for 4 years after the date of renewal for which the [continuing education] CE credits were used.

[C. The continuing pharmaceutical education requirement shall apply to all renewal applications subsequent to the first renewal.]

(2) A pharmacist certified to administer vaccinations in Maryland applying for renewal shall:

(a) As part of the 30 hours of approved CE requirement, complete 4 hours of CE credits related to vaccinations; or

(b) If registered to administer vaccines before October 1, 2008 for the first renewal of the registration after that date, demonstrate that 4 CE credits taken include education about the herpes zoster and pneumococcal pneumonia vaccines.

[.03] .04 Requirements for Pharmacists Not Practicing in Maryland.

A licensed pharmacist not practicing in Maryland shall fulfill the continuing education requirements of [one of the following boards of pharmacy in order to renew a] Maryland [license:

- A. Maryland;
- B. The state where the pharmacist is practicing; or
- C. The state where the pharmacist resides].

[.04] .05 Requirements for Pharmacists who are Authorized Prescribers.

A pharmacist who is also an authorized prescriber licensed by a board (in Maryland or another state) [that requires continuing education (CE) may meet the Board's CE requirements by fulfilling the (CE) requirements of any board which licenses the pharmacist as an authorized prescriber.] may use the continuing education (CE) credits applied toward that board toward the Board of Pharmacy's CE requirements.

.06 Accredited Continuing Education [Providers] Programs.

A. The Board and the following providers are approved for any programs they offer which otherwise qualify for [CE] continuing education (CE) credit:

- (1) (text unchanged)
- (2) [Maryland Pharmacists' Association (MPhA);
- (3) Maryland Society of Hospital Pharmacists (MSHP);
- (4) All schools] Schools of pharmacy accredited by ACPE;
- [(5) Out-of-State providers approved by a state board of pharmacy;
- (6) Other accredited colleges and universities offering programs approved by the committee;
- (7)] (3) Food and Drug Administration (FDA); [and
- (8)] (4) Drug Enforcement Administration (DEA)[.] ; and
- (5) Additional providers of programs approved by the Board.

B. Procedures for Approval of Additional [Providers] Programs. [Other providers shall initially request approval for individual programs. After a provider has received approval for programs for a 2-year period, the provider may apply for approved provider status for an additional 2-year period. If approved provider status is received, no approval is necessary for individual programs. Approved providers may request renewal of this status every 2 years.]

Proposed Action on Regulations

(1) An additional provider shall request approval for an individual program by submitting a Board application at least 60 days before the date of offering of their individual program.

(2) An approval request shall fulfill the program requirements set forth in Health Occupations Article, §12-309(g), Annotated Code of Maryland.

(3) An approval request shall include a description of course work including:

(a) Measurable learning objectives;

(b) A course outline; and

(c) Self-assessment questions.

(4) The Board's decision to approve or disapprove a program is final.

C. Record Keeping for Providers of Approved Programs.

(1) Providers of approved programs shall maintain program records for 3 years from the date of presentation of the program.

(2) [All providers] Providers of [continuing education] approved programs of CE shall furnish a certificate of completion to [all] participants who qualify. The provider shall include the:

[(1)] (a)—[(2)] (b) (text unchanged)

[(3)] Description of course work;

(c) Title of the course;

[(4)] (d) Number of CE hours;

[(5)] (e) Date of completion; and

[(6)] Program] (f) A program identification number or provider number on the certificate.

D. The [Committee] Board may [suspend or revoke] rescind approval of a [continuing education provider] CE program if it determines that the [provider] program no longer meets the requirements of Health Occupations Article, §12-309, Annotated Code of Maryland.

.07 Acceptance of Previously Unapproved Continuing Education Programs.

A. A pharmacist who completes a program of continuing education that is not previously approved by the Board may request in writing that the Board approve the program for credit.

B. The pharmacist making a request for Board approval under §A of this regulation shall make the request at least 90 days before licensed expiration.

.[07] .08 Miscellaneous.

A. Credits may not be carried over from one [continuing education] licensing renewal period to another.

B. [The Board of Pharmacy may grant an exception from the continuing education requirements if the pharmacist presents evidence that failure to comply was due to circumstances beyond the pharmacist's control.

C. For the first renewal period during which continuing education is mandatory for a pharmacist, the Board of Pharmacy will grant an exception from the 30 hours continuing education requirements.

D.] Falsifying continuing education CE records is grounds for disciplinary action [under Health Occupations Article, §12-313(b)(1) and (2), Annotated Code of Maryland].

[E. If the Board provides a form for information, the] C. The pharmacist shall use [the] a Board approved form to supply the [requested] pharmacist's CE information to the Board.

D. CE requirements imposed by the Board upon a pharmacist as part of an informal action, consent order, or final order, as defined in COMAR 10.34.01.02, shall be in addition to the requirements of this chapter.

E. Pharmacists may receive 2 CE credits for attending a public Board meeting in its entirety.

(1) The Board shall issue a certificate of proof of attendance at a public Board meeting.

(2) A pharmacist may not earn more than 4 CE credits per renewal period for attendance of a public Board meeting.

JOHN M. COLMERS
Secretary of Health and Mental Hygiene

Subtitle 39 BOARD OF NURSING — CERTIFIED NURSING ASSISTANTS

10.39.01 Certification of Nursing Assistants

Authority: Health Occupations Article, §§8-205(a)(1) and (2) and 8-6A-05(a)(1), (3), and (5), Annotated Code of Maryland

Notice of Proposed Action

[10-010-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .08 under COMAR 10.39.01 Certification of Nursing Assistants. This action was considered by the Board of Nursing at a public meeting held on March 24, 2009, notice of which was given by publication in 36:6 Md. R. 506 (March 13, 2009), pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to eliminate the language in the Board's regulation that allows current certification by only one national certifying body as an alternative to satisfying the requirement that an applicant for certification as a dialysis technician complete a Board-approved training program. The proposed amendment will not limit the Board's consideration to only one private certifying body when considering the qualifications of endorsement applicants. Maryland CNA-DT's will still have to successfully complete a Maryland-approved training 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 Michele A. Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499, or email to regs@dhmh.state.md.us, or fax to 410-333-7687. Comments will be accepted through February 16, 2010. A public hearing has not been scheduled.

.08 Categories of CNA.

A.—C. (text unchanged)

D. Dialysis Technician.

(1) An applicant for certification as a CNA shall have the status of Dialysis Technician on the CNA certificate if the applicant[:]

[(a) Has] *has* completed the following requirements:

[(i)] (a) (text unchanged)

[(ii)] (b) Has successfully completed a Dialysis Technician training program approved by the Board[:]

(b) Has current BONENT certification].

(2) (text unchanged)

E. (text unchanged)

JOHN M. COLMERS

Secretary of Health and Mental Hygiene

Subtitle 40 BOARD OF PODIATRIC MEDICAL EXAMINERS

Notice of Proposed Action

[10-023-P]

The Secretary of Health and Mental Hygiene proposes to amend:

(1) Regulations .03 and .05 under **COMAR 10.40.02 Licensing and Continuing Education Requirements**; and

(2) Regulation .02 under **COMAR 10.40.03 Collection of Fees**.

This action was considered by the Board of Podiatric Medical Examiners at a public meeting held on November 12, 2009, notice of which was given by publication 36:22 Md.R. 1805 (October 23, 2009) pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to:

(1) Require cardiopulmonary resuscitation (CPR) as a condition of initial licensure and license renewal;

(2) Eliminate the definition of “blue registration card”;

(3) Eliminate the requirement that the licensee provide to the Board the original signed blue registration cards and syllabi as proof of attending a continuing education course; and

(4) Eliminate the reciprocity license fee.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 521, Baltimore, MD 21201, or call 410-767-6499, or email to regs@dhmh.state.md.us, or fax to 410-333-7687. Comments will be accepted through February 16, 2010. A public hearing has not been scheduled.

10.40.02 Licensing and Continuing Education Requirements

Authority: Health Occupations Article, §§16-307 and 16-308, Annotated Code of Maryland

.03 [License] Initial Licensing and License Renewal.

A. *Initial Licensing.* To qualify for licensure an individual shall:

(1) Meet all of the requirements as identified in Health Occupations Article, §§16-302—16-305, Annotated Code of Maryland; and

(2) Possess a current cardiopulmonary resuscitation (CPR) certification.

B. *License Renewal.*

[A.] (1) [Periodic] *Biennial* renewal of each practitioner's license is contingent upon the submission, upon request of the [Secretary of the] Board, of satisfactory proof of [attendance and] completion of the required number of credit hours of continuing education programs approved by the Board.

[B.] (2) [Annually, the] *The* Board shall establish the required number of credit hours. Except as set forth in [§E] §B(5) of this regulation, the required number of credit hours may not exceed 50 hours for 2 years.

[C.] (3) — [E.] (5) (text unchanged)

(6) *To qualify for renewal a licensee shall possess a current cardiopulmonary resuscitation (CPR) certification.*

.05 Substantiation of Credits.

A. (text unchanged)

B. The Board[, by registered mail,] may at any time request that within 10 working days a podiatrist substantiate the credits earned by providing satisfactory proof of [attendance and] completion [at] of approved continuing education programs.

C. The licensee shall show satisfactory proof of [attendance and] completion of approved continuing

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education programs. [The licensee shall provide to the Board the original signed blue registration cards and syllabi of the programs attended.]

D. (text unchanged)

E. Willful submission of fraudulent information to the [Secretary] *Board* constitutes a violation of these regulations and may result in revocation or suspension of license or the imposition of other appropriate sanctions.

F. The Board may verify any information received regarding content, certification, and [attendance] *completion* of a continuing education program.

10.40.03 Collection of Fees

Authority: Health Occupations Article, §16-206, Annotated Code of Maryland

.02 Fees.

The following fees are established by the Board:

A. License fees:

(1)—(3) (text unchanged)

[(4) Reciprocity license fee (valid through calendar year of issue)—\$425]

B.—D. (text unchanged)

JOHN M. COLMERS
Secretary of Health and Mental Hygiene

Title 14 INDEPENDENT AGENCIES

Subtitle 33 DEPARTMENT OF INFORMATION TECHNOLOGY

14.33.01 Definitions and General Provisions

Authority: State Finance and Procurement Article, §§[3-401] 3A-302, [3-410] 3A-303, and [3-413] 3A-312, Annotated Code of Maryland

Notice of Proposed Action [10-020-P]

The Secretary of Information Technology proposes to amend Regulations .01 and .02 under **COMAR 14.33.01 Definitions and General Provisions**.

Statement of Purpose

The purpose of this action is to clarify the scope of the subtitle and align a definition with the Department of Information Technology statute.

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 clarifies the subtitle, which pertains to nonvisual access.

Opportunity for Public Comment

Comments may be sent to Jackie Dalton, Regulations Coordinator, Department of Information Technology, 45 Calvert Street, Room 435A, Annapolis, MD 21401, or call 410-260-7872, or email to Jackie.Dalton@doit.state.md.us, or fax to 410-974-5615. Comments will be accepted through February 16, 2010. A public hearing has not been scheduled.

.01 Scope.

A. This subtitle [applies to all units and public institutions of higher education in the Executive Branch of State government, with the exception of:

A. The Maryland Port Administration;

B. Public institutions of higher education in the management, development, purchase, or use of information technologies solely for academic or research purposes;

C. The University System of Maryland; and

D. St. Mary's College of Maryland.] *does not apply to changes relating to or the purchase, lease, or rental of information technology by:*

(1) *Public institutions of higher education solely for academic or research purposes;*

(2) *The Maryland Port Administration;*

(3) *The University System of Maryland;*

(4) *St. Mary's College of Maryland; or*

(5) *Morgan State University.*

B. Notwithstanding any other provision of law, except as provided in State Finance and Procurement Article, §3A-302(b), Annotated Code of Maryland, this subtitle applies to all units of the Executive Branch of State Government including public institutions of higher education other than Morgan State University, the University System of Maryland, and St. Mary's College of Maryland.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) "Agency" means each unit of State government to which this subtitle is applicable in accordance with State Finance and Procurement Article, [§3-401] §3A-302, Annotated Code of Maryland, and Regulation .01 of this chapter.

(3)—(18) (text unchanged)

ELLIOT SCHLANGER
Secretary of Information Technology

Subtitle 33 DEPARTMENT OF INFORMATION TECHNOLOGY

14.33.02 Information Technology Nonvisual Access Standards

Authority: State Finance and Procurement Article, [§§3-410(d) and 3-413] §§3A-303(5), 3A-311, and 3A-312, Annotated Code of Maryland

Notice of Proposed Action
[10-021-P]

The Secretary of Information Technology, proposes to amend Regulations .01 and .12 under COMAR 14.33.02 **Information Technology Nonvisual Access Standards.**

Statement of Purpose

The purpose of this action is to correct a citation and update the title of the Department.

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 corrects a citation to Maryland statute requiring the Secretary to adopt by regulation and enforce nonvisual access standards to be used in the procurement of information technology services by or on behalf of units of State government. Also, the action updates the title of the Department overseeing agency compliance with these regulations.

Opportunity for Public Comment

Comments may be sent to Jackie Dalton, Regulations Coordinator, Department of Information Technology, 45 Calvert Street, Room 435A, Annapolis, MD 21401, or call 410-260-7872, or email to Jackie.Dalton@doit.state.md.us, or fax to 410-974-5615. Comments will be accepted through February 16, 2010. A public hearing has not been scheduled.

.01 Purpose.

A. The purpose of this chapter is to implement State Finance and Procurement Article, [§3-410(d)(5)] §3A-303(5), Annotated Code of Maryland.

B. (text unchanged)

.12 Compliance Certification.

Each agency shall certify in the Agency Information Technology Master Plan submission to the [Office] Department of Information Technology that information technologies procured and services provided by or on behalf of the unit comply with the requirements in this chapter.

ELLIOT SCHLANGER
Secretary of Information Technology

Title 26
DEPARTMENT OF THE
ENVIRONMENT

Subtitle 05 BOARD OF WELL
DRILLERS

26.05.02 Payment of Fees

Authority: Environment Article, §13-207, Annotated Code of Maryland

Notice of Proposed Action
[10-017-P]

The Board of Well Drillers proposes to amend Regulation .10 under COMAR 26.05.02 **Payment of Fees.** This action was considered at a public hearing held on July 22, 2009, notice of which was given by publication 26:13 Md. R. 946 (June 19, 2009) pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to implement the requirements of Senate Bill 117, Ch. 523, Acts of 2009, which require the Board to increase fees to a level that generates sufficient fee revenue for the General Fund to cover the direct and indirect costs of the services that the Board provides.

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 fee schedule doubles current fees for the issuance, renewal, reactivation and reinstatement of licenses. The increased fee schedule is directly related to the costs associated with administration of the licensure process. There is no economic impact on local government, other State agencies, or other professionals or industries, or the general public.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:		
Fee increases	(R+)	\$117,500
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
Individual licensees	(-)	Minimal

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- E. On other industries or trade groups: NONE
- F. Direct and indirect effects on public: NONE

- (4) Inactive status fee [~~\$25~~] \$50;
 (5) Reinstatement fee [~~\$200~~] \$400;
 (6) License or card replacement fee [~~\$25~~] \$50;
 (7)—(8) (text unchanged)

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

SHARI T. WILSON
Secretary of the Environment

- A. It is anticipated that the Board will receive an additional \$200 for each 2-year license issued or renewed.
- D. The proposed action has minimal impact of \$200 every 2 years for licensees.

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 Willie M. Everett, Executive Director, State Board of Well Drillers, Maryland Department of the Environment, 1800 Washington Blvd., Baltimore, MD 21230, or call 410-537-9644, or email to weverett@mde.state.md.us, or fax to 410-537-3167. Comments will be accepted through February 16, 2010. A public hearing has not been scheduled.

.10 Payment of Fees.

- A. (text unchanged)
- B. The following fees are established by the Board for items and services provided under this subtitle:
- (1) Application fee [~~\$50~~] \$150;
 (2) License fee:

License Class and Category	Initial Fee	Renewal Fee	Temporary Fee
(a) Master Well Driller			
(i) General	[\$150] \$300	[\$200] \$400	[\$600] \$1,200
(ii) Geotechnical	[150] 300	[200] 400	[600] 1,200
(iii) Water Supply	[150] 300	[200] 400	[600] 1,200
(b) Journeyman Well Driller:			
(i) General	[100] 200	[150] 300	[450] 900
(ii) Geotechnical	[100] 200	[150] 300	[450] 900
(iii) Water Supply	[100] 200	[150] 300	[450] 900
(c) Well Rig Operator	[100] 200	[150] 300	[450] 900
(d) Water Conditioner Installer	[150] 300	[200] 400	[600] 1,200
(e) Water Pump Installer	[150] 300	[200] 400	[600] 1,200
(f) Apprentice:			
(i) Well Driller	[50] 100	[100] 200	[300] 600
(ii) Water Conditioner Installer	[50] 100	[100] 200	[300] 600
(iii) Water Pump Installer	[50] 100	[100] 200	[300] 600

- (3) Late renewal fee [~~\$100~~] \$200;

Subtitle 09 MARYLAND CO₂ BUDGET TRADING PROGRAM

Notice of Proposed Action

[10-024-P-1]

The Secretary of the Environment proposes to amend:

- (1) Regulations .02, .03, and .05 under **COMAR 26.09.01 General Administrative Provisions;**
 (2) Regulation .05 under **COMAR 26.09.02 Applicability, Determining Compliance, and Allowance Distribution;**
 (3) Regulations .04, .06, and .07 under **COMAR 26.09.03 Offset Projects;** and
 (4) Regulations .03, .08, and .09 under **COMAR 26.09.04 Auctions.**

Statement of Purpose

The purpose of this action is to amend regulations under COMAR 26.09, Maryland CO₂ Budget Trading Program, with regard to the following:

1. Definitions;
2. Minor language changes;
3. Incorporation by Reference (IBR) documents;
4. Language deletion for consistency; and
5. Modifications to the bidder application and submittal process.

Background.

The Healthy Air Act (Ch. 23, Acts of 2006) was signed into law on April 6, 2006, and required Maryland to join the Regional Greenhouse Gas Initiative (RGGI) by July 2007. RGGI was formed by states in the Northeast and Mid-Atlantic regions to address the emission of carbon dioxide (CO₂) from fossil fuel-fired electric generators. Presently, Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and Maryland comprise the RGGI region.

Maryland joined RGGI by signing RGGI's multi-state Memorandum of Understanding (MOU) on April 20, 2007. The MOU provided that Maryland would adopt regulations implementing the RGGI program by December 31, 2008. The Maryland CO₂ Budget Trading Program, Chapters 01 to 03, became effective on July 17, 2008, and Chapter 04 became effective as an emergency action on April 4, 2008, and as a permanent action on August 25, 2008.

The Regional Greenhouse Gas Initiative is a market-based CO₂ cap and trade program designed to reduce emissions of CO₂, a greenhouse gas, from fossil fuel-fired power plants. The electricity generation sector is a major contributor to climate change as these generators emit large amounts of CO₂ during combustion of fossil fuels. RGGI provides for the sale of a determined quantity of CO₂ allowances. Electric

generators are required to purchase one CO₂ allowance for every ton of CO₂ emitted, thus providing an incentive to reduce CO₂ emissions. The first auction of CO₂ allowances was held on September 25, 2008. The proceeds will be used to fund energy efficiency programs, resulting in additional reductions of CO₂ emissions through the reduction of electrical demand.

The Maryland CO₂ Budget Trading Program applies to fossil fuel-fired generating units of 25 megawatts or greater. The first compliance period began on January 1, 2009, at which time these units were required to be registered with the Department and have a CO₂ emissions monitoring system or plan in place.

RGGI set a cap of 188,076,976 tons of CO₂ emissions for the region, based on historic emission estimates from affected sources for 2000 to 2002. Allowances to emit CO₂, in units of tons, are allocated to each state from the RGGI cap based on each state’s emissions. Maryland has and will continue to receive 37,503,983 CO₂ allowances for each of the years 2009 through 2014. Between 2015 and 2018, Maryland will receive 2 ½ percent fewer CO₂ allowances annually as the RGGI cap reduces by 10% during that time.

Amendment Requirements.

This proposed action includes the following requirements:

1. Definitions:

The Department modified the definition of “Award” in Chapter 01 to clarify that there is an award of CO₂ allowances to eligible sources from the Clean Generation Set-aside Account.

2. Minor language changes:

The Department made a minor modification to language in Chapter 02, Regulation 05, to improve clarity. As previously adopted, one of the subsections did not clearly indicate what was to be reported by the eligible source. The amendment will address this issue.

In addition, references to transferring, at the end of designated time frames, all unawarded or unretired CO₂ allowances from the Clean Generation Set-aside Account and the Voluntary Renewable Set-aside Account to the CO₂ Allowance Contingency Account were added to Regulation .03 of Chapter 04. No amendments had been made to Chapter .04 since the Clean Generation Set-aside Account and the expanded regulation for the Voluntary Renewable Set-aside Account became effective in May 2009.

3. Incorporation by Reference (IBR) documents:

The Department updated the IBR Regulation .03 in Chapter 01 and references to IBR documents in Regulations .04, .06, and .07 in Chapter 03. The changes in Chapter 03 reflect updates to handling sulfur hexafluoride (SF₆), determining energy and water savings, and calculating methane generation.

4. Language deletion for consistency:

Section M was deleted in Regulation .05 of Chapter .01 because it provides a mechanism for permanently retiring CO₂ allowances from a general account to the CO₂ Allowance Retirement Account. A previously adopted version of the definition of CO₂ Allowance Retirement Account in COMAR 26.09.01.02 had included the option for the permanent retirement of CO₂ allowances from general

accounts; however, this option for permanent retirement from general accounts was removed in an amendment earlier this year. Section M of Regulation .05 of Chapter .01 should have also been deleted at the same time but was inadvertently overlooked. The rest of this regulation was recodified.

5. Modifications to the bidder application and submittal process:

The Department removed the requirement in Regulation .08 of Chapter 04 to include a standard allowance purchase and sale contract in the auction notice. Potential bidders are not required to submit the standard allowance purchase and sale contract, and removing the requirement to have the contract in the auction notice will reduce the number of pages of the notice.

In addition, the Department amended Regulation .09 of Chapter 04 to remove the requirement for a potential bidder in the auction to submit an original qualification application and three copies. Maryland prefers to use a paperless qualification application process and therefore the requirement for hard copies is being removed.

Affected Sources.

These regulations affect fossil fuel-fired generating units at the following plants:

Owner	Plant	Location	Fuel
AES Enterprise	Warrior Run	Allegany County	Coal
Allegheny Energy	R P Smith	Washington County	Coal
Con Edison Development & Old Dominion Electric Cooperative	Rock Springs	Cecil County	Natural Gas
Constellation Power	Brandon Shores	Anne Arundel County	Coal
	C P Crane	Baltimore County	Coal
	Gould Street	Baltimore City	Natural Gas
	Perryman	Harford County	Oil/Natural Gas
	Riverside	Baltimore County	Oil/Natural Gas
	Herbert A Wagner	Anne Arundel County	Coal/Oil/Natural Gas
	Westport	Baltimore City	Natural Gas

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Owner	Plant	Location	Fuel
Dominion Gas Transmission	Cove Point	Calvert County	Natural Gas
Mirant	Chalk Point	Prince George's County	Coal/Natural Gas
	Dickerson	Montgomery County	Coal/ Natural Gas
	Morgantown	Charles County	Coal
Severstal Steel	Sparrows Point	Baltimore County	Natural Gas/Blast Furnace Gas
New Page	Luke Mill	Allegany County	Coal
NRG Energy	Vienna	Dorchester County	Oil
Panda Energy	Brandywine	Prince George's County	Natural Gas

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

The Department of the Environment will hold a public hearing on the proposed action on March 3, 2010 at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Aeris Conference Room, Baltimore, Maryland 21230-1720. Interested persons are invited to attend and express their views. Comments may be sent to Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration, Department of the Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or emailed to drabin@mde.state.md.us. Comments must be received not later than March 3, 2010, or be submitted at the hearing. For more information, call Deborah Rabin at (410) 537-3240.

Copies of the proposed action and supporting documents are available for review at the following locations: The Air and Radiation Management Administration; regional offices of the Department in Cumberland and Salisbury; 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.

Editor's Note on Incorporation by Reference

Pursuant to State Government Article, §7-207, Annotated Code of Maryland, the following have been declared documents generally available to the public and appropriate for incorporation by reference:

(1) American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc., ANSI/ASHRAE Addenda a, b, e, f, and h, supplement to ANSI/ASHRAE Standard 62.1-2007: Ventilation for Acceptable Indoor Air Quality, 2008.

(2) American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc., ANSI/ASHRAE/IESNA Addenda a, b, c, g, h, i, j, k, l, m, n, p, q, s, t, u, w, y, ad, and aw, supplements to ANSI/ASHRAE/IESNA Standard 90.1-2007: Energy Standard for Buildings Except Low-Rise Residential Buildings, 2009.

(3) International Code Council, Inc. (ICC), International Energy Conservation Code, 2009.

(4) International Electrotechnical Commission (IEC/IEC), IEC/TR 62271-303: High-voltage switchgear and controlgear — Part 303: Use and handling of sulfur hexafluoride (SF6), 2008.

(5) International Performance Measurement and Verification Protocol Committee, International Performance Measurement and Verification Protocol Volume I: Concepts and Options for Determining Energy and Water Savings, DOE/GO-102001-1187, Chapter 3, "Option B: Retrofit Isolation," "Option C: Whole Building," and "Option D: Calibrated Simulation," March, 2002.

(6) Residential Energy Services Network, Inc. (RESNET) and the National Association of State Energy Officials, 2006 Mortgage Industry National Home Energy Rating Systems Standards, "Chapter Three: National Energy Rating Technical Standards," and "Appendix A: National Home Energy Rating Technical Guidelines, On-Site Inspection Procedures for Minimum Rated Features," 2009.

(7) U.S. Environmental Protection Agency (EPA), Inventory of U.S. Greenhouse Gas Emissions and Sinks, 1990-2007, EPA 430-R-09 004, Annex 3.10, Table A-170: "Waste Characteristics Data," April 09, 2009.

For this reason, they will not be printed in the Maryland Register or the Code of Maryland Regulations (COMAR). Copies of these documents are filed in special public depositories located throughout the State. A list of these depositories was published in 37:1 Md. R. 9 (January 4, 2010), and is available online at www.dsd.state.md.us. These documents may also be inspected at the office of the Division of State Documents, 16 Francis Street, Annapolis, Maryland 21401.

26.09.01 General Administrative Provisions

Authority: Environment Article, §§1-101, 1-404, 2-103, and 2-1002(g), Annotated Code of Maryland

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(14) (text unchanged)

(15) "Award" means an allocation of CO₂ allowances by the Department:

(a)—(b) (text unchanged)

(c) Which are recorded in the compliance account of a recipient of allowances from the Long Term Contract Set-aside Account or the Clean Generation Set-aside Account;

(15-1)—(103) (text unchanged)

.03 Incorporation by Reference.

A. (text unchanged)

B. Documents Incorporated.

(1)—(7) (text unchanged)

(7-1) *American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc., ANSI/ASHRAE Addenda a, b, e, f, and h, supplement to ANSI/ASHRAE Standard 62.1-2007: Ventilation for Acceptable Indoor Air Quality, 2008.*

(8) (text unchanged)

(8-1) *American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc., ANSI/ASHRAE/IESNA Addenda a, b, c, g, h, i, j, k, l, m, n, p, q, s, t, u, w, y, ad, and aw, supplements to ANSI/ASHRAE/IESNA Standard 90.1-2007: Energy Standard for Buildings Except Low-Rise Residential Buildings, 2009.*

(9)—(12) (text unchanged)

(13) International Code Council, Inc. (ICC), International Energy Conservation Code, [2006] 2009.

(14) International Performance Measurement & Verification Protocol (IPMVP) Committee, International Performance Measurement & Verification Protocol, Volume I: Concepts and Options for Determining Energy and Water Savings, [DOE/GO-102001-1187] *DOE/IGO-102002-1554*, Chapter 3, "Option B: Retrofit Isolation," "Option C: Whole Building," and "Option D: Calibrated Simulation," [January 2001] *March, 2002.*

(15) (text unchanged)

(16) International Electrotechnical Commission (CEI/IEC), [IEC TR 61634:] *IEC/TR 62271*, High-voltage switchgear and [control gear—] (*controlgear—Part 303:*) Use and handling of sulfur hexafluoride (SF₆) [in high-voltage switchgear and controlgear, 1st ed., 1995] 2008.

(17) (text unchanged)

(18) Residential Energy Services Network, Inc. (RESNET) and the National Association of State Energy Officials, 2006 Mortgage Industry National Home Energy Rating Systems Standards, "Chapter Three: National Energy Rating Technical Standards," and "Appendix A: National Home Energy Rating Technical Guidelines, On-Site Inspection Procedures for Minimum Rated Features," [2006] 2009.

(19) (text unchanged)

(20) U.S. Environmental Protection Agency (EPA), Inventory of U.S. Greenhouse Gas Emissions and Sinks, 1990-[2005] 2007, EPA [430-R-07-002] (*430-R-09-004*), Annex 3.10, [A-162] (*A-170*): "Waste Characteristics Data," [April 15, 2007] *April 09, 2009.*

(21)—(22) (text unchanged)

.05 Selection and Responsibilities of General Account Authorized Account Representatives.

A.—L. (text unchanged)

[M.] *Repealed.*

N. (text unchanged)

26.09.02 Applicability, Determining Compliance, and Allowance Distribution

Authority: Environment Article, §§1-101, 1-404, 2-103, and 2-1002(g), Annotated Code of Maryland

.05 Compliance Certification and Early Reductions.

A. Compliance Certification Report.

(1)—(2) (text unchanged)

(3) Compliance Certification. In the compliance certification report, the CO₂ authorized account representative shall certify whether the source and each CO₂ budget unit at the source for which the compliance certification is submitted was operated during the control period in compliance with the requirements of this subtitle, including:

(a)—(b) (text unchanged)

(c) Whether all CO₂ emissions from each unit at the source were monitored or accounted for through the missing data procedures and reported in the quarterly monitoring reports, including:

(i) [Identification of] *Whether* all conditional data was reported in the quarterly reports; or

(ii) (text unchanged)

(d)—(e) (text unchanged)

B.—D. (text unchanged)

26.09.03 Offset Projects

Authority: Environment Article, §§1-101, 1-404, 2-103, and 2-1002(g), Annotated Code of Maryland

.04 Reduction in Emissions of Sulfur Hexafluoride (SF₆) Project Standards.

A. Qualifications.

(1)—(2) (text unchanged)

(3) The identified actions to be taken shall be consistent with the guidance provided in International Electrotechnical Commission (CEI/IEC), [IEC TR 61634:] *IEC/TR 62271*, High-voltage switchgear and [control gear—] (*controlgear—Part 303:*) Use and handling of sulfur hexafluoride (SF₆) [in high-voltage switchgear and controlgear].

(4) (text unchanged)

B.—E. (text unchanged)

Proposed Action on Regulations

.06 Reduction or Avoidance of CO₂ Emissions from Natural Gas, Oil, or Propane End-Use Combustion due to End-Use Energy Efficiency.

A.—G. (text unchanged)

H. Emissions Baseline Determination.

(1)—(7) (text unchanged)

(8) Monitoring and Verification of Energy Usage.

(a) (text unchanged)

(b) For existing commercial buildings, determination of baseline energy usage shall be consistent with the International Performance Measurement & Verification Protocol, Volume I: Concepts and Options for Determining Energy and Water Savings, [DOE/GO-102001-1187] *DOE/IGO-102002-1554*, Chapter 3, "Option B: Retrofit Isolation" and "Option D: Calibrated Simulation." If a building project involves only energy conservation measures implemented as part of a CO₂ emissions offset project, a process consistent with International Performance Measurement & Verification Protocol, Volume I: Concepts and Options for Determining Energy and Water Savings, [DOE/GO-102001-1187] *DOE/IGO-102002-1554*, Chapter 3, "Option C: Whole Building", may be used, as applicable. Application of the IPMVP general guidance shall be consistent with the applicable detailed specifications in ASHRAE Guideline 14-2002: Measurement of Energy and Demand Savings.

(c)—(d) (text unchanged)

(9)—(11) (text unchanged)

.07 Avoided Methane Emissions from Agricultural Manure Management Operations.

A.—F. (text unchanged)

G. Emissions Baseline Determination.

(1)—(3) (text unchanged)

(4) The volume of CH₄ produced, in cubic feet, from degradation of volatile solids shall be calculated as follows:

$$V_m = (VS_{deg} \times B_0) \times 35.3147$$

where:

(a)—(b) (text unchanged)

(c) B₀ = Manure or organic food waste type-specific maximum methane generation constant (m³ CH₄/kg VS degraded). For dairy cow manure, B₀ = 0.24 m³ CH₄/kg VS degraded. The methane generation constant for other types of manure shall be those cited at U.S. EPA, Inventory of U.S. Greenhouse Gas Emissions and Sinks, 1990-[2005] 2007, EPA [430-R-07-002] 430-R-09-004, Annex 3.10, [A-162] A-170: "Waste Characteristics Data", unless the project sponsor proposes an alternate methane generation constant. If the project sponsor proposes to use a methane generation constant other than the ones found in the above-cited reference, the project sponsor shall provide justification and documentation to the Department.

H.—I. (text unchanged)

26.09.04 Auctions

Authority: Environment Article, §§1-101, 1-404, 2-103, and 2-1002(g), Annotated Code of Maryland

.03 Consumer Energy Efficiency Account.

A. (text unchanged)

B. The Department shall administer the Account in such a manner that allowances allocated to the Account or transferred to it from the Limited Industrial Exemption Set-aside Account, the Long Term Contract Set-aside Account, the *Voluntary Renewable Set-aside Account*, the *Clean Generation Set-aside Account*, or the CO₂ Allowance Contingency Account shall be made available for sale in CO₂ allowance auctions as described in COMAR 26.09.02.

C.—D. (text unchanged)

.08 Notice of Auctions.

A. (text unchanged)

B. Each notice shall provide a specific description of the auction format and include, but not be limited to, the following:

(1)—(6) (text unchanged)

[(7) A standard allowance purchase and sale contract;]

[(8)] (7)—[(10)] (9) (text unchanged)

.09 Participation Requirements.

A. Qualification.

(1)—(4) (text unchanged)

(5) Any party wishing to participate in an auction shall submit [an original and three copies of] a qualification application to the Department on or before the qualification application deadline date specified in the notice, that is not sooner than 15 days following the date of publication of the notice.

(6)—(9) (text unchanged)

B.—C. (text unchanged)

SHARI T. WILSON
Secretary of the Environment

Subtitle 11 AIR QUALITY

Notice of Proposed Action

[10-029-P]

The Secretary of the Environment proposes to:

- (1) Amend Regulation .01 under COMAR 26.11.01 **General Administrative Provisions**; and
- (2) Adopt new Regulation .07 under COMAR 26.11.14 **Control of Emissions from Kraft Pulp Mills**.

Statement of Purpose

The purpose of this action is to establish a NO_x emissions limitation for fuel burning equipment located at Kraft pulp mills (pulp mills).

This action will be submitted to the U.S. Environmental Protection Agency (EPA) for approval as part of Maryland's State Implementation Plan.

Background:

Affected fuel burning equipment at a pulp mill discharges through a common stack and is subject to reasonably available control technology (RACT) requirements under COMAR 26.11.09.08. RACT requires the units to reduce NO_x emissions to meet an emissions rate of 0.70 pounds per million Btu during the period May 1 to September 30 (ozone season) of each year and a rate of 0.99 pounds per million

Btu for the rest of the year. Under the NO_x SIP Call, COMAR 26.11.29 and .30, the Luke Paper Company, which currently operates the only pulp mill in Maryland, was allocated 947 allowances for the May 1 to September 30 period. To meet this requirement, the company installed selective non-catalytic reduction (SNCR) NO_x controls on 2 coal fired units. Under the NO_x SIP Call, sources were able to purchase allowances when emissions exceeded the NO_x allocation. The pulp mill also has one piece of gas-fired fuel burning equipment which is used infrequently.

For other coal fired facilities that were subject to the NO_x SIP Call (mostly power plants), requirements are now included under EPA's Clean Air Interstate Rule (CAIR). The Luke Paper Company units, however, are not included in CAIR. As the NO_x SIP Call is repealed during the transition to CAIR, these sources will be treated as non-trading sources.

Sources Affected and Location:

This amendment affects two coal fired units and one gas fired unit at the pulp mill located in Luke, Maryland.

Requirements:

The amendment prohibits total NO_x ozone season emissions from the Luke Paper Kraft pulp mill stack from exceeding 947 tons, unless the pulp mill acquires an allowance for each ton of NO_x they emit over 947 tons. The amendments allow the pulp mill to secure up to 95 allowances for each period in which they exceed the 947 ton emission cap. This emissions cap is more restrictive than the ozone season 0.70 RACT requirement. Meeting this emission rate will require the pulp mill to operate the existing SNCR controls during that period. The pulp mill is required to continue to meet the RACT requirement of 0.99 pounds per million Btu during the rest of each year.

Expected Emissions Reductions:

The units discharged approximately 1,600 pounds of NO_x per hour uncontrolled. The company installed improved combustion controls before RACT was required and then reduced emissions by about 47 percent through use of the SNCR systems. This amendment requires the pulp mill to maintain the 947 ton emission cap established under the NO_x SIP Call.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. Although the SNCR controls are already installed, meeting the emission cap will increase operating costs by \$150,000 per year due primarily to additional material use for the SNCR control system. This regulation will have no impact on the Department.

	Revenue (R+/R-)	
II. Types of Economic Impact.	Expenditure (E+/E-)	Magnitude
<hr/>		

A. On issuing agency: NONE

B. On other State agencies: NONE

C. On local governments: NONE

	Benefit (+) Cost (-)	Magnitude
<hr/>		
D. On regulated industries or trade groups:	(-)	\$150,000 per year
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	(+)	Undeterminable

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

D. Meeting the emission cap will increase operating costs by \$150,000 per year due primarily to additional material use for the SNCR control system.

F. This action will help improve Maryland's air quality and will result in fewer negative health effects on the general public from air pollution.

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:

This action will have a positive impact on individuals with disabilities involving respiratory problems by reducing air pollutants that contribute to disease.

Opportunity for Public Comment

The Department of the Environment will hold a public hearing on the proposed action on March 3, 2010 at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Aeris Conference Room, Baltimore, Maryland 21230-1720. Interested persons are invited to attend and express their views. Comments may be sent to Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration, Department of the Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or emailed to drabin@mde.state.md.us. Comments must be received not later than March 3, 2010, or be submitted at the hearing. For more information, call Deborah Rabin at (410) 537-3240.

Copies of the proposed action and supporting documents are available for review at the following locations: The Air and Radiation Management Administration; regional offices of the Department in Cumberland and Salisbury; all local air quality control offices; and local health departments in those counties not having separate air quality control offices.

Proposed Action on Regulations

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.

26.11.01 General Administrative Provisions

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

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(24) (text unchanged)

(24-1) *NO_x Ozone Season Allowance* means a CAIR NO_x ozone season allowance as defined in 40 CFR 96.302 and does not constitute a security or other form of property.

(25)—(53) (text unchanged)

C—D. (text unchanged)

26.11.14 Control of Emissions from Kraft Pulp Mills

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

.07 Control of NO_x Emissions from Fuel Burning Equipment.

A. *Applicability and NO_x Emission Standards.*

(1) *This regulation applies to any fuel burning equipment with a maximum design heat input capacity of greater than 250 million Btu per hour located at any Kraft pulp mill.*

(2) *The total combined NO_x emissions of all fuel burning equipment at the Luke Kraft pulp mill to which this regulation applies may not exceed the following:*

(a) *Except as provided in §B(1) of this regulation, 947 tons of NO_x during the period May 1 through September 30 of each year; and*

(b) *An emission rate of 0.99 pounds of NO_x per million Btu during the period October 1 through April 30 of each year.*

(3) *Compliance with the emission limit in §A(2)(b) of this regulation shall be demonstrated as a 30 day rolling average.*

B. *Demonstrating Compliance.*

(1) *If during the period May 1 through September 30 of any year the NO_x emission limit in §A(2)(a) of this regulation is exceeded, the owner or operator of a Kraft pulp mill shall acquire one NO_x ozone season allowance (as that term is defined at COMAR 26.11.01.01B(4-1)) for each ton or partial ton of NO_x emissions in excess of the limit in §A(2)(a) of this regulation.*

(2) *The total number of allowances acquired pursuant to §B(1) of this regulation for any one period may not exceed 95 and shall be of the same vintage year in which the emission limit is exceeded.*

(3) *Allowances acquired pursuant to §B(1) of this regulation shall be acquired on or before November 30 and shall be submitted to the Department for retirement by December 30 of the year in which the emission limit is exceeded.*

C. *Achieving Compliance Through the Use of Allowances.*

(1) *The owner or operator of a Kraft pulp mill subject to this regulation that achieves compliance through the use of allowances pursuant to §B of this regulation shall:*

(a) *Acquire the allowances from a source that has been allocated allowances under COMAR 26.11.28, a NO_x allowance broker or other entity that has NO_x allowances and agrees to transfer them; and*

(b) *Transfer the allowances to the Department for retirement.*

D. *Monitoring and Reporting Requirements.*

(1) *The owner or operator of a Kraft pulp mill subject to this regulation shall:*

(a) *Continuously monitor NO_x emissions with a CEM system certified in accordance with 40 CFR Part 75, Subpart H and 40 CFR §51.121(i)(4); and*

(b) *Maintain records and submit reports in accordance with 40 CFR Part 75.*

(2) *The owner or operator of a Kraft pulp mill subject to this regulation shall include emissions data obtained from a CEM pursuant to §D(1) of this regulation in the CEM quarterly reports submitted to the Department pursuant to COMAR 26.11.01.10G(2)(d).*

SHARI T. WILSON
Secretary of the Environment

**Proposed Action on Regulations
Errata**

COMAR 31.08.12

At 37:1 Md. R. 41 (January 4, 2010), column 1, lines 17
— 20 from the bottom:

For: **31.08.12 Temporary Moratoriums and Weather
Events**

Authority: Insurance Article, §§2-108, 2-109, 19-107, and
27-501,
Annotated Code of Maryland

Read: *31.08.12 Temporary Moratoriums and Weather
Events*

*Authority: Insurance Article, §§2-108, 2-109, 19-107, and
27-501,
Annotated Code of Maryland*

SUSQUEHANNA RIVER BASIN COMMISSION

Request for Qualifications (RFQ)

The Susquehanna River Basin Commission (Commission) is seeking qualified contractors to perform Aquatic Resource Surveys on selected stream reaches within the boundaries of the Susquehanna River Basin. The Request for Qualifications (RFQ) is now available for download at no charge in PDF format from the Commission's website (www.srbc.net) under link "Request For Qualifications (ARS)." Sealed qualifications are due at Commission Headquarters, 1721 North Front Street, Harrisburg Pa., by 4:00 p.m., February 12, 2010. Questions regarding the RFQ can be directed to Erin Lynam at (717) 238-0423, ext. 226, or elynam@srbc.net.

Dated: 12/15/2009

THOMAS W. BEAUDUY
Deputy Director

[10-02-20]

PROPOSED CALENDAR YEAR 2010 STANDARD PERMIT APPLICATION TURNAROUND TIMES

As required by Environment Article, §1-607(A)(2), Annotated Code of Maryland, the Maryland Department of the Environment (MDE) is seeking comment on the following proposed standard turnaround times for all types of permit applications. For further information, please contact Andrew Gosden in MDE's MDEStat Office at 410-537-4158.

MDE is proposing the following changes to the 2009 turnaround times for calendar year 2010.

General Permit for Stormwater Associated with Construction Activity — The Department issued a new general permit in 2009 that includes new procedures to better inform the public about the projects that have applied for the permit. All permit applications will go through a public notification period of 30 or 45 days, depending on the number of acres disturbed by the construction project. During this time, information about the application is available on the Department's website. The Department issues the permit only after the end of this public notification period. The increase in turnaround time also reflects additional review of applications and steps in permit issuance. These include, but are not limited to, checks on the designations of the receiving waters for the site, as well as contacting applicants to obtain documentation of erosion and sediment control plan approval. Based on the notification periods, MDE proposes increasing the times

from two days to 60 days for projects less than three acres and 90 days for projects between three acres and 150 acres.

Individual Permit for Stormwater Associated with Construction Activity — In 2009, in order to better protect the waters of the State, the Department determined that it would require certain construction sites to obtain individual permits for discharges of stormwater. This requirement applies to sites disturbing 150 acres or more that discharge to waters impaired for construction-related pollutants. It also applies to certain smaller projects on a case-by-case basis where the Department decides that an individual permit is required, either based on a citizen request or through its own analysis. Note also that, from January 1 to July 13, 2009, the Department issued only individual permits to construction sites of all sizes because the 2009 General Permit was unavailable due to a contested case hearing. The Department must issue individual permits in accordance with the applicable COMAR regulations. The regulations require a series of public notices published in local newspapers as well as the opportunity for public comment, informational meetings and hearings. If an application goes through each required notice and also has a meeting and a hearing requested, the permitting process will take up to six months.

Individual Permit for Wastewater Discharges — MDE has been unable to meet the previous standards of 9 months for new minor facilities and 12 months for new major facilities due to resource constraints. The Department is proposing new standards of 12 months for new minor facilities and 18 months for new major facilities.

Drinking Water Sampler Certification — Drinking water samplers are required to be certified, however, these certifications are no longer directly issued by MDE. This category is being removed from the list since MDE does not control the processing time.

Drinking Water Laboratory Certifications — This is a new category that is being added to the table. The turnaround time is four months.

MDE reviews and adjusts these turnaround times annually to give permit applicants current information regarding the processing time.

Please note the following important points about these standard times:

(1) These standards refer to the time between MDE's receipt of a complete permit application and MDE's issuance or denial of the permit, excluding delays caused by factors beyond MDE's control. Many applications are incomplete when they first arrive at MDE. The appropriate MDE permit writer can provide guidance on how to ensure that an application is complete when submitted.

(2) In most permitting programs, each application has unique characteristics that influence its processing time. For

Special Documents

each program listed, the standard time represents the time in which 90% of applications can be processed. Many applications will require less time; a few will require more time due to unusual circumstances.

Please send any comments to Andrew Gosden, MDE/OS, 1800 Washington Boulevard, Suite 735, Baltimore, MD 21230 or fax (410) 537-4477. Comments will be accepted until January 25, 2010.

Program Name	2010 Proposed Standard Application Processing Time
Air and Radiation Management Administration	
General Permit to Construct	30 days
Air Quality Permit to Construct	3 months—without expanded public review
	4 months—synthetic minor permits without expanded public review
	6 months—with expanded public review but limited public interest
	11 months—with expanded public review and extensive public interest
New Source Review Approval	10 months
Prevention of Significant [air quality] Deterioration	14 months
Air Quality State Permit to Operate	3 months
Part 70 (Title V) Permit to Operate	36 months for new permits
	12 months for renewals
Asbestos Contractor License	60 days
Asbestos Training Provider Approval	3 months
Incinerator Operator Certification	30 days
Incinerator Training Course Approval	60 days
Fleet Inspection Station License	30 days
Certified Emissions Repair Facility Certification	30 days
Master Certified Emissions Technician Certificate	30 days
Radiation Machine Facility Registration	90 days for dental and veterinary machines
	6 months for all other machines
Certification of Machines Emitting Radiation	6 months

Special Documents

Program Name	2010 Proposed Standard Application Processing Time
Radioactive Materials License	7 months
	45 days for amendments and terminations
Private Inspector License For Inspecting X-Ray Machines	60 days
Reciprocal Recognition of Out-of-State Radioactive Material Licenses	21 days

Land Management Administration	
Refuse Disposal Permit	7 months for transfer stations
	9 months for processing facilities
	9 months for processing facilities & transfer stations
	12 months for incinerators
	12 months for land-clearing debris landfills
	24 months for industrial landfills
	36 months for rubble landfills
	36 months for municipal landfills
Groundwater Discharge Permit for Rubble Landfill	6 months
Sewage Sludge Utilization Permit	45 days—research project
	4 months—transportation
	5 months—utilization or disposal at a sanitary landfill
	6 months—handling/distribution
	10 months—land application
	23 months—treatment, incineration or storage
	36 months—sewage sludge landfill
	24 months—innovative projects
Concentrated Animal Feeding Operations	180 days

Program Name	2010 Proposed Standard Application Processing Time
Natural Wood Waste Recycling Facility Permit	9 months
Natural Wood Waste Recycling Facility General Permit	30 days
Scrap Tire Hauler	60 days
Scrap Tire Collection Facilities (General and Secondary)	60 days
Scrap Tire Solid Waste Acceptance Facility	7 months
Scrap Tire TDF/Substitute Fuel Facility	7 months
Scrap Tire Primary Collection Facility	9 months
Scrap Tire Recyclers	9 months
Oil Operations Permit	90 days
Oil Operations Permit for Oil-Contaminated Soils	90 days
Oil Transfer License	30 days
General Permits for Oil Control Program Wastewater Discharge Permit	30 days
Surface Water Discharge Permit for Oil Terminals	180 days
Ground Water Discharge Permit for Oil Terminals	180 days
Underground Storage Tank (UST) Technician and Remover Certification	40 days
Controlled Hazardous Substances Facility Permit	26 months
Hazardous Waste; EPA Identification Number	30 days
Controlled Hazardous Substances Hauler, Vehicle and Driver Certification	30 days
Special Medical Waste (SMW) Hauler and Vehicle Certification	30 days
Coal Mining Permit	12 months
Surface Coal Mining Blaster Certification	immediately on passing exam
Coal Mining Operator License	30 days
Non-Coal Mining Permit	7 months

Special Documents

Program Name	2010 Proposed Standard Application Processing Time
Non-Coal Mining License	30 days
Oil and Gas Exploration and Production	5 months
Lead Paint Accreditations	30 days
Lead Paint Training Course Approvals	60 days
Lead Paint Instructor Approvals	30 days
Voluntary Cleanup Program	45 days to determine if application is accepted
	75 days to review action plan

Water Management Administration	
General Permit Registration for Industrial Wastewater Discharge	120 days for all other general permits
Individual Permit for Wastewater Discharges	12 months for new minor facilities
	18 months for new major facilities
	24 months for renewal facilities
Toxic Materials Permit	45 days
Water and Sewerage Construction Permit	3 months
Water Appropriation and Use Permit	120 days for under 10,000 gallons per day
	24 months for over 10,000 gallons per day
Well Construction Permit	30 days
Drinking Water Laboratory Certification	4 months
Nontidal Wetlands (Nontidal Wetlands and Waterways Permits)	10 months for minor projects
	12 months for major projects
Tidal Wetland Licenses and Permits	5 months for minor projects
	8 months for major projects
Erosion/Sediment Control and Stormwater Management Plan Approvals	6 months

Special Documents

Program Name	2010 Proposed Standard Application Processing Time
Erosion and Sediment Control - Responsible Personnel Certification	2 weeks
Erosion and Sediment Control - Responsible Personnel Training Program Approval	4 weeks
General Permit for Stormwater Associated with Construction Activity	60 days for projects less than 3 acres
	90 days for projects between 3 and 150 acres
Individual Permit for Stormwater Associated with Construction Activity	6 months
Municipal Separate Storm Sewer Permit	18 months
Dam Safety Permit	6 months
Environmental Sanitarian License	45 days for new licenses
	30 days for renewals
Waterworks and Waste Systems Operator Certification	45 days for new certificates
	30 days for renewals
Well Driller License	6 months for new licenses
	30 days for renewals

[10-02-29]

General Notices

Notice of ADA Compliance

The State of Maryland is committed to ensuring that individuals with disabilities are able to fully participate in public meetings. Anyone planning to attend a meeting announced below who wishes to receive auxiliary aids, services, or accommodations is invited to contact the agency representative at least 48 hours in advance, at the telephone number listed in the notice or through Maryland Relay.

BOARD OF ARCHITECTS

Subject: Public Meeting
Date and Time: January 27, 2010, 9:30 a.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Pamela J. Edwards (410) 230-6263

[10-02-26]

BOARD OF CHIROPRACTIC EXAMINERS

Subject: Public Meeting on Regulations
Date and Time: January 21, 2010, 10 a.m. — 3 p.m.
Place: Dept. of Health and Mental Hygiene, 4201 Patterson Ave., Rms. 108/109, Baltimore, MD
Add'l. Info: The MD Board of Chiropractic and Massage Therapy Examiners will meet to review and discuss proposed revisions to COMAR Title 10, Subtitle 43 et seq. (covering all chiropractic and massage regulations). Further information may be obtained by calling the Executive Director, Mr. J.J. Vallone at (410) 764-4726.
Contact: Maria Ware (410) 764-5902

[10-02-18]

BOARD OF CHIROPRACTIC EXAMINERS

Subject: Public Meeting on Regulations
Date and Time: February 18, 2010, 10 a.m. — 3 p.m.
Place: Dept. of Health and Mental Hygiene, 4201 Patterson Ave., Rms. 108/109, Baltimore, MD
Add'l. Info: At a General Session Meeting on February 18, 2010, the MD Board of Chiropractic and Massage Therapy Examiners will review and vote on proposed

revisions to COMAR 10.43.01 — 10.43.20 regarding regulations for chiropractors, chiropractic assistants, and massage therapists. For further information, call the Executive Director, Mr. J.J. Vallone at (410) 764-4726.

Contact: Maria Ware (410) 764-5902

[10-02-19]

MARYLAND STATE BOARD OF EDUCATION

Subject: Public Meeting
Date and Time: January 26, 2010, 9 a.m. — 5 p.m.; January 27, 2010, 9 a.m. — 12 p.m.
Place: Nancy S. Grasmick State Education Bldg., 200 W. Baltimore St., Baltimore, MD
Contact: Charlene Necessary (410) 767-0467

[10-02-05]

MARYLAND STATE DEPARTMENT OF EDUCATION/DIVISION OF SPECIAL EDUCATION/EARLY INTERVENTION SERVICES

Subject: Public Meeting
Date and Time: January 29, 2010, 9 a.m. — 12 p.m.
Place: Nancy S. Grasmick State Education Bldg., 200 W. Baltimore St., Baltimore, MD
Add'l. Info: The workshop is required for new Autism Waiver Providers and persons interested in becoming providers. Registration is required. Please direct all questions regarding the training sessions to Veda Usilton, Autism Education Program Specialist, at 410-767-1446 or vusilton@msde.state.md.us. Appropriate accommodations for individuals with Disabilities will be provided with 7 calendar days notice.

Contact: Veda Usilton (410) 767-1446

[10-02-01]

BOARD OF MASTER ELECTRICIANS

Subject: Public Meeting
Date and Time: February 23, 2010, 10 a.m. — 12 p.m.
Place: 500 N. Calvert St., Baltimore, MD
Contact: Gae Herzberger (410) 230-6163

[10-02-15]

BOARD OF EXAMINING ENGINEERS

Subject: Public Meeting
Date and Time: February 16, 2010, 10 a.m. — 12 p.m.
Place: 500 N. Calvert St., Baltimore, MD
Contact: Gae Herzberger (410) 230-6163

[10-02-14]

DEPARTMENT OF HEALTH AND MENTAL HYGIENE/MEDICAID PHARMACY AND THERAPEUTICS COMMITTEE

Subject: Public Meeting
Date and Time: February 11, 2010, 9 a.m. — 1 p.m.
Place: Conference Center, Sheppard Pratt Hospital, 6501 N. Charles St., Towson, MD
Add'l. Info: Meeting of the Maryland Medicaid Pharmacy Program's Pharmacy and Therapeutics Committee (Preferred Drug List). Classes of drugs to be reviewed are posted on the Maryland Pharmacy Program website at <http://www.dhmh.state.md.us/mma/mpap/prefdruglist.html>. See website

General Notices

for agenda, speaker registration, restrictions, and driving directions. Submit email questions to MarylandPDLQuestions@dhhm.state.md.us.

Contact: Alex Taylor (410) 767-5878

[10-02-17]

BOARD OF HEATING, VENTILATION, AIR- CONDITIONING, AND REFRIGERATION CONTRACTORS (HVACR)

Subject: Public Meeting

Date and Time: February 10, 2010, 9:30 a.m. — 12 p.m.

Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD

Contact: Steve Smitson (410) 230-6169

[10-02-16]

BOARD FOR PROFESSIONAL LAND SURVEYORS

Subject: Public Meeting

Date and Time: February 3, 2010, 9:30 a.m.

Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD

Contact: Pamela J. Edwards (410) 230-6263

[10-02-27]

MARYLAND HEALTH CARE COMMISSION

Subject: Public Meeting

Date and Time: January 21, 2010, 1 p.m.

Place: Maryland Health Care Commission, 4160 Patterson Ave., Conf. Rm. 100, Baltimore, MD

Add'l. Info: Individuals requiring special accommodations are requested to contact Valerie Wooding at (410) 764-3460, or the Department of Health and Mental Hygiene TTY at (410) 383-7755, not later than 20 working days before the meeting to make arrangements.

Contact: Valerie Wooding (410) 764-3460

[10-02-06]

MARYLAND HEALTH CARE COMMISSION

Subject: Receipt of Application

Add'l. Info: On December 18, 2009, the Maryland Health Care Commission (MHCC) received an application for Certificate of Need submitted by A.F. Whitsitt Center — Matter No. 09-14-2305 — Addition of 16 ICF C/D beds to the already existing 24 beds for a total of 40 co-occurring Level III.7 and Level III.&D Intermediate Care facility beds servicing the entire upper Eastern Shore. The proposed cost of the project is \$0.

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 application is available for review in the office of the MHCC, during regular business hours by appointment. All correspondence should be addressed to Pamela W. Barclay, Director, Center for Hospital Services, MHCC, 4160 Patterson Avenue, Baltimore, Maryland 21215.

Contact: Ruby Potter (410) 764-3276

[10-02-22]

MARYLAND HEALTH CARE COMMISSION

Subject: Notice of Project Change

Add'l. Info: On December 1, 2009, the Maryland Health Care Commission (MHCC) received notice and a request for approval of project changes under COMAR 10.24.01.17B from Lorien LifeCenter Howard County II, holder of a

Certificate of Need (CON), Docket No. 06-13-2185 and 08-13-2246.

The project's sponsor has requested approval for:

1. Change in facility design; and
2. An increase in costs associated with the redesigned facility.

Please refer to the Docket No. listed above in any correspondence on this request, a copy of which is available for review by appointment in MHCC offices during regular business hours. All correspondence should be addressed to Pamela W. Barclay, Deputy Director, Health Resources, MHCC, 4160 Patterson Avenue, Baltimore, Maryland 21215.

Contact: Ruby Potter (410) 764-3276

[10-02-24]

MARYLAND HEALTH CARE COMMISSION

Subject: Formal Start of Review

Add'l. Info: On December 18, 2009, the Maryland Health Care Commission (MHCC) accepted an application for Certificate of Need submitted by A. F. Whitsitt Center — Docket No. 09-14-2305 — A change in the bed capacity of an intermediate care facility for substance abuse treatment, located at 300 Scheeler Road in Chestertown. The applicant anticipates that the project will be initiated in March 2010.

The MHCC shall review the application under Health-General Article, §19-101 et seq., Annotated Code of Maryland, and COMAR 10.24.01.

Pursuant to COMAR 10.24.01 et seq., on January 15, 2010, the Maryland Health Care Commission hereby gives notice of docketing of the above-referenced application.

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.

Persons desiring to become interested parties in the Commission's review of the above-

referenced application must meet the requirements of COMAR 10.24.01.01B(2) and (20) and must also submit written comments to the Commission not later than close of business February 16, 2010. These comments must state with particularity the State Health Plan standards or review criteria that you believe have not been met by the applicant as stated in COMAR 10.24.01.08F.

Please refer to the Matter No. listed above in any correspondence on the application. A copy of the application is available for review in the office of the MHCC, during regular business hours by appointment. All correspondence should be addressed to Pamela W. Barclay, Director, Center for Hospital Services, MHCC, 4160 Patterson Avenue, Baltimore, Maryland 21215.

Contact: Ruby Potter (410) 764-3276

[10-02-31]

MINORITY BUSINESS ENTERPRISE ADVISORY COMMITTEE

Subject: Public Meeting

Date and Time: February 3, 2010, 8:30 a.m. — 5 p.m.

Place: Harry R. Hughes Dept. of Transportation Bldg., 7201 Corporate Center Dr., Stes. 1 & 2, Hanover, MD

Contact: Catherine Svoboda (410) 865-1357

[10-02-30]

BOARD OF MORTICIANS AND FUNERAL DIRECTORS

Subject: Public Meeting

Date and Time: February 10, 2010, 10:30 a.m. — 12:30 p.m.

Place: 4201 Patterson Ave., Rms. 108/109, Baltimore, MD

Add'l. Info: Review statutes and regulations and vote as necessary. Sign language interpreter and/or other appropriate accommodations for qualified individuals with disabilities will be provided upon request.

General Notices

Contact: Louann Cox (410) 764-4792

[10-02-10]

MARYLAND PUBLIC BROADCASTING COMMISSION

Subject: Public Meeting

Date and Time: January 21, 2010, 9 a.m.

Place: Maryland Public Television, Owings Mills, MD

Contact: Sharon Abernathy (410) 581-4141

[10-02-21]

STATE ADVISORY COUNCIL ON QUALITY CARE AT THE END OF LIFE

Subject: Public Meeting

Date and Time: January 22, 2010, 10 a.m. — 12 p.m.

Place: Office on Aging, 301 W. Preston St., Rm. 2007, Baltimore, MD

Contact: Kathy Izdebski (410) 576-6327

[10-02-08]

COMMISSION OF REAL ESTATE APPRAISERS AND HOME INSPECTORS

Subject: Public Meeting

Date and Time: February 9, 2010, 10:30 a.m. — 12 p.m.

Place: 500 N. Calvert St., Baltimore, MD

Contact: Patti Schott (410) 230-6165

[10-02-03]

REAL ESTATE COMMISSION

Subject: Public Meeting

Date and Time: February 17, 2010, 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

[10-02-12]

REAL ESTATE COMMISSION

Subject: Public Hearing

Date and Time: February 17, 2010, 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

[10-02-13]

BOARD OF SOCIAL WORK EXAMINERS

Subject: Public Meeting

Date and Time: February 12, 2010, 12 — 2 p.m.

Place: 4201 Patterson Ave., Baltimore, MD

Add'l. Info: The Board may discuss/vote on proposed regulations.

Contact: James T. Morrow (410) 764-4788

[10-02-28]

MARYLAND BUSINESS TAX REFORM COMMISSION

Subject: Public Meeting

Date and Time: January 25, 2010, 2 — 4 p.m.

Place: Louis L. Goldstein Treasury Bldg., 80 Calvert St., Assembly Rm., Annapolis, MD

Contact: Linda I. Vasbinder (410) 260-7450

[10-02-07]

MARYLAND BUSINESS TAX REFORM COMMISSION

Subject: Public Meeting

Date and Time: February 1, 2010, 2 — 4 p.m.

Place: Louis L. Goldstein Treasury Bldg., 80 Calvert St., Assembly Room, Annapolis, MD

Contact: Linda I. Vasbinder (410) 260-7450

[10-02-11]

BOARD OF WELL DRILLERS

Subject: Public Meeting

Date and Time: February 24, 2010,
9 a.m. — 4 p.m.

Place: MDE, 1800 Washington
Blvd., Terra Conf. Rm., Baltimore,
MD

Add'l. Info: A portion of this
meeting may be held in closed
session.

Contact: Kathy Glass (410) 537-
3597

[10-02-02]

**WORKERS' COMPENSATION
COMMISSION**

Subject: Public Meeting

Date and Time: January 28, 2010, 9
— 11 a.m.

Place: 10 E. Baltimore St.,
Baltimore, MD

Add'l. Info: A portion of this
meeting may be held in a closed
session.

Contact: Amy Lackington (410)
864-5300

[10-02-04]