

Maryland Register

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Volume 37 • Issue 10 • Page 697—742

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Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before April 19, 2010, 5:00 p.m.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 April 19, 2010.

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



MARYLAND REGISTER

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

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

The following information is also published regularly in the Register:

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

CITATION TO THE MARYLAND REGISTER

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

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

CODE OF MARYLAND REGULATIONS (COMAR)

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

CITATION TO COMAR REGULATIONS

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

DOCUMENTS INCORPORATED BY REFERENCE

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

HOW TO RESEARCH REGULATIONS

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

SUBSCRIPTION INFORMATION

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

CITIZEN PARTICIPATION IN THE REGULATION-MAKING PROCESS

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

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

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

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Illustrations by Carolyn Jagodzinski, Dept. of General Services

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CLOSING DATES and ISSUE DATES through JANUARY 28, 2010

ISSUE DATE	Emergency and Proposed Regulations* 5:00 p.m.	Final Regulations 10:30 a.m.	Notices, etc. 10:30 a.m.
May 21	May 3	May 12	May 10
June 4**	May 17	May 24	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
August 13	July 26	August 4	August 2
August 27	August 9	August 18	August 16
September 10	August 23	September 1	August 30
September 24**	September 3	September 15	September 13
October 8	September 20	September 29	September 27
October 22**	October 4	October 13	October 8
November 5**	October 18	October 26	October 25
November 19**	November 1	November 9	November 8
December 3**	November 15	November 19	November 18
December 17	November 29	December 8	December 6
January 3***	December 13	December 20	December 17
January 14	December 27	January 5	January 3
January 28**	January 10	January 19	January 14

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.

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

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

** Note closing date changes

*** Note issue date change

The regular closing date for Proposals and Emergencies is Monday.

REGULATIONS CODIFICATION SYSTEM

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

09.12.01.01D(2)(c)(iii)
 Title 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.

02 OFFICE OF THE ATTORNEY GENERAL

02.01.11.01—05 • 36:24 Md. R. 1861 (11-20-09)

03 COMPTROLLER OF THE TREASURY

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05 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

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07 DEPARTMENT OF HUMAN RESOURCES

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- 10.14.01.06 • 37:3 Md. R. 174 (1-29-10) (err.)
- 10.04.02.04 • 37:6 Md. R. 498 (3-12-10) (err.)
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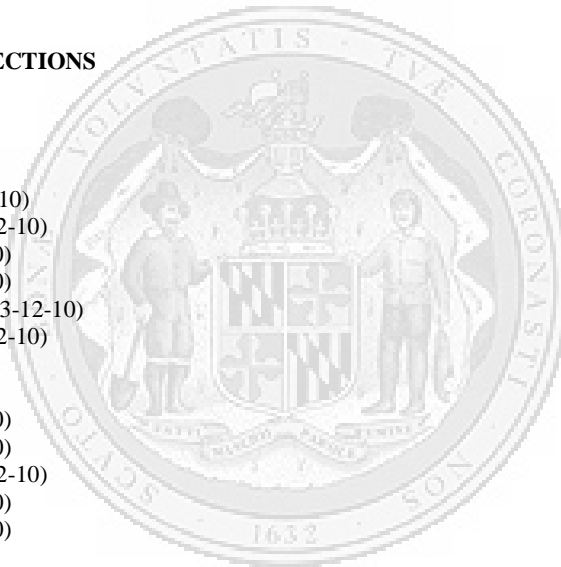
- 30.01.01.02 • 37:8 Md. R. 650 (4-9-10)
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- 33.11.02.01—.07 • 37:6 Md. R. 491 (3-12-10)
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- 33.11.04.01,.03—.16 • 37:6 Md. R. 491 (3-12-10)
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- 33.17.02.02 • 37:6 Md. R. 497 (3-12-10)
- 33.17.04.03 • 37:8 Md. R. 654 (4-9-10)
- 33.17.05.03 • 37:8 Md. R. 654 (4-9-10)



35 DEPARTMENT OF VETERANS AFFAIRS

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The Attorney General

OPINIONS

March 8, 2010

The Honorable Jamie Raskin
The Honorable James Brochin
Maryland Senate

You have asked about the law governing executive compensation at Maryland corporations. In particular, you have asked whether payment of excessive executive compensation can constitute a waste of corporate assets. You have also asked whether, in such circumstances, any State official would have standing to initiate a *quo warranto* action under Annotated Code of Maryland, Corporations & Associations Article (“CA”), §1-403(d) to challenge the payment of such compensation. Finally, you have asked whether the General Assembly could lawfully restrict executive compensation through legislation. Your questions were prompted by concerns about certain executive compensation practices at Constellation Energy Group (“CEG” or “the Company”) and, more specifically, the compensation paid or owing to the chief executive officer of CEG.

Our conclusions as to the law are as follows:

- Excessive executive compensation may constitute a “waste” of corporate assets.
- The courts usually defer to decisions of a board of directors on an issue such as executive compensation under the “business judgment rule,” also referred to by the Court of Appeals as the “principle of non-intervention.” This principle depends in part on whether the directors acted in good faith.
- Allegations of corporate waste are typically litigated in the context of a shareholder derivative action, rather than a *quo warranto* action.
- CA §1-403(d) was part of the Model Business Corporation Act, as adopted in Maryland some years ago. Under that statute, the Attorney General retains authority to seek injunctive relief or dissolution of a corporation that engages in unauthorized or “ultra vires” actions. There are few cases in the last century in which state Attorneys General have exercised this authority and none challenging corporate decisions as to executive compensation.
- The General Assembly has authority to enact legislation regulating executive compensation at Maryland corporations and businesses. There will be issues of retroactivity and vested rights to the extent such legislation attempted to alter compensation due under existing agreements.

I

Background

Executive compensation at American corporations has generated controversy during the past two decades. Some critics have pointed to the fact that the pay of American CEOs has grown rapidly in recent years and exceeds the compensation of similarly situated executives in other countries. For example, during the period 1990 through 2003, CEO compensation increased by 313% while the average worker’s pay increased by 49% and inflation was 41% for the same period. See Interfaith Center on Corporate Responsibility at <www.iccr.org/news/press-releases/2004/pr_ceopay041504.htm>. A 2005 study of executive pay in 26 countries found that American executives made twice as much as comparable executives in Western European countries. *Id.* More recently, another study found that, compared to other western industrialized countries, the United States

had the greatest disparity between CEO compensation and the compensation of average workers. Heather Landy, *Behind the Big Pay Days – Growing Sense of Outrage Over Executive Pay*, Washington Post (November 15, 2008) at p. A08.

The full extent of executive compensation can be elusive as it may take numerous forms, including base salary, benefits, incentive awards, perquisites, and other elements, each with its own formula. Moreover, a significant portion of many CEOs’ compensation consists of pension benefits, though they are not as readily understood as direct compensation. Failure to consider the design and value of such a plan can lead to an underestimate of the CEO’s actual compensation and an overestimate of the extent to which that compensation is actually linked to performance of the company. See L. Bebchuk & R. Jackson, *Putting Executive Pensions on the Radar Screen*, Harvard John M. Olin Discussion Paper No. 507 (March 2005).

In response to such criticism, boards of directors and compensation committees have increasingly sought to validate their decisions concerning executive pay through reliance on outside experts and data. Thus, they have made greater use of compensation consultants and labor market studies involving “peer” companies. Some argue that the reliance on compensation consultants and compensation studies may actually have contributed to the increase in CEO pay in recent years. See Simmons, *Taking the Blue Pill: The Imponderable Impact of Executive Compensation Reform*, 62 SMU L. Rev. 299, 352-53 (2009) (describing the “Lake Wobegon effect” in which compensation committees tend to set pay at the 75th percentile of comparable organizations with the result that all executives are considered “above average”).

To allow for an informed critique of such decisions of compensation committees, and the opinions and data on which they rely, the Securities and Exchange Commission (“SEC”) has required more detailed disclosure by public companies concerning the elements of executive compensation, the board or committee’s philosophy underlying its decision, and the references used to justify those decisions. To some extent, enhanced disclosure has exposed flaws in the system by which some companies set compensation. For example, since the SEC required identification of peer groups in 2006, several studies have concluded that the selection of peer groups for benchmarking executive pay is subject to manipulation. See, e.g., M. Faulkender & J. Yang, *Inside the Black Box: The Role and Composition of Compensation Peer Groups* (working paper - Washington University and Indiana University 2008) (firms forgo lower paid industry peers in favor of higher paid peers from outside industry); A. Albuquerque, G. DeFranco, & R. Verdi, *Peer Choice in CEO Compensation* (Boston University 2009) (finding that firms appear to be self-serving when selecting peers for executive compensation decisions). However, enhanced disclosure alone may not be the entire cure. See Cioppa, *Executive Compensation: The Fallacy of Disclosure*, 6:3 Global Jurist Topics (Berkeley 2006) (arguing that even the enhanced disclosure has not disciplined compensation decisions). To decipher disclosures made concerning the disparate elements of executive compensation, one must be “part attorney, part accountant, and part archeologist.” S. Thurm, *For CEO Pay, a Single Number Never Tells the Whole Story*, Wall Street Journal, p. A2 (March 6-7, 2010) (quoting compensation consultant Brian Foley).

In the face of such evidence, one of the foremost judicial proponents of economic analysis of legal problems has concluded that the fiduciary duties of corporate directors, even coupled with enhanced disclosure, should not insulate compensation decisions from judicial review for reasonableness. *Jones v. Harris Associates, L.P.*, 537 F.3d 728, 730 (7th Cir. 2008), cert. granted, 129 S.Ct. 1579 (2009) (Posner, J., dissenting). “[E]conomic analysis [of compensation decisions] ... is ripe for reexamination on the basis of growing indications that executive compensation in large publicly traded firms is excessive because of feeble incentives of boards of directors to police compensation. Directors are often CEOs of other companies and naturally think that

CEOs should be well paid. And often they are picked by the CEO. Compensation consulting firms, which provide cover for generous compensation packages voted by boards of directors, have a conflict of interest because they are paid not only for their compensation advice but for other services to the firm – services for which they are hired by the officers whose compensation they advised on.” *Id.* (citations omitted).

II

Challenging Executive Compensation Decisions under Current Law

A. Whether Excessive Executive Compensation May Constitute a Waste of Corporate Assets

A Depression-era Supreme Court case supports the proposition that excessive compensation of corporate executives may constitute a waste of corporate assets and be challenged in an action brought by a shareholder. In *Rogers v. Hill*, 289 U.S. 582 (1933), a shareholder of the American Tobacco Company challenged a corporate bylaw approved by the shareholders, setting the compensation of the top executives of the company, as providing unreasonably large compensation.¹ The bylaw provided that the six top executives would receive, in the aggregate, 10% of the amount by which the company’s earnings exceeded a baseline figure – obviously, a performance incentive. For example, in 1930, the president of the corporation received \$168,000 in salary, \$273,000+ in “cash credits”, and \$842,000+ in bonus under the bylaw.

After dealing with procedural issues, the Court first held that the shareholders had authority to adopt such a bylaw under New Jersey corporation law and the corporation’s charter. The Court then turned to the plaintiff’s contention that the compensation was “not equitable or fair.” It analyzed the issue as follows:

As the amounts payable depend upon the gains of the business, the specified percentages are not per se unreasonable....Regard is to be had to the enormous increase of the company’s profits in recent years....

While the amounts produced by the application of the prescribed percentages give rise to no inference of actual or constructive fraud, the payments under the bylaw have by reason of the increase in profits become so large as to warrant investigation in equity in the interest of the company. Much weight is to be given to the action of the stockholders, and the bylaw is supported by the presumption of regularity and continuity. But the rule prescribed by it cannot, *against the protest of a shareholder*, be used to justify payments of sums as salaries so large as in substance and effect to amount to spoliation or waste of corporate property.

289 U.S. at 591 (emphasis added). The Court endorsed a standard suggested in a dissenting opinion in the Second Circuit when the case was before that court:

If a bonus payment has no relation to the value of services for which it is given, it is in reality a gift in part, and the majority stockholders have no power to give away corporate property against the protest of the minority.

Id. at 591-92. The Court remanded to the district court to determine whether the bonuses constituted a waste and misuse of corporate assets. The case ultimately resulted in a settlement under which no past compensation was paid, the amount of corporate income that would trigger executive bonuses was doubled, and the bonus percentage was reduced by 50%. See 1 Cox & Hazen on Corporations §11.05 at p. 569 & n.39.

As you noted in your letter, the Delaware Chancery Court – a frequent forum for litigation concerning corporate governance – has recently recognized the possibility that a compensation package to be paid to the departing CEO of a major corporation could constitute waste of corporate assets. In *re Citigroup, Inc. Shareholder Derivative Litigation*, 964 A.2d 106 (Del. Chan.Ct. 2009). That case was a shareholder derivative action against Citigroup, in which the court rejected a number of claims, including claims of corporate waste related to the company’s purchase of subprime loans, its buy-back of \$645 million of the company’s shares, and its investment in assets that were unable to pay off maturing debt. The court held that the plaintiffs failed to raise a reasonable doubt that the challenged transactions were the product of a valid exercise of business judgment.

However, the Chancery Court allowed a claim of waste related to executive compensation to go forward. It articulated the following standard:

The directors of a Delaware corporation have the authority and broad discretion to make executive compensation decisions. The standard under which the Court evaluates a waste claim is whether there was “an exchange of corporate assets for consideration so disproportionately small as to lie beyond the range at which any reasonable person might be willing to trade.” It is also well settled in our law, however, that the discretion of directors in setting executive compensation is not unlimited. Indeed, the Delaware Supreme Court was clear when it stated that “there is an outer limit” to the board’s discretion to set executive compensation, “at which point a decision of the directors on executive compensation is so disproportionately large as to be unconscionable and constitute waste.”

¹ In a companion case, the shareholder also challenged a stock subscription plan embodied in another bylaw that allocated large quantities of stock to the company president and directors for a subscription price less than one-fourth of the market price – with an estimated value at that time for the president of \$1,169,000. This case also reached the Supreme Court, which dismissed it, over the dissents of Justices Stone, Brandeis, and Cardozo, on jurisdictional grounds. *Rogers v. Guaranty Trust Co.*, 288 U.S. 123 (1933).

964 A.2d at 138 (footnotes omitted). The compensation package was set forth in a letter agreement under which the former CEO was to receive \$68 million upon his departure from Citigroup, including bonus, salary, and accumulated stockholdings. In addition, he was to receive an office, administrative assistant, and car and driver for 5 years (or until he commenced full time employment with another employer). In return for the compensation package and perquisites, the former CEO would sign a

non-compete agreement, a non-disparagement agreement, a non-solicitation agreement, and a release of claims against the company.

The Delaware court said that it needed more information to determine whether this compensation package constituted “waste” – in particular (1) how much additional compensation the CEO received as a result of the letter agreement and (2) the real value of the promises made by the CEO. Without that information it could not decide whether the compensation package was “beyond the outer limit.” 964 A.2d at 138.

Corporation law treatises acknowledge that excessive executive compensation may constitute a waste of a corporation’s assets, but generally articulate a stringent test that appears difficult to satisfy. See 1 Knepper & Bailey, *Liability of Corporate Officers and Directors* §3-14 (unless the directors approving the compensation have a personal interest, a plaintiff alleging corporate waste in executive compensation must demonstrate that no reasonable business person would find that the corporation had received adequate consideration); 1 *Cox & Hazen on Corporations* §11.05 (approval of executive compensation by disinterested outside directors may present an “unsurpassable barrier” to an action alleging waste of corporate assets). The stringent test is a result of the deference generally accorded decisions of corporate directors under what is called the “business judgment rule.”

B. Business Judgment Rule

Assuming that the facts suggest excessive executive compensation, the primary hurdle in any case alleging that such compensation constitutes a waste of corporate assets is the “business judgment rule.” Under this doctrine, courts generally defer to the judgment of a disinterested board of directors. The business judgment rule is also reflected in the Maryland statute setting forth the standard of care to be exercised by a corporation’s directors. CA §2-405.1.

The Court of Appeals most recently referred to the business judgment rule under Maryland law in *Tackney v. United States Naval Academy Alumni Ass’n, Inc.*, 408 Md. 700, 971 A.2d 309 (2009). That case concerned the propriety of applying the “principle of non-intervention” in a case involving a dispute among members of a voluntary membership organization. The Court traced this principle to several different sources, depending on whether the organization is incorporated and the place of incorporation. With respect to Maryland corporations, the principle derives from the business judgment rule under Maryland law:

If the voluntary membership organization is incorporated in Maryland, the business judgment rule applies to decisions regarding the corporation’s management. The business judgment rule insulates business decisions from judicial review absent a showing that the officers acted fraudulently or in bad faith. The rationale for the business judgment rule is that:

Although directors of a corporation have a fiduciary relationship to the shareholders, they are not expected to be incapable of error. All that is required is that persons in such positions act reasonably and in good faith in carrying out their duties... Courts will not second-guess the actions of directors unless it appears that they are the result of fraud, dishonesty or incompetence.

408 Md. at 712-13 (quoting *NAACP v. Golding*, 342 Md. 663, 679 A.2d 554 (1996)). The Court applied the business judgment rule in the case before it and affirmed the circuit court’s decision declining to referee a

dispute over the tenure and selection of the organization’s board of trustees.

A Fourth Circuit decision concerning a Maryland corporation illustrates the application of the business judgment rule in a challenge to executive compensation. In *McQuillen v. National Cash Register Co.*, 112 F.2d 877 (4th Cir. 1940), shareholders of a Maryland corporation challenged various actions of the corporation, including a generous grant of stock options to a former chief executive of the company. The Court looked to Maryland law and affirmed the following standard for assessing such claims:

It is obviously not the province of a court of equity to act as the general manager of a corporation or to assume regulation of its internal affairs. If the chosen directors, without interests in conflict with the interests of stockholders, act in good faith in fixing salaries or incurring other expenses, their judgment will not ordinarily be reviewed by the courts, however unwise or mistaken it may appear ...

112 F.2d at 884 (quoting standard set forth in the district court decision).² The court emphasized that a very generous compensation package would not necessarily be wasteful:

In situations of this kind, courts must distinguish between compensation which is merely excessive and is thus lawful, and compensation which is actually wasteful and is thus unlawful. Courts cannot here condone on the part of those in control of a corporation either actual bad faith or a total neglect or even utter indifference to the rights of stockholders. Necessarily, much must be entrusted to the discretion of corporate directors and courts should intervene here if, and only if, there has been so clear an abuse of this discretion as to amount legally to waste.

Id. In the case before it, the Court found that the compensation package for the chief executive had been authorized by appropriate corporate action in the proper form and that the directors had acted in good faith. It also found that nothing in the contract was contrary to the corporate charter or the corporation law of Maryland and that the options grant was therefore not illegal or ultra vires. *Id.*; see also *Mona v. Mona*

² The Court qualified this statement by noting that a court might take action if the directors were personally interested in a particular decision:

but this is far from saying that equity will refuse to redress the wrong done to a stockholder by action or policy of directors, whether in voting themselves excessive salaries or otherwise, which operates to their personal advantage, without any corresponding benefit to the corporation.

112 F.2d at 884.

Electric Group, Inc., 176 Md. App. 672, 700-5, 934 A.2d 450 (2007) (applying business judgment rule in context of shareholder derivative action based in part on allegations of excessive executive compensation).

As indicated above, the business judgment rule has been recognized in statute in Maryland:

(a) A director shall perform his duties as a director, including his duties as a member of a committee of the board on which he serves:

(1) In good faith;

(2) In a manner he reasonably believes to be in the best interests of the corporation; and

(3) With the care that an ordinarily prudent person in a like position would use under similar circumstances.

(b) (1) In performing his duties, a director is entitled to rely on any information, opinion, report, or statement, including any financial statement or other financial data, prepared or presented by:

(i) An officer or employee of the corporation whom the director reasonably believes to be reliable and competent in the matters presented;

(ii) A lawyer, certified public accountant, or other person, as to a matter which the director reasonably believes to be within the person's professional or expert competence; or

(iii) A committee of the board on which the director does not serve, as to a matter within its designated authority, if the director reasonably believes the committee to merit confidence.

(2) A director is not acting in good faith if he has any knowledge concerning the matter in question which would cause such reliance to be unwarranted.

(c) A person who performs his duties in accordance with the standard provided in this section shall have the immunity from liability described under §5-417 of the Courts and Judicial Proceedings Article.

* * *

(e) An act of a director of a corporation is presumed to satisfy the standards of subsection (a) of this section.

* * *

(g) Nothing in this section creates a duty of any director of a corporation enforceable otherwise than by the corporation or in the right of the corporation.

CA §2-405.1(a) - (c), (e), (g).³

The business judgment rule thus establishes a formidable hurdle to any effort to challenge a decision of a board of directors concerning compensation of corporate officers. If the board members or committee members make those decisions in good faith in a reasonable belief that they are acting in the best interests of the corporation and with reliance on consultants and other professionals they believe to be reliable, those decisions likely will be immune from challenge. Thus, one who challenges a decision concerning executive compensation at a private corporation as a waste of corporate assets must be able to demonstrate that the directors' decision was self-interested – in bad faith – or the result of neglect or incompetence.

C. Shareholder Derivative Actions

As the cases outlined above suggest, a claim that excessive executive compensation constitutes a waste of corporate assets would typically be asserted in an action by one or more shareholders on behalf of the corporation – commonly called a shareholder derivative action. In *Werbowsky v. Collomb*, 362 Md. 581, 766 A.2d 123 (2001), the Court of Appeals discussed in detail shareholder derivative actions under Maryland law. The case before the court involved, among other things, an allegation of corporate waste and breach of fiduciary duties by the directors in connection with a transaction between the corporation and an affiliated corporation. In an opinion discussing the circumstances under which a plaintiff shareholder is excused from making a pre-suit demand on the corporation to remedy the matter, Judge Wilner discussed the largely common law basis for shareholder derivative suits in Maryland. Executive compensation was not an issue in the case.

D. Quo Warranto Actions

You specifically inquired about the possibility that a State official could challenge executive compensation under CA §1-403(d), which is sometimes referred to as a “*quo warranto*” action.⁴ That provision authorizes the Attorney General to seek to enjoin a corporation from engaging in “unauthorized business” on the ground that it legally lacks the power or capacity to do so. *See also* CA §3-513 (State Department of Assessments and Taxation may authorize Attorney General to seek, in public interest, forfeiture of corporate charter for abuse, misuse, or failure to use corporate powers). While *quo warranto* has a common law pedigree and has been part of Maryland's corporation statute for six decades, we did not find any case in which it was used to challenge executive pay decisions of a private corporation.

Common Law Writ of Quo Warranto

This provision is derived from the common law writ of *quo warranto*. The history of that writ was discussed at some length in a recent Supreme Court decision that did not concern executive compensation or corporate governance. In *Cuomo v. The Clearinghouse Ass'n, LLC*, 129 S.Ct. 2710 (2009), Justice Scalia distinguished “visitorial” powers of state banking regulators that have been preempted by federal law from the “law enforcement” powers of the state Attorneys General that are not preempted. In the course of the opinion, he traced the “visitorial” powers of state regulators to the 19th century notion that a state was the “visitor” of all companies incorporated within that state. The writ of *quo warranto* was one means by which the state exercised those powers. Justice Scalia explained:

Historically, the sovereign's right of visitation over corporations paralleled the right of the church to supervise its institutions and the right of the founder of a charitable institution “to see that [his] property [was] rightly employed.” ... By extension of this principle, “(t)he

³ A version of the business judgment rule was first codified in 1976. Chapter 567, §4, Laws of Maryland 1976.

⁴ The Latin translates as “by what authority.” *See Black's Law Dictionary* (9th ed. 2009) at p. 1271.

king [was] by law the visitor of all civil corporations. A visitor could inspect and control the visited institution at will.”

...A State was the “visitor” of all companies incorporated in the State, simply by virtue of the State’s role as sovereign: The “legislature is the visitor of all corporations founded by it.”

This relationship between sovereign and corporation was understood to allow the States to use prerogative writs – such as mandamus and *quo warranto* – to exercise control “whenever a corporation [wa]s abusing the power given it, or, ...or acting adversely to the public, or creating a nuisance.”... State visitorial commissions were authorized to “exercise a general supervision” over companies in the State.”

129 S.Ct. at 2715-16 (Citations omitted).⁵ He also described the use of writ of *quo warranto* by the federal government to determine whether a national bank “is acting in excess of its charter powers.” *Id.* at 2717.

The Court of Appeals of Maryland discussed *quo warranto* powers under Maryland law in *Insurance Commissioner v. Blue Shield of Maryland*, 295 Md. 496, 456 A.2d 914 (1983). In the course of describing the visitorial powers of the Insurance Commissioner over insurance companies under Maryland state law, the Court reviewed the common law concerning the State’s right of “visitation” over corporations and stated that “‘visitation’ has no fixed meaning, at least in this state.” 295 Md. at 519. The Court derived the scope of visitation over corporations from three corporation law texts that were in general agreement that “the old power of visitation survives only in the modern and more limited right of the State and its courts to interfere in cases of abuse or misuse of the charter.” *Id.* at 522. In the case before it, the Court held that the Insurance Commissioner lacked authority to order changes in participation agreements that the Commissioner had previously approved.

Older Maryland cases recognized *quo warranto* as a valid cause of action against a corporation when the corporation had violated its own charter or State law. For example, in *State v. Easton Social Literary & Musical Club*, 73 Md. 97, 20 A. 783 (1890), the Court held that the State could seek the forfeiture of the corporate charter of an incorporated social club that was selling alcoholic beverages to its members in violation of State law. “A corporation may no more violate a law with impunity than an individual can; and if the unlawful acts be of a nature to be detrimental to the public, and be done by and for the corporation by its authorized agents, there is such abuse and misuse of its powers and franchises as will justify the state in recalling such corporate powers and franchises, and annulling and vacating the charter.” 20 A. at 785. In remanding the case to the lower court, the Court noted that the lower court could withhold a decree of forfeiture to give the corporation an opportunity to correct the violations. *Id.*

Maryland Quo Warranto Statute

⁵ The dissenting opinion (Thomas, J.) contains a similar, though longer, description of common law visitorial powers of states over civil corporations and argues that those powers were broad enough to encompass law enforcement powers. (In the context of the case before the Court, this would mean that the state Attorney General’s law enforcement powers were also preempted by the federal statute).

The Maryland statute, CA §1-403(d), is based upon §7 of the 1951 version of the Model Business Corporation Act.⁶ When the Model Business Corporation Act was first developed in 1951, it eliminated much of the common law doctrine concerning *ultra vires* actions of corporations. Prior to the Model Act, the outcome of cases deciding the contractual obligations of corporations frequently turned on the question of whether the corporation had the power or capacity to enter into the contract in the first place. See Note, *Ultra Vires Contracts of Corporations in Maryland*, 1 Md. L. Rev. 145 (1936) (reviewing Maryland cases on enforceability of corporate contracts in light of *ultra vires* doctrine)⁷; see also Note, *Corporations - Ultra Vires – Distinction between Powers and Objects in Articles of Incorporation*, 46 Harv.L.Rev. 1337 (1933); Note, *Statutory Modification of the Doctrine of Ultra Vires*, 44 Harv.L.Rev. 280 (1930). Some asserted that the inconsistencies in the case law could be traced to confusion as to the theory underlying the doctrine. See Carpenter, *Should the Doctrine of Ultra Vires be Discarded?*, 33 Yale L.J. 49 (1923). While the Model Act eliminated many of those issues by circumscribing use of the

⁶ The statute reads:

(a) Unless a lack of power or capacity is asserted in a proceeding described in this section, an act of a corporation ... is not invalid or unenforceable solely because the corporation lacked the power or capacity to take the action.

(b) (1) Lack of corporate power or capacity may be asserted by a stockholder in a proceeding to enjoin the corporation from doing an act ...

(2) If the act ... sought to be enjoined is based on a contract to which the corporation is a party and if all parties to the contract are parties to the proceeding, the court may set the contract aside and enjoin its performance.

(3) The court may award compensatory damages to any party who suffers a loss because of the action of the court. However, the court may not award compensatory damages for loss of anticipated profits to be derived from performance of the contract.

(c) Lack of corporate power or capacity may be asserted by the corporation in a suit brought in its name by the corporation or its receiver ..., or in a representative suit brought by a stockholder against its present or former officers or directors.

(d) *Lack of corporate power or capacity may be asserted by the Attorney General in a proceeding for the forfeiture of the charter of the corporation or to enjoin it from transacting unauthorized business.*

CA §1-403 (emphasis added).

⁷ Notably, this article observes that one of the arguments in favor of not enforcing contracts on the basis of the *ultra vires* doctrine – the public interest in ensuring that corporations chartered for a specific purpose do not transcend that purpose – is particularly strong with respect to public service corporations. 1 Md. L. Rev. at 154 & n.47A.

doctrine, it explicitly retained the ability of a state Attorney General to pursue *quo warranto* actions against corporations for misuse of their powers.

The commentary to the Model Act states:

The doctrine of inherent incapacity is eliminated and it is unnecessary for persons dealing with a corporation to inquire closely into the limitations on the purposes and powers of the corporation. The early theory was that corporations could not act outside the narrow purposes and powers customarily stated in their articles together with the powers necessarily incidental thereto, and that anyone who dealt with a corporation acted at his peril in that regard. The result of that theory was a large volume of litigation in which the courts were forced to consider at great length the scope of purposes, and express and incidental powers of corporations....

Section 7 [i.e., CA §1-403] protects the shareholders of a corporation against unauthorized acts by providing that they may enjoin unauthorized acts and the officers and directors may be held liable for damages resulting therefrom....The interests of the state are protected by providing that the attorney general may bring proceedings to enjoin the transaction of unauthorized business or to dissolve the corporation if it has done unauthorized acts.

.....

Section 7, being limited to the defense of lack of capacity or power, does not affect the defense of illegality. *Ultra vires* and illegality have been confused in some cases.

.....

Model Business Corporation Act Annotated §7 at pp. 278-79 (1971). Thus, the purpose of §7 (i.e., CA §1-403) was to eliminate corporate disputes based on the *ultra vires* doctrine. See also 1 Cox & Hazen on Corporations, §4.07 (noting that modern corporation law relies on business judgment rule to determine permissible corporate activities rather than *ultra vires* doctrine with “an inflexible inquiry into the relative proximity of the challenged activity to the corporation’s stated purposes”). The savings clause in CA §1-403(d) retained the ability of the State to assert that a corporation was acting *ultra vires* in a *quo warranto* action. It is presumed that the State would undertake such an action when *ultra vires* actions of a corporation “menace the public welfare.” *Id.*, §4.09.

Our research has not uncovered any cases in which states have exercised this power in the approximately 60 years since it originally appeared in the Model Business Corporation Act.⁸

E. Authority of State Agencies with Respect to CEG Executive Compensation

You also asked what State agencies might have authority to take some action with respect to executive compensation at CEG. One of CEG’s subsidiaries, Baltimore Gas and Electric (“BGE”), is a regulated public service company in Maryland. The Public Service Commission (“PSC”) is charged with regulating public utilities. PSC has exercised its jurisdiction under Annotated Code of Maryland, Public Utility Companies Article, §4-208 to require public utilities, such as BGE, to report costs that have been allocated to them by their corporate parents. See COMAR 20.40.02.07. Although the General Assembly has expressed clear concern about the impact on a utility’s capital structure of transactions entered into by the utility’s corporate parent, it is not clear (and beyond the scope of this letter) whether the PSC has authority to disallow particular cost allocations to the public utility from its corporate parent on the sole basis that the PSC deems such costs to be excessive. It is clear, however, that the PSC has jurisdiction to disallow the inclusion of costs in the utility’s rate base for rate making purposes. See Public Service Commission, *In the Matter of the Current and Future Financial Condition of Baltimore Gas and Electric Company*, Case No. 99173 (Phase II), Order No. 82986 (October 30, 2009) at pp. 30-31 (questioning “the wisdom of paying anyone millions of dollars per year given CEG’s recent history,” but finding its role limited to regulating the portion of executive compensation assessed to ratepayers). In other words, although it is unclear under current law the PSC could protect BGE ratepayers from indirect harms associated with the weakening of BGE’s capital structure as a result of the utility bearing the costs of excessive executive compensation, the PSC undoubtedly may protect ratepayers from having to bear those costs directly.

F. Summary

Excessive executive compensation may constitute a waste of corporate assets. To the extent that decisions concerning executive compensation come before the courts, they are litigated through the mechanism of a shareholder derivative suit. However, the business judgment rule insulates most such decisions from review by the courts.

While the Model Business Corporation Act, and its Maryland version (CA §1-403(d)), preserved the ability of a state Attorney General to bring a *quo warranto* action to forfeit a corporate charter or enjoin unauthorized actions of a corporation, we are aware of no precedent for such an action challenging the decisions of the board of directors of a private corporation relating to executive compensation. CA §1-403(d) is a remnant of the *ultra vires* doctrine that allows reversal of corporate action not authorized by a corporation’s charter or governing law. Any action brought under that statute must be based on a corporate action that can be characterized as *ultra vires* – not just unlawful – and that implicates a public interest at stake in the particular decision. While the decisions concerning executive compensation at CEG may perhaps be criticized on fairness and policy grounds, the clearest public interest at stake is the effect of such compensation decisions on BGE ratepayers. Under current law, the assessment of that issue is a matter, in the first instance, for the PSC.

III

Power of the General Assembly to Regulate Executive Compensation

You asked whether the General Assembly could lawfully restrict executive compensation at a company like CEG. The General Assembly may certainly amend Maryland law in ways that can regulate executive compensation at Maryland corporations. Such legislation could take a number of forms – enhanced disclosure requirements, elimination of favorable tax treatment or imposition of adverse tax

⁸ A survey of the states in the mid-1980s uncovered no use of the provision in recent memory. See Schaeftler, *Ultra Vires – Ultra*

Useless: The Myth of State Interest in Ultra Vires Acts of Business Corporations, 9 J. Corp. L. 81, 91 (1984).

consequences related to executive compensation, or explicit caps on certain types of compensation.

For example, the Legislature could adopt enhanced disclosure requirements for public utilities. Alternatively, as has been proposed several times in recent years in the General Assembly, it could eliminate deductions from corporate taxes for expenses associated with excessive executive compensation. *See, e.g.*, Senate Bill 472 (2009). Or it could devise a tax that targets excessive compensation. There are other possible measures that might impose some limits on executive compensation at a company like CEG – for example, a cap on ratepayer contribution to executive compensation or a statute clearly establishing the PSC’s authority to disallow cost allocation to a public utility from its corporate parent.

The Legislature might also enact specific guidelines for executive compensation at corporations or at specific classes of corporations. For example, it has provided for State oversight of compensation decisions at nonprofit health service plans. *See* Annotated Code of Maryland, Insurance Article (“IN”), §14-139. Such entities have a public mission to “provide affordable and accessible health insurance ... [to] assist and support public and private health care initiatives for individuals without health insurance; and [to] promote the integration of a health care system that meets the health care needs of all the residents ...” IN §14-102(c). Under the statute, an executive of such an entity may only receive “fair and reasonable compensation in the form of salary, bonuses, or perquisites for work performed for the benefit of the corporation.” IN §14-139(c). The statute requires the compensation committee of such an entity to develop compensation guidelines to be approved by its board of directors and provided to the entity’s regulator, the State Insurance Commissioner. IN §14-139(d). The Insurance Commissioner is to review the compensation actually paid to executives and may prohibit payment if the Commissioner finds that the pay exceeds the statutory guidelines. *Id.* If the statute is violated, the Commissioner can take enforcement action that could result in the assessment of monetary penalties and payment of restitution. IN §14-139(f).⁹

We caution that a bill designed to restrict compensation at a single corporation may raise equal protection issues¹⁰ or a question as to whether it is a special law forbidden by the State Constitution. *See* Maryland Constitution, Article III, §33. An effort to undo existing compensation arrangements at a particular company may also raise issues as to whether it impairs contracts or vested rights. *See* 88 *Opinions of the Attorney General* 11, 18-24 (2003) (analyzing impairment of contract and vested rights issues with respect to “anti-bonus” provision in law governing conversion of non-profit health service plans to for-profit status).

⁹ Acting under the authority provided by this statute, the Maryland Insurance Commissioner prohibited CareFirst, Inc., from paying part of a proposed past-termination payment to its former CEO. *Insurance Commissioner v. CareFirst, Inc., et al.*, MIA-2007-10-027 (July 14, 2008), available at <http://www.mdinsurance.state.md.us/sa/documents/MIA-2007-10-027-CareFirstFinalOrderall07-08.pdf>. The Baltimore County circuit court later reversed that decision and the case is now on appeal.

Last year, the Commissioner upheld a decision of the board of CareFirst, Inc. to deny payment of a SERP and other post-employment compensation to one of the entity’s former executives. In re: Investigation of Proposed Post-Termination Payment by Care First, Inc., to Leon Kaplan (February 5, 2009), available at <http://www.mdinsurance.state.md.us/sa/documents/MIA-2009-02-002-CareFirst-Kaplan.pdf>.

¹⁰ Such issues are likely to be assessed on a rational basis standard. *See Retail Industry Leaders Ass’n v. Fielder*, 435 F.Supp. 2d 481, 498-501 (D.Md. 2006), *aff’d*, 475 F.3d 180 (4th Cir. 2007).

Should you wish to introduce legislation, the Attorney General’s Office is willing, of course, to review any such proposals and advise whether specific proposals may be susceptible to constitutional challenges.

IV

Conclusion

In summary, based on the analysis above, the answers to the legal questions you posed are as follows:

- Excessive executive compensation may constitute a “waste” of corporate assets.
- The courts usually defer to decisions of a board of directors on an issue such as executive compensation under the “business judgment rule,” also referred to by the Court of Appeals as the “principle of non-intervention.” This principle depends in part on whether the directors acted in good faith.
- Allegations of corporate waste are typically litigated in the context of a shareholder derivative action, rather than a *quo warranto* action.
- CA §1-403(d) was part of the Model Business Corporation Act, as adopted in Maryland some years ago. Under that statute, the Attorney General retains authority to seek injunctive relief or dissolution of a corporation that engages in unauthorized or “*ultra vires*” actions. There are few cases in the last century in which state Attorneys General have exercised this authority and none challenging corporate decisions as to executive compensation.
- The General Assembly has authority to enact legislation regulating executive compensation at Maryland corporations and businesses. There will be issues of retroactivity and vested rights to the extent such legislation attempted to alter compensation due under existing agreements.

Douglas F. Gansler, Attorney General
Robert N. McDonald, Chief Counsel, Opinions and Advice

Editor’s Note:

This opinion was originally issued as a letter of advice with appendices that contained factual information about the chief executive officer’s compensation.

Jones v. Harris Associates, L.P., mentioned in Part I of this opinion, was later vacated and remanded by the Supreme Court. 2010 WL 1189560 (March 30, 2010), consistent with the dissenting opinion quoted in the text.

[10-10-40]

The General Assembly

Synopsis No. 6

For additional up-to-date information concerning bill introduced in the General Assembly, log on to <http://mlis.state.md.us> Click on Bill Information and Status. You may then enter a specific bill number for information about that bill. You may also click on Senate Synopsis or House Synopsis for the most recent synopsis list for each house, or click on Synopsis Index for a listing of all bill synopses since the beginning of the legislative session.

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CH0005 SB0855 (Amended). The Pres (Admin), et al. Patient Centered Medical Home Program

CH0006 HB0929 (Amended). The Spkr (Admin), et al. Patient Centered Medical Home Program

CH0007 SB0011 (Amended). Sens Conway and Dyson. Business Regulation - Returnable Containers - Plastic Secondary Packaging

CH0008 HB1267. Del Niemann. Business Regulation - Returnable Containers - Plastic Secondary Packaging

CH0009 SB0026. Sen Miller, et al. Maryland Constitutional Convention - Sense of the Voters

CH0010 SB0031 (Enrolled). Sen Lenett. Maryland Communities for a Lifetime Commission

CH0011 SB0041. Sen Colburn. Dorchester County - Alcoholic Beverages - Clubs - Membership

CH0012 SB0042. Sens Colburn and Pipkin. Caroline County - Orphans' Court Judges - Pensions

CH0013 SB0043. Sen Haines. Public Safety - Board of Boiler Rules - Membership

CH0014 SB0054 (Amended). Chr FIN (Dept), et al. Business and Economic Development - Maryland Economic Adjustment Fund

CH0015 SB0055 (Amended). Chr FIN (Dept). Business and Economic Development - Maryland Military Installation Council - Sunset Repeal, Membership, and Terms

CH0016 SB0056. Chr FIN (Dept). Health Insurance - Medicare Supplement Policies - Repeal of Requirement to Offer Plan I

CH0017 SB0057 (Enrolled). Chr FIN (Dept), et al. Health Insurance - Conformity with Federal Law - Mental Health Benefits, Medical and Surgical Benefits for Mastectomies, and the Federal Patient Protection and Affordable Care Act

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CH0021 SB0067. Chr JPR (Dept). Vehicle Laws - Issuance of Temporary Registration Plates by Dealers - Transmission of Information and Record Keeping

CH0022 SB0071. Chr EHE (Dept). Procurement - Small Business Reserve Program - Sunset Extension

CH0023 SB0072. Chr EHE (Dept). Maryland Militia - Membership

CH0024 SB0073. Chr EHE (Dept). Maryland Emergency Management Agency - Director

CH0025 SB0074 (Amended). Chr EHE (Dept). Education - Comprehensive Master Plans

CH0026 SB0075. Chr EHE (Dept). Education - Nonpublic School Employees - Criminal Convictions

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CH0029 SB0078. Chr EHE (Dept). Washington Cemetery Board of Trustees

CH0030 SB0081 (Amended). Chr EHE (Dept). State Board of Veterinary Medical Examiners - License Suspensions and Revocations - Maximum Penalties

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CH0032 SB0085. Chr JPR (Dept). Vehicle Laws - Electronic Transmission of Title Information by Dealers

CH0033 SB0087. Chr EHE (Dept). Education - Physical Education and Athletic Programs for Students with Disabilities - Reporting Requirements

CH0034 SB0090 (Amended). Chr EHE (Dept). Secretary of Agriculture - Farm Quarantine

CH0035 SB0092 (Amended). Chr EHE (Dept). Department of Natural Resources - Boating Safety Requirements

CH0036 SB0095. Chr EHE (Dept). Maryland Agricultural Land Preservation Foundation - Farmland Preservation Partnership Program

CH0037 SB0096. The Pres (DLS - Code Rev). Washington Suburban Sanitary Commission

CH0038 SB0112. Sen Stone. Baltimore County - Property Tax Credit - Rosewald Beach Civic League

CH0039 HB0595. Del Olszewski, et al. Baltimore County - Property Tax Credit - Rosewald Beach Civic League

CH0040 SB0146. The Pres (DLS). State Board of Physical Therapy Examiners - Sunset Extension and Program Evaluation

CH0041 SB0147 (Amended). The Pres (DLS). State Board for Professional Land Surveyors - Sunset Extension and Program Evaluation

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CH0043 SB0153. Sen Glassman, et al. Harford County - Liquor Control Board Membership - Nomination Process

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CH0046 SB0213 (Amended). Sen Frosh, et al. Child Care Articles Containing Bisphenol-A - Prohibition

CH0047 HB0033 (Amended). Del Hubbard, et al. Child Care Articles Containing Bisphenol-A - Prohibition

CH0048 SB0241. Sen Conway. State Board of Nursing - Changes to the Electrology Practice Committee and Licensing Requirements

CH0049 HB0215. Dels Nathan-Pulliam and Eckardt. State Board of Nursing - Changes to the Electrology Practice Committee and Licensing Requirements

CH0050 SB0247 (Amended). Sen Glassman, et al. Hazardous Material Response Team Employees - Death Benefits and Funeral Expenses - Local Government Agencies

CH0051 HB0516 (Amended). Del Malone. Hazardous Material Response Team Employees - Death Benefits and Funeral Expenses - Local Government Agencies

CH0052 SB0249. The Pres (DLS - Code Rev). Public Utilities and Washington Suburban Sanitary Commission - Cross-References

CH0053 SB0266 (Amended). Sen Conway. State Board of Nursing and Certified Nursing Assistant Advisory Committee - Membership - Nominations for Vacancies

CH0054 HB0302 (Amended). Del Nathan-Pulliam, et al. State Board of Nursing and Certified Nursing Assistant Advisory Committee - Membership - Nominations for Vacancies

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- CH0164** HB0822. Queen Anne's County Delegation. Queen Anne's County - Arts and Entertainment District
- CH0165** HB1023. Chr JUD (Md Jud Conf). Criminal Procedure - Expiration Date of Sentences - Repeal
- CH0166** HB1050 (Amended). Chr HGO (Dept), et al. Maryland Health Insurance Plan - Plan Options - Governmental Third Party Payers
- CH0167** HB1152. Chr ECM (Dept). Commissioner of Financial Regulation - Applicant and Staff Criminal Background Checks
- CH0168** HB1202. Del Stein. Business Regulation - Franchises - Copies of Documents to Franchisees
- CH0169** HB1205. Montgomery County Delegation. Montgomery County - Alcoholic Beverages License Fees - Repeal of Sunset MC 24-10
- CH0170** HB1309 (Amended). Del Mathias, et al. Somerset and Worcester Counties - Liquor Control Boards - Ethics
- CH0171** HB1496. Del Aumann. Baltimore County - Alcoholic Beverages - Tasting Licenses - Fees
- CH0172** HB1531. Del Busch, et al. City of Annapolis - Alcoholic Beverages - Renewal of Licenses
- CH0173** HB1564 (Amended). Chr HGO (Dept), et al. Maryland Health Insurance Plan - Administration of National High Risk Pool Program

[10-10-42]

The Judiciary

COURT OF APPEALS OF MARYLAND

SCHEDULE

Wednesday, June 2, 2010

Bar Admissions

- AG 53 Attorney Grievance Commission of Maryland v. Ronnie Thaxton
- No. 133 In Re: Adoption/Guardianship of Ta'Niya C.
No. 135 State of Maryland v. George Matthews
No. 134 In Re: Adoption/Guardianship of Amber R. and Mark R.
- No. 137 Appleton Regional Community Alliance et al. v. Board of County Commissioners of Cecil County, MD

Thursday, June 3, 2010

- No. 143 Michele Collins v. National Railroad Passenger Corporation
- No. 150 James J. Dasher v. State of Maryland
No. 138 Valerie J. Willis v. Montgomery County, MD
No. 140 State of Maryland v. Larry Johnson
No. 139 Michael C. Worsham v. Robert Greenfield and Romualda Greenfield

Monday, June 7, 2010

- | | | |
|---------------------|--|--------------|
| No. 136 | John L. Mattingly Construction Co., Inc. v. Hartford Underwriters Insurance Company | No. 00991/09 |
| No. 144 | Wilma L. Phoebus d/b/a Phoebus Electric Company v. Hartford Underwriters Insurance Company | No. 00595/09 |
| No. 148 | State of Maryland v. Wilbert Hardy | No. 00894/09 |
| No. 21
(2010 T.) | In Re: Adoption/Guardianship of Cadence B. | No. 00807/09 |
| | | No. 00479/09 |

Tuesday, June 8, 2010

- | | | |
|---------|--|---------------|
| No. 147 | Miller Metal Fabrication, Inc., et al. v. Dawn Ellen Wall, et vir. | No. 02381/08 |
| No. 149 | Enoch Jermaine Hill v. State of Maryland | No. 00965/09 |
| No. 151 | Justin Ray Hannah v. State of Maryland | No. 02992/08 |
| No. 141 | Wal*Mart Stores, Inc., et al. v. Larry Holmes, Sr., et ux. | No. 00569/09 |
| | | No. 00634/09 |
| | | No. 02249/09* |

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 June 8, 2010, the Court will recess until September 1, 2010.

BESSIE M. DECKER
Clerk

[10-10-34]

DISCIPLINARY PROCEEDINGS

This is to certify that by an Order of this Court dated April 1, 2010, ERIN HUTCHISON-SMITH, 3650 Hallowing Point Road, Prince Frederick, MD 20678, has been disbarred by consent from the further practice of law in this State and her name as an attorney at law

has been stricken from the register of attorneys in this Court (Maryland Rule 16-713).

* * * * *

This is to certify that by Order of this Court dated April 20, 2010, C. TRENT THOMAS, 15 Broadway Street, Frostburg, MD 21532, has been suspended for sixty (60) days by consent, effective immediately, from the further practice of law in this State and his name an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 16-760e).

* * * * *

This is to certify that the name of LESLIE DANA SILVERMAN, 4704 Hollywood Road, College Park, MD 20740, has been replaced upon the register of attorneys in this Court as of April 22, 2010. Notice of this action is certified in accordance with Maryland Rule 16-781(1).

* * * * *

[10-10-53]

COURT OF SPECIAL APPEALS

**Schedule for June 1, 2, 3, 4, 7, 8, 14, 15,
16, 17, 18, 2010**

Tuesday, June 1, 2010

Courtroom No. 1

Karen Loomis et al. vs. Eric Craig Bailey
Agency Insurance Company vs. State Farm Mutual
Automobile Ins. Co. et al.
Rosaura Martinez vs. Holy Cross Hospital of
Silver Spring, Inc.
Lawrence K. Silva vs. University System of
Maryland, Bowie State University
Derrick Carr vs. Kevin Perry vs. Rubin Stewart vs.
State of Maryland

Courtroom No. 2

Ricky Hughes vs. State of Maryland
Sharon Douglas vs. Joseph Buonassissi, II et al.
Renaldo Soloman Hayes vs. State of Maryland
Edy Sanchez vs. Potomac Abatement, Inc. et al.
State of Maryland vs. Scott Smoot
Michael S. Graney et al. vs. Mona Chopra-Graney

No. 02381/08
No. 00965/09
No. 02992/08
No. 00569/09
No. 00634/09
No. 02249/09*

*8-207(a)

Wednesday, June 2, 2010

Courtroom No. 1

MB Maple Lawn LLC et al. vs. Office of the
Attorney General, Consumer Protection Division
Farahnaz Ghiasi vs. Chase Manhattan Bank, USA,
N.A. et al.
Tim Thompson vs. Douglas Jemal
Brian S. Baker vs. Eric Deigert et al.
Bernadette M. Walker vs. Wilbert Cannaday

No. 00731/09
No. 00890/09
No. 00802/09
No. 01054/09
No. 00707/09

Courtroom No. 2

No. 00814/09 E. Erney Maher et al. vs. Queen Anne's County
Commissioners

THE JUDICIARY

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No. 00769/09 Monica Zucconi et al. vs. University of Maryland Medical Systems Corporation et al. *8-207(a)
 No. 00228/09 Long Green Valley Association et al. vs. Bellevale Farms, Inc. et al.
 No. 00915/09 Columbia Town Center Title Co. et al. vs. 100 Investment L.P. et al.
 No. 00710/09 Eileen V. Robinson vs. Jeanne A. Baum
 No. 01022/09 Prince George's County, Maryland et al. vs. Prince Edward Jones

Thursday, June 3, 2010

Courtroom No. 1

No. 00257/09 Leroy Augustus Wooden vs. State of Maryland
 No. 00524/09 John R. Burke vs. Geo-Centers, Inc. et al.
 No. 01036/09 John R. Greiber, Jr. et al. vs. Krishan K. Singal
 No. 00969/09 Robert L. Flynn, III vs. Russell Motor Cars, Inc. et al. *8-207(a)
 No. 00764/09 Bowie Partners, L.P. vs. Council of Unit Owners of Woodland Lake Condominium

Courtroom No. 2

No. 00375/09 William J. Meyer, III et al. vs. William J. Meyer, Jr.
 No. 01229/09* Julie Lee Kestner vs. James E. Nicholson, II
 No. 01043/09 M. Abraham Ahmad vs. Eastpines Terrace Apartments, Inc. et al.
 No. 00951/09 Attorney General of Maryland vs. John Bunting
 No. 00199/09 BTR Hampstead, LLC vs. Source Interlink Distribution, LLC

*8-207(a)

Friday, June 4, 2010

Courtroom No. 1

No. 00623/09 Betty Skovron et al. vs. Robin R. Ruby et al.
 No. 00612/09 Emma Hofmeister et al. vs. Department of Public Safety and Correctional Services, Division of Correction
 No. 00817/09 Frederick Donuts, Inc. et al. vs. Upcounty Donuts, LLC.
 No. 00636/09 Tina Hewett vs. OfficeMax Incorporated
 No. 00768/09 Norma Fuentes vs. Barry G. Fox, Jr. et al.
 No. 01112/09 Kenneth Earl Barnes, Jr. vs. State of Maryland

Courtroom No. 2

No. 00777/09 Charles Edward Jones et al. vs. James Elsworth Williams, Jr. et al.
 No. 00606/09 Wayne L. Wrigley, Sr. vs. Demetrius Moore et al.
 No. 00921/09 Malcolm J. Marks vs. Criminal Injuries Compensation Board
 No. 01649/09 Joseph Edward Louis vs. State of Maryland
 No. 01716/09 Charles Richard Keys, Jr. vs. State of Maryland
 No. 01006/09 John Anselmo et al. vs. Mayor and Council of Rockville et al.

Monday, June 7, 2010

Courtroom No. 1

No. 00702/09 Ishuai J. Karnatu-Bey et vir. vs. Maryland Transit Administration
 No. 02360/09* Christopher L. Todd vs. Kendra D. Todd
 No. 00963/09 Ngek Chum et al. vs. Board of License Commissioners for Washington County, Md.
 No. 01075/09 Congressional Hotel Corporation vs. Mervis Diamond Corporation
 No. 00398/09 Bryan Lee Boston vs. CSX Transportation, Inc.

Courtroom No. 2

No. 00813/09 Insurance Commissioner of the State of Maryland vs. Central Acceptance Company, Inc. et al.
 No. 02391/09* In Re: Dominique P. and Danyel P.
 No. 02346/09* Kenneth Troy Lowman vs. Marcy Carl
 No. 00811/09 Dominion Investment Properties, LLC vs. David Linsalata
 No. 00803/09 Department of State Police vs. Charles F. Shilling et al.
 No. 00641/09 Keith L. Lee vs. Frank J. Goettner Construction Co., Inc. d/b/a Frank J. Goettner Construction Co. et al.

Tuesday, June 8, 2010

Courtroom No. 1

No. 00150/09* Sheilah Davenport vs. Frank Mahlman
 No. 00473/09 Ronald Cox vs. State of Maryland
 No. 00269/09 Devon Daye a/k/a Devin Daye vs. State of Maryland
 No. 00900/09 Vincent L. Abell et al. vs. Mark Eduard Cissel et al.
 No. 00765/09 Nancy Okiebisu vs. Joung Kak Hyon
 No. 02171/08 Benjamin Lester Perry, Jr. vs. State of Maryland
 No. 01936/08** Steven Leonard Hill vs. State of Maryland
 No. 01937/08** Terri Lynn Alston vs. State of Maryland
 No. 02165/08** Charles Robert Yates vs. State of Maryland
 No. 02399/08** Jason Abel Hernandez vs. State of Maryland

*8-207(a)

**Consolidated Cases

Courtroom No. 2

No. 00763/09 Allegany Holding Company vs. John E. Hetrick et al.
 No. 01587/09* Derek T. Stevens vs. Yoko Tokuda Stevens
 No. 00810/09 Fifth Street, LLC et al. vs. Matthew Ciarpella et al.
 No. 02808/08 Donald C. Sturgill vs. The Suder Law Firm, P.A. et al.
 No. 00743/09 Miles Moffit et al. vs. Eric Frank Thompson et al.

*8-207(a)

Monday, June 14, 2010

Courtroom No. 1

No. 00982/09 600 North Frederick Road, LLC vs. Burlington Coat Factory of Maryland, LLC
 No. 01012/09 Angela Michelle Dietrich vs. Michael Allan Dietrich
 No. 00279/09** Baltimore Street Parking Company, LLC vs. Mayor and City Council of Baltimore vs.
 No. 00667/09** Baltimore Street Parking Company, LLC vs. Mayor & City Council of Baltimore et al.
 No. 00972/09 Daniel J. Lewis vs. John Henry Gray Trust et al.
 No. 01044/09 Griffin Custom Computers & Networks, Inc. vs. Phoenix Consulting, Inc. et al.
 No. 00740/09 Gary Stewart vs. Tenina Fleming Reeves

**Consolidated Cases

Tuesday, June 15, 2010

Courtroom No. 1

No. 00983/09 Annette Gonsalves vs. Thomas Bingel et al.

- | | | | |
|---------------|---|---------------|---|
| No. 00660/09 | Office of the Sheriff for Frederick County, Maryland et al. vs. Samuel Stottlemeyer | No. 02242/09* | In Re: Al'asha W. and Da'sha W. |
| No. 00556/09* | Susan Michelle Carrington f/k/a Susan McNelis vs. John McNelis | No. 01898/08 | Carroll Kevin Gaylord vs. State of Maryland |
| No. 01027/09 | Arthur Robert Lyman vs. Dustin Paul Davis | No. 03117/07 | Jarmal Johnson vs. State of Maryland |
| No. 00640/09 | Auction Brokers, LLC et al. vs. Emad Ayyah et al. | No. 00183/08 | Stephon Wallace a/k/a Stephen Wallace vs. State of Maryland |
| No. 00799/09 | Lynn Beattie et vir vs. Cher-Chris Construction Co., Inc. et al. | No. 00267/09 | James Eldridge vs. State of Maryland |
| | | No. 00282/09 | Steven R. Wilkerson vs. State of Maryland |
| | | No. 00312/09 | James Lamont Holley vs. State of Maryland |
| | | No. 00583/09 | Paul Willard Woody vs. State of Maryland |
| | | No. 00622/09 | Michael Shaw vs. State of Maryland |

*8-207(a)

*8-207(a)

Wednesday, June 16, 2010

All cases submitted on brief

Courtroom No. 1

- No. 02190/09* Christina Lazaridis et al. vs. Tina Lavina Wehmer et al.
- No. 01386/09 Jeffrey Alan Richards a/k/a Jeffery A. Richards vs. Attorney Grievance Commission
- No. 01258/09 Joseph Kinard vs. State of Maryland
- No. 02566/08 Dwayne Derek White vs. State of Maryland
- No. 02637/08 Gregory Darnell Tilghman vs. State of Maryland
- No. 02788/08 Gregory Deshaun Wilson vs. State of Maryland
- No. 00360/09 Darren Demitros Hudson vs. State of Maryland
- No. 00365/09 Darrell Wayne McDaniel vs. State of Maryland
- No. 00413/09 Kenneth Henson vs. State of Maryland
- No. 00688/09 Tabatha Beatrice Downes vs. State of Maryland
- No. 00715/09 Ronnie Keith Day vs. State of Maryland

*8-207(a)

Courtroom No. 2

- No. 02945/08 Richmond Laney vs. Susan Laney
- No. 01097/07 Patrick Smith vs. Circuit Court for Anne Arundel County, Maryland
- No. 01634/07 Patrick Smith vs. Circuit Court for Anne Arundel County, Maryland
- No. 01650/09 Bruce Dewayne Coates vs. State of Maryland
- No. 02863/09* In Re: Johnathan M., Jada M. and Julian M.
- No. 00672/08 Kevon D. Gant vs. State of Maryland
- No. 00184/09 Zenno Smith, III vs. State of Maryland
- No. 00264/09 Jawaun Dixon a/k/a Jawaun Dickerson vs. State of Maryland
- No. 00265/09 Michael Truesdale vs. State of Maryland
- No. 00512/09 Lex Lizama vs. State of Maryland
- No. 00581/09 Dominique Antonio Coates vs. State of Maryland

*8-207(a)

Thursday, June 17, 2010

All cases submitted on brief

Courtroom No. 1

- No. 00950/09 Nefertiti Smothers vs. Paul E. Draper, Successor Personal Representative of the Estate of Leon Smothers
- No. 02886/08 Stanley Roger Gross vs. State of Maryland
- No. 00402/08 Nicolas S. Serrano vs. State of Maryland
- No. 02891/08 Michael Avon Johnson vs. State of Maryland
- No. 00461/09 Trendon Washington vs. State of Maryland
- No. 00469/09 Kevin Armstead a/k/a Kevin Armstaed vs. State of Maryland
- No. 00750/09 Waymon Anderson vs. State of Maryland
- No. 00883/09 James Ray Avery vs. State of Maryland

Courtroom No. 2

- No. 00476/09 Lewis Gilley vs. State of Maryland
- No. 00541/09 Russell Lee Ebersole vs. Karen Ebersole

Friday, June 18, 2010

All cases submitted on brief

Courtroom No. 1

- No. 01758/08 Skylar Anthony Sanders vs. State of Maryland
- No. 00670/09 Joseph H. Potter vs. Carol L. Jacobs
- No. 00917/09 Pamela Ball vs. John S. Burson et al.
- No. 02390/08 Kenneth James Beauchamp vs. State of Maryland
- No. 01053/09 Flaubert Mbongo vs. Chevy Chase Bank, F.S.B.
- No. 02529/08 Warren V. Robertson, Jr. vs. State of Maryland
- No. 00317/09 Wayne S. Jones vs. State of Maryland
- No. 00318/09 James Paul Pompa vs. State of Maryland
- No. 00326/09 Michael Patrick Osborne vs. State of Maryland
- No. 00647/09 Tyrone Green vs. State of Maryland
- No. 00709/09 Lawrence Edward Giles, Sr. vs. State of Maryland

Courtroom No. 2

- No. 01121/09 Bryant K. McArthur vs. State of Maryland
- No. 01007/09 Ariel King vs. Michael Pfeiffer
- No. 02900/08 Jose Israel Acosta-Ortega vs. State of Maryland
- No. 01130/09 J. Reuben Rainey a/k/a Reuben Rainey vs. State of Maryland
- No. 00151/09 Craig T. Brown vs. State of Maryland
- No. 00156/09 Alemu Yimer vs. State of Maryland
- No. 00491/09 Oswald Omar Bernard vs. State of Maryland
- No. 00496/09 Anthony Wayne Alston vs. State of Maryland
- No. 00508/09 Saul Aaron Paniagua vs. State of Maryland
- No. 01123/09 Robert L. Coston, III vs. State of Maryland
- No. 01141/09 Charlene Wanda Evering 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 June 2010, the Court will recess until July, 2010.

LESLIE D. GRADET
Clerk

ADMINISTRATIVE ORDER

Pursuant to Maryland Rule 8-522(a), I hereby direct that oral argument in the month of June 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 June, 2010.

Chief Judge's signature appears on original Administrative Order

Dated: April 23, 2010

[10-10-51]

Emergency Action on Regulations

Symbol Key

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

Emergency Regulations

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

Title 08

DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.05 Fish

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

Notice of Emergency Action

[10-138-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to amendments to Regulation .12 under **COMAR 08.02.05 Fish**.

Emergency status began: April 9, 2010.

Emergency status expires: October 6, 2010.

Editor's Note: The text of this document will not be printed here because it appears as a Notice of Proposed Action on pages 726—727 of this issue, referenced as [10-138-P].

JOHN R. GRIFFIN
Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.05 Fish

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

Notice of Emergency Action

[10-133-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to amendments to Regulation .13 under **COMAR 08.02.05 Fish**.

Emergency status began: April 9, 2010.

Emergency status expires: October 6, 2010.

Editor's Note: The text of this document will not be printed here because it appeared as a Notice of Proposed Action in 37:9 Md. R. 676-677 (April 23, 2010), referenced as [10-133-P].

JOHN R. GRIFFIN
Secretary of Natural Resources

Title 10

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 44 BOARD OF DENTAL EXAMINERS

10.44.29 Nominations and Balloting for Appointments to Board of Dental Examiners

Authority: Health Occupations Article, §4-202, Annotated Code of Maryland

Notice of Emergency Action

[10-131-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to new Regulations .01—.16 under a new chapter, **COMAR 10.44.29 Nominations and Balloting for Appointments to Board of Dental Examiners**.

Emergency status began: April 6, 2010.

Emergency status expires: October 3, 2010.

Editor's Note: The text of this document will not be printed here because it appeared as a Notice of Proposed Action in 37:9 Md. R. 681—686 (April 23, 2010), referenced as [10-131-P].

JOHN M. COLMERS
Secretary of Health and Mental Hygiene

Title 26

DEPARTMENT OF THE ENVIRONMENT

Subtitle 17 WATER MANAGEMENT

26.17.02 Stormwater Management

Authority: Environment Article, §§4-201 and 4-203, Annotated Code of Maryland

Notice of Emergency Action

[10-137-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to amendments to Regulations .01 and .05 and new Regulation .01-2 under **COMAR 26.17.02 Stormwater Management**.

Emergency status began: April 7, 2010.

Emergency status expires: October 4, 2010.

Comparison to Federal Standards

There is no corresponding federal standard to this emergency action.

Economic Impact on Small Businesses

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

The estimated costs of the proposed stormwater management regulations and the 2000 Maryland Stormwater Design Manual, including Supplement 1, on regulated industries and trade groups range from negligible to substantial. While these estimated costs may impact both large and small businesses, small businesses may experience greater positive impacts as a result of the proposed regulations. MDE anticipates that smaller businesses with projects already in the pipeline may be more affected by costs associated with significant redesigns needed to meet the May 2009 regulatory requirements. The proposed regulatory changes will allow these projects to proceed under the previous regulations thereby diminishing the need for redesign. When considering this factor, the proposed stormwater management regulations will have a negligible to moderate positive impact on small businesses.

.01 Purpose and Scope.

A. — C. (text unchanged)

D. *The provisions of these regulations may not be construed to affect the requirements for a project located in an Intensely Developed Area of the Chesapeake and Atlantic Coastal Bays Critical Area to comply with the 10 percent Pollution Reduction Requirement under COMAR 27.01.02.03 D(3).*

.01-2 Grandfather Provisions.

A. *In this regulation, the following terms have the meanings indicated:*

(1) *Administrative Waiver.*

(a) *"Administrative waiver" means a decision by the approving agency pursuant to this regulation to allow the construction of a development to be governed by the stormwater management ordinance in effect as of May 4, 2009, in the local jurisdiction where the project will be located.*

(b) *"Administrative waiver" is distinct from a waiver granted pursuant to Regulation .05C of this chapter.*

(2) *Approval.*

(a) *"Approval" means a documented action by a county or municipality following a review to determine and acknowledge the*

sufficiency of submitted material to meet the requirements of a specified stage in a local development review process.

(b) *"Approval" does not mean an acknowledgement by the approving agency that submitted material has been received for review.*

(3) *Final Project Approval.*

(a) *"Final project approval" means approval of the final stormwater management plan and erosion and sediment control plan required to construct a project's stormwater management facilities.*

(b) *"Final project approval" includes securing bonding or financing for final development plans if either is required as a prerequisite for approval.*

(4) *"Preliminary project approval" means an approval as part of a local preliminary development or planning review process that includes, at a minimum:*

(a) *The number of planned dwelling units or lots;*

(b) *The proposed project density;*

(c) *The proposed size and location of all land uses for the project;*

(d) *A plan that identifies:*

(i) *The proposed drainage patterns;*

(ii) *The location of all points of discharge from the site;*

and

(iii) *The type, location, and size of all stormwater management measures based on site-specific stormwater management requirement computations; and*

(e) *Any other information required by the approving agency including, but not limited to:*

(i) *The proposed alignment, location, and construction type and standard for all roads, access ways, and areas of vehicular traffic;*

(ii) *A demonstration that the methods by which the development will be supplied with water and wastewater service are adequate; and*

(iii) *The size, type, and general location of all proposed wastewater and water system infrastructure.*

B. *An approving agency may grant an administrative waiver to a development that received a preliminary project approval prior to May 4, 2010. Administrative waivers expire according to §C of this regulation and may be extended according to §D of this regulation.*

C. *Expiration of Administrative Waivers.*

(1) *Except as provided for in §D of this regulation, an administrative waiver shall expire on:*

(a) *May 4, 2013, if the development does not receive final project approval prior to that date; or*

(b) *May 4, 2017, if the development receives final project approval prior to May 4, 2013.*

(2) *All construction authorized pursuant to an administrative waiver must be completed by May 4, 2017, or, if the waiver is extended as provided in §D of this regulation, by the expiration date of the waiver extension.*

D. *Extension of Administrative Waivers.*

(1) *Except as provided in §D(2) of this regulation, an administrative waiver shall not be extended.*

(2) *An administrative waiver may only be extended if, by May 4, 2010, the development:*

(a) *Has received a preliminary project approval; and*

(b) *Was subject to a Development Rights and Responsibilities Agreement, a Tax Increment Financing approval, or an Annexation Agreement.*

(3) *Administrative waivers extended according to §D(2) of this regulation shall expire when the Development Rights and Responsibilities Agreement, the Tax Increment Financing approval, or the Annexation Agreement expires.*

.05 When Stormwater Management is Required.

A. — B. (text unchanged)

C. Waivers.

(1) (text unchanged)

(2) [Stormwater] *Except as provided in §C(3) and (5) of this regulation, stormwater management quantitative control waivers shall be granted only to those projects within areas where watershed management plans have been developed consistent with §E of this regulation.*

(3) [If] *Except as provided in §C(5) of this regulation, if watershed management plans consistent with §E of this regulation have not been developed, stormwater management quantitative control waivers may be granted to projects:*

(a) That have direct discharges to tidally influenced receiving waters; [or]

(b) *That are in-fill development located in a Priority Funding Area where the economic feasibility of the project is tied to the planned density, and where implementation of the 2009 regulatory requirements would result in a loss of the planned development density provided that:*

(i) *Public water and sewer and stormwater conveyance exist;*

(ii) *The quantitative waiver is applied to the project for the impervious cover that previously existed on the site only;*

(iii) *ESD to the MEP is used to meet the full water quality treatment requirements for the entire development; and*

(iv) *ESD to the MEP is used to provide full quantity control for all new impervious surfaces; or*

[(b)] (c) (text unchanged)

(4) [Stormwater] *Except as provided in §C(5) of this regulation, stormwater management qualitative control waivers apply only to:*

(a) — (c) (text unchanged)

(5) *Stormwater management quantitative and qualitative control waivers may be granted for phased development projects if a system designed to meet the 2000 regulatory requirements and local ordinances for multiple phases has been constructed by May 4, 2010. If the 2009 regulatory requirements cannot be met for future phases constructed after May 4, 2010, all reasonable efforts to incorporate ESD in future phases must be demonstrated.*

D. Redevelopment.

(1) — (2) (text unchanged)

(3) An approving agency may develop separate policies for providing water quality treatment for redevelopment projects if the requirements of §D(1) and (2) of this regulation cannot be met. Any separate redevelopment policy shall be reviewed and approved by the Administration and may include, but not be limited to:

[(a)] Retrofitting;

(b) Stream restoration;

(c) Pollution trading; or]

(a) *A combination of ESD and an on-site or off-site structural BMP;*

(b) *Retrofitting including existing BMP upgrades, filtering practices, and off-site ESD implementation;*

(c) *Participation in a stream restoration project;*

(d) *Pollution trading with another entity;*

[(d)] (e) *Design criteria based on watershed management plans developed according to §E of this regulation[.];*

(f) *Payment of a fee-in-lieu; or*

(g) *A partial waiver of the treatment requirements if ESD is not practicable.*

(4) *The determination of what alternative stormwater management measures will be available may be made by the approving agency at the appropriate point in the development review process. Counties and municipalities shall consider the prioritization*

of alternative measures in §D(3) of this regulation after it has been determined that it is not practicable to meet the 2009 regulatory requirements using ESD. In deciding what alternative measures may be required, an approving agency may consider factors including, but not limited to:

(a) *Whether the project is in an area targeted for development incentives such as a Priority Funding Area, a designated Transit Oriented Development area, or a designated Base Realignment and Closure Revitalization and Incentive Zone;*

(b) *Whether the project is necessary to accommodate growth consistent with comprehensive plans; or*

(c) *Whether bonding and financing have already been secured based on an approved development plan.*

[(4)] (5) — [(7)] (8) (text unchanged)

E. (text unchanged)

SHARI T. WILSON
Secretary of the Environment

Final Action on Regulations

Symbol Key

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

Title 07 DEPARTMENT OF HUMAN RESOURCES

Subtitle 07 CHILD SUPPORT ENFORCEMENT ADMINISTRATION 07.07.05 Establishment of Support Obligation

Authority: Family Law Article, §§10-114, 10-204, 10-301—10-307, 10-322, 10-354, and 12-101—12-204, Annotated Code of Maryland;
Agency Note: Federal Regulatory Reference—45CFR §§302.56, 303.4—303.5, 303.8, and 303.31; 42 U.S.C §652(f)

Notice of Final Action [10-098-F]

On March 31, 2010, the Secretary of Human Resources adopted amendments to Regulations .02 and .03 under **COMAR 07.07.05 Establishment of Support Obligation**. This action, which was proposed for adoption in 37:5 Md. R. 434—435 (February 26, 2010), has been adopted as proposed.

Effective Date: May 17, 2010.

BRENDA DONALD
Secretary of Human Resources

Title 09 DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 24 BOARD OF PUBLIC ACCOUNTANCY

09.24.01 General Regulations

Authority: Business Occupations and Professions Article, §2-416, Annotated Code of Maryland

Notice of Final Action [10-082-F]

On April 6, 2010, the Board of Public Accountancy adopted amendments to Regulation .09 under **COMAR 09.24.01 General Regulations**. This action was considered at a public meeting held on April 6, 2010, notice of which was given by publication in 37:5 Md. R. 456 (February 26, 2010), pursuant to State Government Article, §10-506(c), Annotated Code of Maryland. This action, which was

proposed for adoption in 37:4 Md. R. 348—349 (February 12, 2010), has been adopted as proposed.

Effective Date: May 17, 2010.

DENNIS L. GRING
Executive Director
Board of Public Accountancy

Subtitle 24 BOARD OF PUBLIC ACCOUNTANCY

09.24.02 Continuing Education

Authority: Business Occupations and Professions Article, §§2-207(a), 2-311, and 2-312, Annotated Code of Maryland

Notice of Final Action [10-083-F]

On April 6, 2010, the Board of Public Accountancy adopted amendments to Regulation .02 under **COMAR 09.24.02 Continuing Education**. This action was considered at a public meeting held on April 6, 2010, notice of which was given by publication in 37:5 Md. R. 456 (February 26, 2010), pursuant to State Government Article, §10-506(c), Annotated Code of Maryland. This action, which was proposed for adoption in 37:4 Md. R. 349 (February 12, 2010), has been adopted as proposed.

Effective Date: May 17, 2010.

DENNIS L. GRING
Executive Director
Board of Public Accountancy

Subtitle 24 BOARD OF PUBLIC ACCOUNTANCY

09.24.02 Continuing Education

Authority: Business Occupations and Professions Article, §§2-207(a), 2-311, and 2-312, Annotated Code of Maryland

Notice of Final Action [10-084-F]

On April 6, 2010, the Board of Public Accountancy adopted amendments to Regulation .02 under **COMAR 09.24.02 Continuing Education**. This action was considered at a public meeting held on April 6, 2010, notice of which was given by publication in 37:5 Md. R. 456 (February 26, 2010), pursuant to State Government Article, §10-506(c), Annotated Code of Maryland. This action, which was proposed for adoption in 37:4 Md. R. 349—350 (February 12, 2010), has been adopted as proposed.

Effective Date: May 17, 2010.

DENNIS L. GRING
Executive Director
Board of Public Accountancy

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 34 BOARD OF PHARMACY

Notice of Final Action

[10-069-F]

On April 20, 2010, the Secretary of Health and Mental Hygiene adopted:

(1) Amendments to Regulations **.02** and **.05** under **COMAR 10.34.05 Pharmacy Security**;

(2) New Regulation **.01**, amendments to and the recodification of existing Regulation **.01** to be Regulations **.01-1**, and amendments to Regulation **.03** under **COMAR 10.34.07 Pharmacy Equipment**;

(3) Amendments to Regulation **.01** under **COMAR 10.34.12 Removal of Expired Prescription Drugs**;

(4) Amendments to Regulations **.01**, **.03**, and **.04** under **COMAR 10.34.13 Reinstatement of Expired Licenses for Pharmacists**; and

(5) Amendments to Regulation **.01** under **COMAR 10.34.15 Licensure by Reciprocity**.

This action, which was proposed for adoption in 37:3 Md. R. 222—225 (January 29, 2010), has been adopted with the nonsubstantive changes shown below.

Effective Date: July 1, 2010.

Attorney General's Certification

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

COMAR 10.34.13.01: The definition of “NABPLEX” has been corrected to reflect the accurate name of the exam. The change is for clarification and does not need to be repropoed.

COMAR 10.34.13.03: The term “NAPLEX” is substituted for the term “NABPLEX”. The change is for clarification and does not need to be repropoed.

10.34.13 Reinstatement of Expired Licenses for Pharmacists

Authority: Health Occupations Article, §12-310, Annotated Code of Maryland

.01 Definitions.

A. (proposed text unchanged)

B. Terms Defined.

(1)—(2) (proposed text unchanged)

(3) [“NABPLEX”] “NAPLEX” means the [National Association of Boards of Pharmacy] North American Pharmacist Licensure Examination.

(4)—(5) (proposed text unchanged)

.03 Reinstatement Requirements.

A. (proposed text unchanged)

B. Specific Requirements.

(1)—(6) (proposed text unchanged)

(7) *A pharmacist not actively engaged in the practice of pharmacy, whose Maryland license expired 10 or more years before*

applying for reinstatement, shall:

(a)—(c) (proposed text unchanged)

(d) *Pass the [NABPLEX] NAPLEX.*

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 Final Action

[10-019-F]

On April 19, 2010, the Secretary of Health and Mental Hygiene adopted new Regulations **.02** and **.07**, amendments to and the recodification of existing Regulations **.02—04** and **.07** to be Regulations **.03—05** and **.08**, the repeal of existing Regulations **.05** and **.08**, and amendments to Regulation **.06** under **COMAR 10.34.18 Continuing Education for Pharmacists**. This action, which was proposed for adoption in 37:2 Md. R. 98—100 (January 15, 2010), has been adopted as proposed.

Effective Date: July 1, 2010.

JOHN M. COLMERS
Secretary of Health and Mental Hygiene

Subtitle 46 BOARD OF OCCUPATIONAL THERAPY PRACTICE

Notice of Final Action

[10-036-F]

On April 15, 2010, the Secretary of Health and Mental Hygiene adopted amendments to:

(1) Regulations **.01** and **.02** under **COMAR 10.46.01 General Regulations**; and

(2) Regulations **.01**, **.03—06**, and **.08** under **COMAR 10.46.06 Competency Requirements for Physical Agent Modalities**.

This action, which was proposed for adoption in 37:3 Md. R. 227—229 (January 29, 2010), has been adopted with the nonsubstantive changes shown below.

Effective Date: May 17, 2010.

Attorney General's Certification

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

COMAR 10.46.01.02E(2)(c) and H(3): Corrected to make both statements identical.

COMAR 10.46.06.03B(1)(a): Spelling error corrected.

10.46.01 General Regulations

Authority: Health Occupations Article, §§10-101, 10-205, 10-301, 10-302, 10-304, 10-311—10-313, 10-402, and 10-403; State Government Article, §10-617(h)(3); Annotated Code of Maryland

.02 Licensure.

A.—D. (proposed text unchanged)

E. Application Procedures for Temporary Licensure.

(1) (proposed text unchanged)

(2) To apply for a temporary license, an applicant shall submit the following original documentation to the Board within the time frame specified on the application:

- (a)—(b) (proposed text unchanged)
- (c) Two letters attesting to the applicant's moral character.

[[on]] compliant with forms provided by the Board;

- (d)—(g) (proposed text unchanged)

F.—G. (proposed text unchanged)

H. Application Procedures for Reactivation or Reinstatement of License. To apply for reactivation after elective nonrenewal or reinstatement after expiration, an applicant shall submit the following original documentation to the Board within the timeframe specified on the application:

- (1)—(2) (proposed text unchanged)
- (3) Two letters attesting to the applicant's *[[good]]* moral character, *compliant with* forms provided by the Board;
- (4)—(7) (proposed text unchanged)

I.—L. (proposed text unchanged)

10.46.06 Competency Requirements for Physical Agent Modalities

Authority: Health Occupations Article, §10-101, Annotated Code of Maryland

.03 Definitions.

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

(1) “Didactic education” means an educational activity:

(a) That includes a method of evaluating and testing the knowledge of the licensee relative to electrical physical agent *[[modalities]] modalities*; and

- (b) (proposed text unchanged)
- (2)—(5) (proposed text unchanged)

JOHN M. COLMERS
Secretary of Health and Mental Hygiene

Subtitle 58 BOARD OF PROFESSIONAL COUNSELORS AND THERAPISTS

Notice of Final Action
[10-034-F]

On April 21, 2010, the Secretary of Health and Mental Hygiene adopted:

- (1) New Regulation **.10** under **COMAR 10.58.01 General Regulations**;
- (2) New Regulations **.14—17** under **COMAR 10.58.07 Alcohol and Drug Counselors—Requirements for Certification and Licensure**; and
- (3) The repeal of existing Regulation **.07** and new Regulation **.07** under **COMAR 10.58.08 Marriage and Family Therapists—Requirements for Certification and Licensure**.

This action, which was proposed for adoption in 37:3 Md. R. 230—234 (January 29, 2010), has been adopted as proposed.

Effective Date: May 17, 2010.

JOHN M. COLMERS
Secretary of Health and Mental Hygiene

Title 15 DEPARTMENT OF AGRICULTURE

Subtitle 06 PLANT PEST CONTROL

15.06.03 Collection and Conservation of Maryland Ginseng

Authority: Agriculture Article, §9-603, Annotated Code of Maryland

Notice of Final Action
[10-090-F]

On April 28, 2010, the Secretary of Agriculture adopted amendments to Regulation **.03** under **COMAR 15.06.03 Collection and Conservation of Maryland Ginseng**. This action, which was proposed for adoption in 37:4 Md. R. 365 — 366 (February 12, 2010), has been adopted as proposed.

Effective Date: May 17, 2010.

EARL F. HANCE
Secretary of Agriculture

Subtitle 15 MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION

15.15.01 Guidelines for the Maryland Agricultural Land Preservation Program

Authority: Agriculture Article, §§2-504, 2-509, and 2-513, Annotated Code of Maryland

Notice of Final Action
[10-087-F]

On April 28, 2010, the Secretary of Agriculture adopted the repeal of existing Regulation **.12** and new Regulation **.12** under **COMAR 15.15.01 Guidelines for the Maryland Agricultural Land Preservation Program**. This action, which was proposed for adoption in 37:4 Md. R. 366 (February 12, 2010), has been adopted as proposed.

Effective Date: May 17, 2010.

EARL F. HANCE
Secretary of Agriculture

**Subtitle 15 MARYLAND
AGRICULTURAL LAND
PRESERVATION FOUNDATION**

15.15.09 Civil Penalty Standards

Authority: Agriculture Article, §2-519, Annotated Code of Maryland

Notice of Final Action

[10-089-F]

On April 28, 2010, the Secretary of Agriculture adopted new Regulations **.01 — .07** under a new chapter, **COMAR 15.15.09 Civil Penalty Standards**. This action, which was proposed for adoption in 37:4 Md. R. 366 — 368 (February 12, 2010), has been adopted as proposed.

Effective Date: May 17, 2010.

EARL F. HANCE
Secretary of Agriculture

**Subtitle 15 MARYLAND
AGRICULTURAL LAND
PRESERVATION FOUNDATION**

15.15.10 Confidential Records

Authority: Agriculture Article, §2-510(m), Annotated Code of Maryland

Notice of Final Action

[10-088-F]

On April 28, 2010, the Secretary of Agriculture adopted new Regulations **.01 — .04** under a new chapter, **COMAR 15.15.10 Confidential Records**. This action, which was proposed for adoption in 37:4 Md. R. 368 — 369 (February 12, 2010), has been adopted as proposed.

Effective Date: May 17, 2010.

EARL F. HANCE
Secretary of Agriculture

**Title 26
DEPARTMENT OF THE
ENVIRONMENT**

Subtitle 11 AIR QUALITY

Notice of Final Action

[10-052-F]

On April 14, 2010, the Secretary of the Environment adopted:
(1) Amendments to Regulations **.01** and **.05**, the repeal of existing Regulations **.10** and **.11**, and new Regulations **.10** and **.11** under **COMAR 26.11.01 General Administrative Provisions**; and
(2) Amendments to Regulations **.01** and **.05** under **COMAR 26.11.09 Control of Fuel-Burning Equipment, Stationary Internal Combustion Engines, and Certain Fuel-Burning Installations**.

This action, which was proposed for adoption in 37:3 Md. R. 269—275 (January 29, 2010), has been adopted as proposed.

Effective Date: May 17, 2010.

SHARI T. WILSON
Secretary of the Environment

**Title 31
MARYLAND INSURANCE
ADMINISTRATION**

**Subtitle 10 HEALTH INSURANCE—
GENERAL**

31.10.21 Private Review Agents

Authority: Insurance Article, §§2-109(a)(1) and 15-10B-03(h), Annotated Code of Maryland

Notice of Final Action

[10-076-F]

On March 30, 2010, the Acting Insurance Commissioner adopted amendments to Regulation **.02-1** under **COMAR 31.10.21 Private Review Agents**. This action, which was proposed for adoption in 37:4 Md. R. 376 (February 12, 2010), has been adopted as proposed.

Effective Date: May 17, 2010.

ELIZABETH SAMMIS
Acting Insurance Commissioner

**Subtitle 12 HEALTH MAINTENANCE
ORGANIZATIONS; ENTITIES THAT
ACT AS HEALTH INSURERS**

**31.12.02 Health Maintenance Organizations—
Contract Forms and Premium Rates**

Authority: Health-General Article, Title 19, Subtitle 7; Insurance Article, §§2-109(a)(1) and 15-122; Annotated Code of Maryland

Notice of Final Action

[10-075-F]

On April 9, 2010, the Acting Insurance Commissioner adopted amendments to Regulation **.07** under **COMAR 31.12.02 Health Maintenance Organizations—Contract Forms and Premium Rates**. This action, which was proposed for adoption in 37:4 Md. R. 378 (February 12, 2010), has been adopted as proposed.

Effective Date: May 17, 2010.

ELIZABETH SAMMIS
Acting Insurance Commissioner

Withdrawal of Regulations

Title 07

DEPARTMENT OF HUMAN RESOURCES

Subtitle 07 CHILD SUPPORT ENFORCEMENT ADMINISTRATION

07.07.14 Child Support Enforcement Privatization Pilot Program

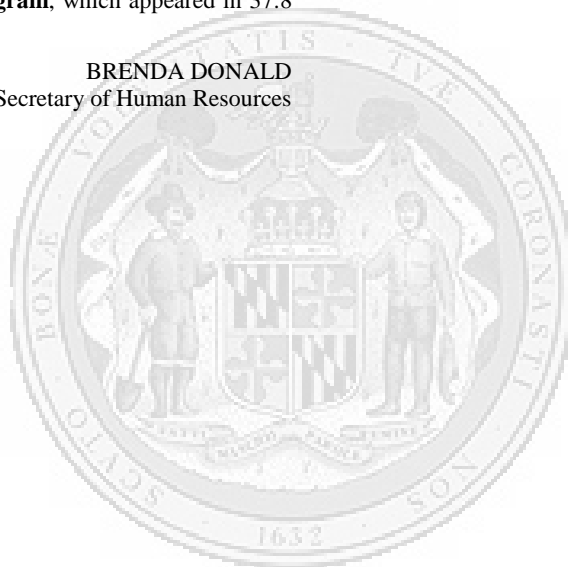
Authority: Family Law Article, §§10-119.1 — 10-119.2, Annotated Code of Maryland

Notice of Withdrawal

[10-121-W]

The Secretary of Human Resources withdraws the repeal of Regulations .01 — .10 under **COMAR 07.07.14 Child Support Enforcement Privatization Pilot Program**, which appeared in 37:8 Md. R. 631 (April 9, 2010).

BRENDA DONALD
Secretary of Human Resources



Proposed Action on Regulations

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

Symbol Key

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

Promulgation of Regulations

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

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

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

Title 07

DEPARTMENT OF HUMAN RESOURCES

Subtitle 02 SOCIAL SERVICES ADMINISTRATION

07.02.27 Maryland Safe Haven Program

Authority: [Article 88A, §5] *Human Services Article §4-207*; Courts and Judicial Proceedings Article, §5-641; Annotated Code of Maryland (Agency Note: Federal Statutory Reference—42 U.S.C. §629a)

Notice of Proposed Action

[10-140-P]

The Secretary of Human Resources proposes to amend Regulation .02 under **COMAR 07.02.27 Maryland Safe Haven Program**.

Statement of Purpose

The purpose of this action is to amend the number of days, from 3 days to 10 days, which a mother has to abandon her newborn under certain circumstances without civil or criminal penalties.

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 LaVonne Oliver, Regulations Coordinator, DHR, Office of Government, Corp. and Comm. Affairs, 311 W. Saratoga Street, Baltimore, Maryland 21201, or call 410-767-2149, or email to regulations@dhr.state.md.us, or fax to 410-333-0637. Comments will be accepted through June 7, 2010. A public hearing has not been scheduled.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(4) (text unchanged)

(5) "Newborn" means a child from birth through [3] 10 days old or through [72] 240 hours old, whichever is later.

(6)—(10) (text unchanged)

BRENDA DONALD

Secretary of Human Resources

Title 08

DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.05 Fish

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

Notice of Proposed Action

[10-138-P]

The Secretary of Natural Resources proposes to amend Regulation .12 under **COMAR 08.02.05 Fish**.

Statement of Purpose

The purpose of this action is to amend recreational and commercial summer flounder regulations. The Atlantic States Marine Fisheries Commission (ASMFC) has required the state of Maryland to reduce the harvest in its recreational fishery by 23.6 percent as a result of the 2009 estimated overage. Maryland will have a recreational target of 75,000 fish in 2010 and proposes to adjust the minimum size limits and fishing season in order to achieve this reduction. Several options were discussed with user groups and advisory commissions and the option chosen lengthens the season and protects the fishing-tourism industry from losing customers to Delaware. This is the first year that Chesapeake Bay and coastal size limits will be the same. ASMFC has recommended this change because split size limits for flounder do not allow for adequate monitoring of required harvest reductions.

Specifically, the proposed action changes the recreational size limit to 19 inches; removes the separate size limits for the Atlantic and Chesapeake Bay fisheries; changes the season dates; and in order to reduce enforcement and user conflict, changes the commercial hook and line size limit to correspond with recreational size limits.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed action has an economic impact on the recreational and charter boat fishery and the commercial hook and line fishery.

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

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

D(1). Economic impact on the recreational and charter boat fishery cannot be estimated. A higher minimum size and a lengthened season may positively impact the recreational and charter boat fishery. Tackle shops in the Chesapeake Bay region are expected to benefit from an increase in the catch limit from one fish to three fish. Other species of fish are still available during the closed recreational summer flounder season which the charter boat industry can take customers fishing for during that time period. For the charter boat industry on the Atlantic Ocean, the summer flounder season will be open when other recreationally targeted species have closed seasons. The size limit change of 1 inch in the ocean should not drastically change recreational anglers desire to fish for summer flounder, although catches of legal sized fish may be reduced. The increase in size limit should make Maryland's regulations uniform with Delaware.

D(2). A higher minimum hook and line size limit may have a negative economic impact for the commercial fishery. However, the average Atlantic commercial hook and line harvest over the past 5 years has increased with the increase in minimum size limits. It is not possible to determine if this poundage will change based on the size limit change because sizes of harvested summer flounder are not reported.

Economic Impact on Small Businesses

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

See assumptions under Types of Economic Impact for information.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Fisheries Service Regulatory Staff, Policy & Regulation Division, Fisheries Service, B-2, 580 Taylor Avenue, Annapolis, MD 21401, or call 410-260-8260, or email to fisheriespubliccomment@dnr.state.md.us, or fax to 410-260-8310. Comments will be accepted through June 7, 2010. A public hearing has not been scheduled.

.12 Summer Flounder.

A. Recreational Fishery.

(1) Minimum Size. An individual may not catch or possess summer flounder less than[

(a) 18] 19 inches total length [in the Atlantic Ocean, its coastal bays, and their tributaries; and

(b) 16½ inches total length in the Chesapeake Bay and its tidal tributaries].

(2) Catch [Limits] Limit. An individual may not catch or possess more than[

(a) Three] three summer flounder per day [in the Atlantic Ocean, its coastal bays, and their tributaries; and

(b) One summer flounder per day in the Chesapeake Bay and its tidal tributaries].

(3) Season. An individual may recreationally catch and possess summer flounder only from April [15] 17 through [September 13] November 22, inclusive.

B. Commercial Fishery.

(1) (text unchanged)

(2) Minimum Size. An individual licensed to catch fish for commercial purposes may not catch or possess a summer flounder less than:

(a) [18 inches total length] The size limit set forth in §A(1) of this regulation if caught by hook and line [in the Atlantic Ocean, its coastal bays, and their tributaries;

(b) 16½ inches total length if caught by hook and line in the Chesapeake Bay and its tidal tributaries]; or

[(c)] (b) (text unchanged)

(3) — (5) (text unchanged)

C. — E. (text unchanged)

JOHN R. GRIFFIN
Secretary of Natural Resources

**Title 11
DEPARTMENT OF
TRANSPORTATION**

Notice of Proposed Action

[10-142-P]

The Administrator of the Motor Vehicle Administration proposes to amend:

(1) Regulations .04 and .07 under **COMAR 11.11.13 Ignition Interlock Program**; and

(2) Regulation .10 under **COMAR 11.13.10 Ignition Interlock Systems**.

Statement of Purpose

The purpose of this action is to clarify an alcohol concentration test result violation that would result in the removal of a participant from the Ignition Interlock Program, to extend hearing rights to individuals removed from the Program, and to correct an inconsistency in regulations regarding a provider's emergency assistance response time for failure of an Ignition Interlock device.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. It is estimated there will be an increase of \$110,250 in expenditures to the Transportation Trust Fund for approximately 735 additional Administrative Hearings. Although the number is undeterminable, the estimated number of hearings may be reduced due to the amendment clarifying a violation of the Ignition Interlock Program that would result in the removal of an individual from the Program and their right to an administrative hearing. The estimated cost to the public is \$91,875 for the hearing request filing fee paid to the Office of Administrative Hearings.

II. Types of Economic Impact.

	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude
A. On issuing agency:		
Cost for Administrative Hearings (E+)		\$110,250
B. On other State agencies:		
Office of Administrative Hearings (R+)		\$110,250
C. On local governments:	NONE	
	Benefit (+)	
	Cost (-)	Magnitude
D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:		
Administrative hearing request filing fee (-)		\$91,875

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

A. The \$110,250 increase in expenditure is based on approximately 735 additional hearings annually at a cost to the Administration of \$150 per administrative hearing. Currently there are approximately 3,500 Ignition Interlock Program participants that do not successfully complete and are removed from the Program and half or 1750 those participants currently do not have hearing rights. Of those 1750 participants, it is estimated that 42% will request hearings ($1750 \times 0.42 = 735$) at a cost of \$150 per hearing ($735 \times \$150 = \$110,250$).

B. The increase in revenue is based on an estimated 735 additional hearings at \$150 per hearing.

F. The estimated \$91,875 cost to the public is based on 735 individuals paying a \$125 hearing request filing fee to the Office of Administrative Hearings ($735 \times \$125 = \$91,875$).

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 Carolyn Decker, Regulations Coordinator, Motor Vehicle Administration, 6601 Ritchie Highway, N.E., Room 200, Glen Burnie, MD 21062, or call 410-424-3105, or email to cdecker@mdot.state.md.us, or fax to 410-768-7506. Comments will be accepted through June 7, 2010. A public hearing has not been scheduled.

Subtitle 11 MOTOR VEHICLE ADMINISTRATION—ADMINISTRATIVE PROCEDURES

11.11.13 Ignition Interlock Program

Authority: Transportation Article, §§12-104(b), 16-205.1, 16-404.1, and 27-107, Annotated Code of Maryland

.04 Violations of the Program.

A. A participant is in violation of the Program requirements if the individual:

- (1)—(5) (text unchanged)
- (6) Attempts to start or operate a vehicle with a breath alcohol concentration greater than 0.025 percent, *unless there is a subsequent test reading within 5 minutes that indicates a breath alcohol concentration below 0.026 percent;*
- (7)—(12) (text unchanged)

B. (text unchanged)

.07 Hearing Rights.

[A. Unless the individual's participation in the Program was under the Administration's modification authority set forth in Transportation Article, §16-205.1(b)(3)(vii) or (n)(2)—(5), Annotated Code of Maryland, a participant may not request a hearing on a decision made or action taken by the Administration for a violation of the Program under this chapter.]

[B.] A. (text unchanged)

B. *An individual participating in the program from a referral source other than the Administration's modification authority specified in §A of this regulation, who is removed for a violation of the Program under this chapter, may:*

- (1) *Request a hearing on the suspension or revocation resulting from the removal from the Program; and*
- (2) *Have the suspension held in abeyance pending the outcome of the administrative hearing.*

Subtitle 13 MOTOR VEHICLE ADMINISTRATION—VEHICLE EQUIPMENT

11.13.10 Ignition Interlock Systems

Authority: Transportation Article, §§12-104(b), 16-404.1, 27-107, and 27-108, Annotated Code of Maryland

.10 User Orientation and Support.

A. (text unchanged)

B. The manufacturer shall provide an emergency 24-hour phone number that a user may contact to receive assistance. Assistance may include technical information, tow service, or road service. Emergency assistance related to the failure of a device shall be

provided within [2] 3 hours for vehicles located in or near an area with an installation or repair facility. The device shall be made functional within 48 hours from when the call for assistance is made.

JOHN T. KUO
Administrator
Motor Vehicle Administration

(5) — (31) (text unchanged)

JOHN E. LYONS, SR.
Secretary of Higher Education

Title 13B MARYLAND HIGHER EDUCATION COMMISSION

Subtitle 02 ACADEMIC REGULATIONS

13B.02.03 Academic Programs — Degree-Granting Institutions

Authority: Education Article, §11-105(u), Annotated Code of Maryland

Notice of Proposed Action [10-141-P]

The Maryland Higher Education Commission proposes to adopt amendments to Regulation .02 under COMAR 13B.02.03 **Academic Programs — Degree-Granting Institutions**. This action was considered by the Maryland Higher Education Commission at an open meeting held on March 24, 2010, notice of which was given pursuant to State Government Article, §10-506, Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to amend the definition of Associate of Art in Teaching.

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 George Reid, Assistant Secretary for Planning and Academic Affairs, Maryland Higher Education Commission, 839 Bestgate Road, Suite 400, Annapolis, MD 21401, or call 410-260-4552, or email to greid@mhec.state.md.us, or fax to 410-260-3200. Comments will be accepted through June 7, 2010. A public hearing has not been scheduled.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (4) (text unchanged)

(4-1) "Associate of Art in Teaching (A.A.T.);" means a degree which recognizes a mastery in teacher education which:

(a) — (c) (text unchanged)

(d) If achieved, transfers [in total] up to 64 semester credit hours, satisfying all lower-division teacher education program outcomes without further review by Maryland public and independent [four-year] 4-year institutions.

Title 14 INDEPENDENT AGENCIES

Subtitle 09 WORKERS' COMPENSATION COMMISSION

14.09.01 Procedural Regulations

Authority: Labor and Employment Article, §§9-309 and 9-731, Annotated Code of Maryland

Notice of Proposed Action [10-146-P]

The Workers' Compensation Commission proposes to adopt amendments to Regulation .25 under COMAR 14.09.01 **Procedural Regulations**. This action was considered at an open meeting held on March 25, 2010, notice of which was given by publication in the Maryland Register at 37:6 Md. R. 504 (March 12, 2010) pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to (1) conform certain definitions to other recently adopted regulatory changes and standardize the terminology used regarding attorney's fees; (2) clarify the sums included in calculating an attorney's fee; and (3) specify the calculation of additional attorney's fees where there is an increase in compensation as the result of an increase in permanent partial disability award or final compromise and settlement.

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 Michael L. Galey, Esq., Secretary of the Commission, Workers' Compensation Commission, 10 E. Baltimore St., Baltimore, MD 21202, or call 410-864-5315, or email to mgaley@wcc.state.md.us, or fax to 410-864-5301. Comments will be accepted through June 7, 2010. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Workers' Compensation Commission during a public meeting to be held on June 24, 2010, 9 a.m., at 10 E. Baltimore St., Baltimore, MD 21202.

.25 Schedule of [Attorneys'] Attorney's Fees.

A. The Commission shall approve [attorneys'] attorney's fees in accordance with the schedule of fees established from time to time by the Commission and set forth in §B.

B. Schedule of Fees.

(1) Definitions.

(a) In this section, the following terms have the meanings indicated[.].

(b) Terms Defined.

(i) (text unchanged)

(ii) ["Medicare set-aside" means an agreement by which funds are allocated for future medical services and future prescription drug treatment related to a workers' compensation injury, illness, or disease that would otherwise be reimbursable by Medicare.] *"Formal set-aside allocation" means a document reflecting a comprehensive analysis and projection of future injury-related medical needs and associated costs.*

(iii) (text unchanged)

(2) — (6) (text unchanged)

(7) Settlement Agreements.

(a) — (e) (text unchanged)

(f) [Any sums placed in a Medicare set-aside may not be included as part of the settlement for calculation of the attorney's fee.] *In calculating the attorney's fee, an attorney may not include as part of the settlement any amounts paid or payable in the case for medical services and prescription drugs including but not limited to:*

(i) *Any monies allocated to future medical expenses through a formal set-aside allocation;*

(ii) *Any monies apportioned to future medical benefits;*
and

(iii) *Any monies already paid or owing for medical services and prescription drugs.*

(g) The Commission may not regulate the attorney's fees charged for the administration of the [Medicare set-aside] *formal set-aside allocation* once a case is resolved by an agreement of final compromise and settlement.

(8) Increase in Last Award of Compensation for Permanent Partial Disability.

(a) Except as otherwise provided in §B(8)(b) — (c) of this regulation, [in a case in which the Commission increases the last award of compensation for permanent partial disability upon which an attorney's fee was previously approved] *if the claimant is entitled to additional compensation as a result of an increase in a permanent partial disability award*, the Commission may approve an additional attorney's fee in an amount not exceeding the difference between the fee approved for all prior awards and the fee computed under §B(3) or (4)(a)[, as the case may be,] of this regulation on the increased award.

(b) *If the claimant is entitled to additional compensation as a result of a final compromise and settlement, and was previously awarded permanent partial disability, the Commission may approve an attorney's fee calculated using the methodology set forth in §B(7) of this regulation.*

[(b)] (c) [In a case in which the Commission increases the last award of compensation for permanent partial disability upon which the attorney or attorneys were previously awarded the maximum fee permitted] *If the claimant is entitled to additional compensation as a result of an increase in a permanent partial disability award or a final compromise and settlement, and the attorney previously was awarded the maximum fee authorized under §B(3) of this regulation, the Commission may approve an additional attorney's fee in an amount up to 5 percent of the difference between the prior awards of compensation and the increased award of compensation, but [not exceeding] not to exceed five times the State average weekly wage.*

(9) (text unchanged)

C. (text unchanged)

R. KARL AUMANN
Chairman
Workers' Compensation Commission

Subtitle 31 OFFICE FOR CHILDREN

14.31.09 Statement of Need

Authority: Human Services Article, §§2-209, 8-703.1, and 9-204, Annotated Code of Maryland

Notice of Proposed Action

[10-143-P]

The Secretary of Human Resources and the Secretary of Juvenile Services, in conjunction with the Executive Director of the Governor's Office for Children, propose to adopt new Regulations **.01—.05** under a new chapter, **COMAR 14.31.09 Statement of Need**. For administrative convenience, because these proposed regulations are being jointly proposed, the new regulations would appear in the title for the existing regulations for the Governor's Office for Children.

Statement of Purpose

The purpose of this action is to establish guidelines that will govern the development and issuance of a statement of need for residential child care programs to be licensed by the Department of Human Resources or the Department of Juvenile Services.

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 Rosemary King Johnston, Executive Director, Governor's Office for Children, 301 W. Preston Street, Suite 1502, Baltimore, MD 21201, or fax to 410-333-5248, or call 410-767-6211, or email to rjohnston@goc.state.md.us. Comments will be accepted through June 7, 2010. A public hearing has not been scheduled.

.01 Purpose.

The purpose of this chapter is to establish a process for developing and issuing a statement of need for residential child care programs licensed by the Department of Human Resources or the Department of Juvenile Services.

.02 Scope.

This chapter applies to the development and issuance of a statement of need for residential child care programs to be licensed by the Department of Human Resources or the Department of Juvenile Services. This chapter also applies to the relocation of an existing or previously licensed residential child care program to another site and the expansion or increase in the number of placements of an existing residential child care program.

.03 Definitions.

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

B. *Terms Defined.*

(1) *"Agencies" means the Department of Human Resources and the Department of Juvenile Services.*

(2) *"Expansion request" means the materials required by the Office submitted by a licensed provider that seeks to add additional beds to an existing facility, to expand the physical site or to duplicate a residential child care program in a new location.*

(3) "Facility" means the physical premises where a residential child care program that is licensed by the Department of Human Resources or the Department of Juvenile Services is operated.

(4) "Licensing" means the process undertaken by the Agencies to issue, suspend, revoke, or deny a license.

(5) "Office" means the Governor's Office for Children.

(6) "Proposal" means the materials required by the Office, submitted by a potential new provider or an established provider, to develop a new residential child care facility or program, or an expansion request.

(7) "Provider" means the operator of a residential child care program.

(8) "Residential child care program" means a program of care provided in a residential setting by a provider on a 24-hour basis, for longer than 24 hours, to a child or children, unless otherwise provided by State law. A residential child care program does not include any program licensed by Department of Health and Mental Hygiene.

(9) "Statement of need" means an official certification of public need in a county or region issued by one of the Agencies for the location and/or establishment of a residential child care program.

.04 Statement of Need.

A. A Statement of Need shall be issued by the Department of Human Resources or the Department of Juvenile Services before:

(1) A prospective licensee may submit to the Office a proposal for a residential child care program in accordance with COMAR 14.31.02;

(2) An existing or previously licensed residential child care program is relocated to another site;

(3) The physical site of a residential child care program is expanded; or

(4) The number of placements in a residential child care program is increased.

B. In developing a statement of need, the Agencies shall:

(1) Consider needs identified in the State Resource Plan and the Interagency Strategic Plan;

(2) Consider the specialized mental, physical, and behavioral health and development needs of children in the county or region affected by the statement of need; and

(3) Give notice and an opportunity to comment on the proposed statement of need to stakeholders in the counties or regions affected by the statement of need, including:

(a) State and local child-serving agencies;

(b) Providers of residential and community-based services for children; and

(c) Children, parents, foster parents, and other guardians.

C. When the need for a residential child care program is identified, the Agencies shall publish a notice of a statement of need in the Maryland Register.

D. The statement of need shall include:

(1) Identification of the geographic area or areas of need, including the primary region or regions of residence of the children who will be placed in the facility;

(2) Identification of population to be served, including specialized mental, physical, behavioral health, and developmental needs of the children affected by the statement of need;

(3) Description of services that will be provided;

(4) Description of the current availability of the proposed services in the region or regions;

(5) Description of the actual or projected number of children who need the proposed services from the region or regions;

(6) Number of beds required;

(7) Description of the methodology used as the basis for the agency's calculations set forth in a manner that permits independent verification if requested;

(8) Date by which proposals must be submitted;

(9) Date by which beds must be available; and

(10) Selection criteria.

E. Proposals for a residential child care program must be submitted to the Office in accordance with COMAR 14.31.02 only in response to a published statement of need.

F. The Agencies may not grant a license for a residential child care program unless a statement of need has been issued.

G. The Agencies may not delegate their authority to issue a statement of need.

H. The Agencies shall perform the licensure for a residential child care program in accordance with the applicable provisions of COMAR 14.31.05.

I. The Agencies shall perform an evaluation of responses to requests for proposals, and selection of a contractor in accordance with the applicable provisions of COMAR 21.05.03 and other applicable statutes and regulations.

.05 Disputes.

A. When the licensing agency rejects a proposal submitted in response to a request for proposals issued in conjunction with a statement of need under this regulation, a provider has a right to protest the rejection to the licensing agency procurement officer under the protest provisions of COMAR 21.10.02.

B. A provider has a right to a hearing under the licensing provisions of COMAR 14.31.05.10 when the licensing agency denies an application for a license under this regulation.

ROSEMARY KING JOHNSTON
Executive Director
Governor's Office for Children

**Title 15
DEPARTMENT OF
AGRICULTURE**

Subtitle 06 PLANT PEST CONTROL

15.06.02 Plant Pest Control Regulations

Authority: Agriculture Article, §§5-301 — 5-314 and 9-302, Annotated Code of Maryland

Notice of Proposed Action
[10-145-P]

The Secretary of Agriculture proposes to amend Regulation .06 under COMAR 15.06.02 Plant Pest Control Regulations.

Statement of Purpose

The purpose of this action is to implement Ch. 430 (S.B. 508), Acts of 2004, which increased the fees for a nursery inspection certificate, a plant dealer license, and a plant broker license by \$25.

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 Carol Holko, Program Manager, Maryland Department of Agriculture, 50 Harry S. Truman Parkway, Annapolis, MD 21401, or call 410-841-5920, or email to holkoCA@mda.state.md.us, or fax to 410-841-5835. Comments will be accepted through June 7, 2010. A public hearing has not been scheduled.

.06 Fee Schedule.

- A. (text unchanged)
- B. Persons Issued a Nursery Inspection Certificate or a Plant Dealer License.
 - (1) (text unchanged)
 - (2) Nursery Inspection Certificate = [\$75] \$100 a year for each sales location.
 - (3) Plant Dealer License = [\$75] \$100 a year for each sales location.
- C. Persons issued a Plant Broker License. Plant Broker License = [\$75] \$100 a year.
- D. — I. (text unchanged)

EARL F. HANCE
Secretary of Agriculture

Title 21 STATE PROCUREMENT REGULATIONS

Notice of Proposed Action

[10-144-P]

The Board of Public Works proposes to adopt:

- (1) New Regulations .01 — .05 under a new chapter, **COMAR 21.05.10 Construction Management at Risk;**
- (2) New Regulations .01 — .04 under a new chapter, **COMAR 21.05.11 Design-Build;** and
- (3) New Regulation .13 under **COMAR 21.13.01 Reporting Requirements.**

This action was considered at a public meeting held on March 24, 2010.

Statement of Purpose

The purpose of this action is to adopt procedures to govern the construction management at risk and design-build project delivery methods.

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 Mary Jo Childs, Procurement Advisor, Board of Public Works, 80 Calvert Street, Room 117, Annapolis, MD 21401, or call 410-260-7335, or email to mchilds@comp.state.md.us, or fax to 410-974-5240. Comments will be accepted through June 7, 2010. A public hearing has not been scheduled.

Subtitle 05 PROCUREMENT METHODS AND PROJECT DELIVERY METHODS

21.05.10 Construction Management at Risk

Authority: State Finance and Procurement Article, §§12-101 and 13-103 — 13-104, Annotated Code of Maryland

.01 Definitions.

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

B. *Terms Defined.*

(1) *“Construction management at risk” means a project delivery method wherein a construction manager provides a range of preconstruction services and construction management services which may include, but are not limited to, cost estimation and consultation regarding the design of the project, prequalifying and evaluating trade contractors and subcontractors, awarding the trade contracts and subcontracts, scheduling, cost control, and value engineering.*

(2) *“Construction manager” means the sole proprietorship, partnership, corporation, or other legal entity that provides construction management services.*

(3) *“Guaranteed maximum price (GMP)” means the agreed dollar amount for the construction and construction management services, including the specified scope of work, the cost of the trade work, the general conditions, contingency, and the fees charged by the construction management firm.*

(4) *“Preconstruction services” means services provided by the construction manager before construction which include, but are not limited to, constructability analysis, value engineering, scheduling, site assessments, and cost estimates.*

(5) *“Trade contract” means an agreement which sets out the terms and conditions upon which the construction manager engages trade contractors.*

(6) *“Trade contractor” means a subcontractor who specializes in a particular aspect of a construction project such as plumbing, electrical, or painting.*

.02 General.

A. *Procurement agencies not otherwise exempt from this title may not use the construction management at risk project delivery method for construction projects estimated at less than \$10,000,000 without prior approval from the Board of Public Works.*

B. *Cost savings resulting from projects completed below the guaranteed maximum price may be shared between the procurement agency and the construction manager.*

.03 Selection of the Construction Manager.

A. *Procurement agencies shall use the competitive sealed proposals procurement method under COMAR 21.05.03 to select the construction manager.*

B. *Procurement agencies shall obtain separate Board of Public Works approval for preconstruction services, regardless of dollar value, and each GMP that exceeds the Board delegations of procurement and contracting authority in COMAR 21.02.01.04.*

.04 Guaranteed Maximum Price.

A. *The construction manager warrants that the work will be completed at or below the GMP with provisions for change order adjustments for owner-directed work that is outside the agreed-upon GMP work scope and not otherwise covered by the contingency.*

B. *The GMP shall be based on design documents that are not less developed than 50 percent construction documents for the applicable scope of work.*

C. The GMP shall be agreed to as an amendment to the contract between the procurement agency and the construction manager.

.05 Trade Contracts.

A. The construction manager assumes all risk for the cost, schedule, and performance of the trade contracts.

B. Trade contracts may be procured concurrently or over the life of the project.

C. The construction manager or procurement unit shall send the solicitation notice for trade proposals to the Governor's Office of Minority Affairs and publish the notice in a newspaper of general circulation near the project, or Internet media, or both, at least 14 days before trade proposals are due. If the construction manager restricts trade proposals to prequalified contractors, the solicitation notice shall include information on the prequalification process.

D. The procurement agency shall publish notice of the project, contact information of the construction manager, and general information on trade proposal solicitation on its website and eMaryland Marketplace.

E. The construction manager may, subject to approval by the procurement officer, select trade contractors based on evaluation factors other than low bid, including, but not limited to, MBE participation, past performance, and special qualifications.

21.05.11 Design-Build

Authority: State Finance and Procurement Article, §§12-101 and 13-103 — 13-104, Annotated Code of Maryland

.01 Definitions.

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

B. Terms defined.

(1) "Design build" means a project delivery method in which a single entity is contractually responsible for both design and construction of a project.

(2) "Design professional" means an architect or professional engineer who is licensed to conduct business in the State of Maryland.

.02 Determination on Use of the Design-Build Method.

Before the solicitation is issued, the procurement officer shall prepare a written determination justifying the use of the design-build method which addresses some or all of the following criteria:

A. The extent to which the unit can adequately define the project requirements;

B. Time constraints for delivery of the project;

C. Capability and experience of prospective contractors with the design-build method or similar experience;

D. Suitability of the project for use of the design-build method of project delivery with respect to time, schedule, costs, and quality factors; and

E. Capability of the agency to manage the project.

.03 Licensing Requirements.

Each design-builder shall employ or have as a partner, member, officer, joint venture partner, or subcontractor at least one design professional duly licensed and registered to do business in the State.

.04 Selection of the Design-Builder.

A. Selection of a design-builder shall be conducted using the multi-step sealed bid procurement method as provided in COMAR 21.05.02.17 or the competitive sealed proposals procurement method as provided in COMAR 21.05.03.

B. The invitation for bids or request for proposals shall contain at a minimum:

(1) The minimum qualifications of the design-builder;

(2) Requirements for construction and design experience and experience in other design-build projects provided the requirements do not unduly restrict competition;

(3) The scope of work; and

(4) Responsibilities of the State and design-builder particularly in the areas of design defects and warranties.

Subtitle 13 PROCUREMENT REPORTING REQUIREMENTS

21.13.01 Reporting Requirements

Authority: State Finance and Procurement Article, §12-101, Annotated Code of Maryland

.13 Report on Project Delivery Methods.

A. On or before December 1 of each year, each agency procuring construction shall report to the Board of Public Works on the use of the design-build and construction management at risk project delivery methods for the prior fiscal year.

B. The report format shall be determined by the Board of Public Works.

SHEILA McDONALD
Secretary
Board of Public Works

Subtitle 11 SOCIOECONOMIC POLICIES

21.11.03 Minority Business Enterprise Policies

Authority: State Finance and Procurement Article, §§12-101, 14-303, and 14-305, Annotated Code of Maryland; Ch. 715, Acts of 2009

Notice of Proposed Action

[10-147-P]

The Board of Public Works proposes to amend regulations .01, .07, .09, and .17 under COMAR 21.11.03 **Minority Business Enterprise Policies**. This action was considered at a public meeting held on March 24, 2010, notice of which was published pursuant to State Government Article, §10-506, Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to promote and provide for the counting and reporting of certified minority business enterprises as prime contractors pursuant to Ch. 715, Acts of 2009.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. Any increase in contract awards to MBEs as prime contractors will have a positive economic impact in the MBE business community.

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

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

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

E. Increases in awards to MBEs as prime contractors will have a positive economic impact to the MBE business community.

F. An increase in MBE firms bidding as prime contractors will increase overall competition in State procurements. Increased competition results in increased cost savings.

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 Mary Jo Childs, Procurement Advisor, Board of Public Works, 80 Calvert Street, Room 117, Annapolis, MD 21401, or call 410-260-7335, or email to mchilds@comp.state.md.us, or fax to 410.974.5240. Comments will be accepted through June 7, 2010. A public hearing has not been scheduled.

.01 General — Purpose.

This chapter provides that maximum contracting opportunities be extended to certified minority business enterprises, *as both prime contractors and subcontractors*, and establishes that:

A. — C. (text unchanged)

.07 Race Neutral Measures.

Race neutral measures may include:

A. Any outreach efforts to advise *small and minority businesses* of contracting opportunities within the State in accordance with §§B—D of this regulation;

B. — H. (text unchanged)

.09 Procurement Solicitations.

A. General.

(1) A procurement agency shall assess the potential for certified MBE *prime contractor and subcontractor* participation in each contract, and estimate the amount of participation if any before initiating the procurement. The procurement agency shall use the MBE strategies decided most appropriate for the particular contract.

(2) The following factors may be used to anticipate the degree of certified MBE *prime contractor* participation, to decide the certified MBE subcontract participation goal *and subgoals*, when used, and the MBE *prime contractor and subcontractor* procurement strategy to be used:

(a) The extent to which direct solicitation *at the prime contract level*, subcontracting, or a combination of both is determined most likely to result in maximum certified MBE participation in the contract;

(b) — (e) (text unchanged)

B. — G. (text unchanged)

.17 Reporting.

A. Each procurement agency shall make a report annually within 90 days following the close of the fiscal year to the Office of Minority Affairs, the Department of Transportation, and, subject to State Government Article, §2-1246, Annotated Code of Maryland, to the Joint Committee on Fair Practices that includes:

(1) — (3) (text unchanged)

(4) An evaluation by the procurement agency of the success of its MBE program, *which evaluation shall include a brief description of the procurement agency's outreach efforts to MBE prime contractors and MBE subcontractors.*

B. — D. (text unchanged)

SHEILA McDONALD
Executive Secretary
Board of Public Works

Special Documents

DEPARTMENT OF THE ENVIRONMENT

WATER MANAGEMENT ADMINISTRATION

Tentative Determination to Issue General Discharge Permit for Stormwater Associated with Construction Activity

The Maryland Department of the Environment (MDE) has reached a tentative determination to modify the General Discharge Permit for Storm Water Discharges associated with Construction Activity, MDR10 (General Permit).

The permit is necessary to protect water quality and to meet federal and State requirements under Code of Federal Regulations 40 CFR Part 122.26 and 40 CFR Part 450, as well as Code of Maryland Regulations (COMAR) 26.08.04.09A. All construction activity in Maryland disturbing one or more acres must be covered under the General Permit. Permittees currently under the General Permit will be covered by the modified permit when it becomes final. The modified proposed permit includes significant changes from previous permits and should be reviewed carefully. Principally, the modification incorporates the Effluent Limitations Guidelines and Standards for the Construction and Development Point Source Category, 40 CFR Part 450. The U.S. Environmental Protection Agency has promulgated these regulations applicable to construction sites.

The proposed modified permit:

- Prohibits discharges that are prohibited by the federal Effluent Limitations Guidelines, including but not limited to wastewater from washout of concrete without controls and wastewater from cleanout of other construction materials.
- Requires all new construction projects authorized under the General Permit to implement the following controls meeting the federal Effluent Limitations Guidelines: Erosion and Sediment Controls, Soil Stabilization, Dewatering, Pollution Prevention Measures, and Surface Outlets.
- Effective August 2, 2011, requires all construction projects authorized under the general permit disturbing 20 or more acres of land at one time to comply with a daily average effluent limitation for turbidity of 280 Nephelometric turbidity units (NTU). Effective February 2, 2014, all construction projects authorized under the general permit disturbing ten or more acres of land at one time must comply with a daily average effluent limitation for turbidity of 280 Nephelometric turbidity units (NTU). In both cases, discharges that result from a storm larger than the local 2-year, 24-hour storm are exempt from the effluent limitation.

Fees for permit coverage are proposed to remain the same unless changed in the Code of Maryland Regulations (COMAR).

A public hearing on the tentative determination will be scheduled if a written request is received by May 27, 2010. The request should be sent to the **Maryland Department of the Environment, Water Management Administration, 1800 Washington Blvd., Suite 420, Baltimore, Maryland 21230-1708 Attn.: Ms. Karen Smith** and must include the name, address and telephone number (home and work) of the person making the request, the name of any other party whom the person making the request may represent, and the name of the facility and permit number. Failure to request a hearing by May 27, 2010, will constitute a waiver of the right to a public hearing on the tentative determination. Written comments concerning the tentative determination will be considered in the preparation of a final determination if submitted to the Department, to the attention of

Ms. Smith at the above address, on or before June 7, 2010. Any hearing-impaired person who requests a hearing may also request an interpreter at the hearing by contacting Ms. Smith at (410) 537-3401 or by written request to the above address at least ten working days prior to the scheduled hearing date.

The fact sheet for the tentative determination and a copy of the permit may be viewed on the Department website, www.mde.state.md.us. Persons may also review the supporting documentation by contacting Ms. Smith at the above telephone number to make an appointment or by written request to Ms. Smith at the above address. Copies of documents may be obtained at a cost of \$0.36 per page.

[10-10-50]

SUSQUEHANNA RIVER BASIN COMMISSION

Notice of Projects Approved for Consumptive Uses of Water

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in "DATES."

DATE: January 1, 2010, through January 31, 2010.

ADDRESS: Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, PA 17102-2391.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238-0423, ext. 306; fax: (717) 238-2436; e-mail: rcairo@srbc.net or Stephanie L. Richardson, Secretary to the Commission, telephone: (717) 238-0423, ext. 304; fax: (717) 238-2436; e-mail: srichardson@srbc.net. Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR §806.22(f) for the time period specified above:

Approvals By Rule Issued Under 18 CFR 806.22(f):

- EXCO Resources (PA), Inc., Pad ID: Roba, ABR-20100101, Scott Township, Lackawanna County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: January 8, 2010.
- Ultra Resources, Inc., Pad ID: Ken-Ton 902, ABR-20100102, West Branch Township, Potter County, Pa.; Consumptive Use of up to 4.990 mgd; Approval Date: January 8, 2010.
- Fortuna Energy, Inc., Pad ID: Vanblarcom R 004, ABR-20100103, Columbia Township, Bradford County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: January 8, 2010.
- Chief Oil & Gas, LLC, Pad ID: Lytle Unit Drilling Pad, ABR-20100104, Lawrence Township, Clearfield County, Pa.; Consumptive Use of up to 5.000 mgd; Approval Date: January 8, 2010.
- East Resources, Inc., Pad ID: Willard 419-1H, ABR-20100105, Delmar Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: January 8, 2010.
- East Resources, Inc., Pad ID: York 480-5H, ABR-20100106, Sullivan Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: January 8, 2010.
- East Resources, Inc., Pad ID: Wood 513, ABR-20100107, Rutland Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: January 8, 2010.

SPECIAL DOCUMENTS

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- Fortuna Energy, Inc., Pad ID: Hoover G 017, ABR-20100108, Canton Township, Bradford County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: January 8, 2010.
- Fortuna Energy, Inc., Pad ID: Foust J 1H, ABR-20100109, Granville Township, Bradford County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: January 8, 2010.
- Fortuna Energy, Inc., Pad ID: Lutz T1, ABR-20100110, Troy Township, Bradford County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: January 8, 2010.
- Fortuna Energy, Inc., Pad ID: Lutz T2, ABR-20100111, Troy Township, Bradford County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: January 8, 2010.
- Fortuna Energy, Inc., Pad ID: Thomas FT 1, ABR-20100112, Troy Township, Bradford County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: January 8, 2010.
- Fortuna Energy, Inc., Pad ID: Thomas FT 2, ABR-20100113, Troy Township, Bradford County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: January 8, 2010.
- East Resources, Inc., Pad ID: Butler 127, ABR-20100114, Delmar Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: January 8, 2010.
- J-W Operating Company, Pad ID: Pardee & Curtin Lumber Co. C-04 ABR-20100115, Lumber Township, Cameron County, Pa.; Consumptive Use of up to 4.500 mgd; Approval Date: January 8, 2010.
- J-W Operating Company, Pad ID: Pardee & Curtin Lumber Co. C-05 ABR-20100116, Shippen Township, Cameron County, Pa.; Consumptive Use of up to 4.500 mgd; Approval Date: January 8, 2010.
- J-W Operating Company, Pad ID: Pardee & Curtin Lumber Co. C-07H, ABR-20100117, Lumber Township, Cameron County, Pa.; Consumptive Use of up to 4.500 mgd; Approval Date: January 8, 2010.
- East Resources, Inc., Pad ID: Hackman 143, ABR-20100118, Delmar Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: January 8, 2010.
- East Resources, Inc., Pad ID: Baker 128, ABR-20100119, Delmar Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: January 8, 2010.
- East Resources, Inc., Pad ID: Charles Stock 144, ABR-20100120, Delmar Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: January 8, 2010.
- East Resources, Inc., Pad ID: Kennedy 137, ABR-20100121, Delmar Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: January 8, 2010.
- East Resources, Inc., Pad ID: Stevens 142, ABR-20100122, Delmar Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: January 8, 2010.
- East Resources, Inc., Pad ID: Castle 113D, ABR-20100123, Canton Township, Bradford County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: January 8, 2010.
- East Resources, Inc., Pad ID: Miller 116D, ABR-20100124, Union Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: January 8, 2010.
- Citrus Energy Corporation, Pad ID: Procter & Gamble Mehoopany Plant 4V, ABR-20100125, Washington Township, Wyoming County, Pa.; Consumptive Use of up to 5.000 mgd; Approval Date: January 8, 2010.
- Citrus Energy Corporation, Pad ID: Procter & Gamble Mehoopany Plant 3V, ABR-20100126, Washington Township, Wyoming County, Pa.; Consumptive Use of up to 5.000 mgd; Approval Date: January 8, 2010.
- Citrus Energy Corporation, Pad ID: Procter & Gamble Mehoopany Plant 5V, ABR-20100127, Washington Township, Wyoming County, Pa.; Consumptive Use of up to 5.000 mgd; Approval Date: January 8, 2010.
- Fortuna Energy, Inc., Pad ID: Castle 01 047, ABR-20100128, Armenia Township, Bradford County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: January 8, 2010.
- Fortuna Energy, Inc., Pad ID: TWL Assoc 01 016, ABR-20100129, Armenia Township, Bradford County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: January 8, 2010.
- Chesapeake Appalachia, LLC, Pad ID: Lionetti, ABR-20100130, Tuscarora Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: January 8, 2010.
- Chesapeake Appalachia, LLC, Pad ID: Storms, ABR-20100131, Tuscarora Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: January 9, 2010.
- Chesapeake Appalachia, LLC, Pad ID: Welles 3, ABR-20100132, Terry Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: January 9, 2010.
- Chesapeake Appalachia, LLC, Pad ID: Shirley, ABR-20100133, Terry Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: January 9, 2010.
- Chesapeake Appalachia, LLC, Pad ID: Meas, ABR-20100134, Albany Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: January 9, 2010.
- Chief Oil & Gas, LLC, Pad ID: Walters Unit #1H, ABR-20100135, West Burlington Township, Bradford County, Pa.; Consumptive Use of up to 5.000 mgd; Approval Date: January 9, 2010.
- Chief Oil & Gas, LLC, Pad ID: Elliott Drilling Pad #1H, ABR-20100136, Monroe Township, Bradford County, Pa.; Consumptive Use of up to 5.000 mgd; Approval Date: January 9, 2010.
- Cabot Oil & Gas Corporation, Pad ID: ChudleighW P2, ABR-20100137, Dimock Township, Susquehanna County, Pa.; Consumptive Use of up to 3.575 mgd; Approval Date: January 9, 2010.
- Cabot Oil & Gas Corporation, Pad ID: LaRueC P3, ABR-20100138, Dimock Township, Susquehanna County, Pa.; Consumptive Use of up to 3.575 mgd; Approval Date: January 9, 2010.
- East Resources, Inc., Pad ID: Coolidge 464, ABR-20100139, Delmar Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: January 9, 2010.
- East Resources, Inc., Pad ID: Sterling 525, ABR-20100140, Rutland Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: January 9, 2010.
- Chesapeake Appalachia, LLC, Pad ID: Mowry2, ABR-20100141, Tuscarora Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: January 10, 2010.
- Chesapeake Appalachia, LLC, Pad ID: Harper, ABR-20100142, Terry Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: January 10, 2010.
- East Resources, Inc., Pad ID: McClure 527, ABR-20100143, Rutland Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: January 10, 2010.
- Chesapeake Appalachia, LLC, Pad ID: Welles 4, ABR-20100144, Terry Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: January 10, 2010.
- Cabot Oil & Gas Corporation, Pad ID: CarlsonW P1, ABR-20100145, Dimock Township, Susquehanna County, Pa.; Consumptive Use of up to 3.575 mgd; Approval Date: January 10, 2010.
- Chief Oil & Gas, LLC, Pad ID: Patterson Drilling Pad #1, ABR-20100146, Penn Township, Lycoming County, Pa.; Consumptive Use of up to 5.000 mgd; Approval Date: January 10, 2010.
- Chesapeake Appalachia, LLC, Pad ID: Popivchak, ABR-20100147, Burlington Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: January 11, 2010.
- Chesapeake Appalachia, LLC, Pad ID: Solowiej, ABR-20100148, Wyalusing Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: January 11, 2010.

Cabot Oil & Gas Corporation, Pad ID: Baker P1, ABR-20100149, Dimock Township, Susquehanna County, Pa.; Consumptive Use of up to 3.575 mgd; Approval Date: January 11, 2010.

Chesapeake Appalachia, LLC, Pad ID: Horst, ABR-20100150, Smithfield Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: January 11, 2010.

Chesapeake Appalachia, LLC, Pad ID: Stevens, ABR-20100151, Standing Stone Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: January 11, 2010.

Ultra Resources, Inc., Pad ID: Mitchell A 903, ABR-20100152, West Branch Township, Potter County, Pa.; Consumptive Use of up to 4.990 mgd; Approval Date: January 13, 2010.

XTO Energy Incorporated, Pad ID: Marquardt, ABR-20090712.1, Penn Township, Lycoming County, Pa.; Consumptive Use totaling up to 3.000 mgd; Approval Date: January 14, 2010.

Range Resources – Appalachia, LLC, Pad ID: Genter 3, ABR-20100153, Cummings Township, Lycoming County, Pa.; Consumptive Use of up to 5.000 mgd; Approval Date: January 20, 2010.

Range Resources – Appalachia, LLC, Pad ID: Laurel Hill 1, ABR-20100154, Jackson Township, Lycoming County, Pa.; Consumptive Use of up to 5.000 mgd; Approval Date: January 20, 2010.

Novus Operating, LLC, Pad ID: Sylvester 1H, ABR-20100155, Brookfield Township, Tioga County, Pa.; Consumptive Use of up to 1.000 mgd; Approval Date: January 21, 2010.

EOG Resources, Inc., Pad ID: PHC 20V, ABR-20100156, Lawrence Township, Clearfield County, Pa.; Consumptive Use of up to 0.999 mgd; Approval Date: January 21, 2010.

EOG Resources, Inc., Pad ID: LIDDELL 1H, ABR-20100157, Springfield Township, Bradford County, Pa.; Consumptive Use of up to 1.999 mgd; Approval Date: January 21, 2010.

Novus Operating, LLC, Pad ID: NorthFork 1H, ABR-20100158, Brookfield Township, Tioga County, Pa.; Consumptive Use of up to 1.000 mgd; Approval Date: January 28, 2010.

AUTHORITY: P.L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: April 16, 2010.

STEPHANIE L. RICHARDSON
Secretary to the Commission.

[10-10-49]

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: May 26, 2010, 9:30 a.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Pamela J. Edwards (410) 240-6263

[10-10-47]

ATHLETIC COMMISSION

Subject: Public Meeting
Date and Time: May 20, 2010, 2 p.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm. North, Baltimore, MD
Contact: Patrick Pannella (410) 230-6223

[10-10-55]

BOARD OF AUDIOLOGISTS, HEARING AID DISPENSERS, AND SPEECH-LANGUAGE PATHOLOGISTS

Subject: Public Meeting
Date and Time: May 20, 2010, 4 — 6 p.m.
Place: Metro Executive Bldg., 4201 Patterson Ave., Baltimore, MD
Contact: Christopher Kelter (410) 764-4725

[10-10-12]

ADVISORY COUNCIL ON CEMETERY OPERATIONS

Subject: Public Meeting
Date and Time: May 27, 2010, 10 a.m. — 1 p.m.
Place: Dept. of Labor, Licensing, and Regulation, 500 N. Calvert St., 3rd Fl., Baltimore, MD
Contact: Benjamin Foster (410) 230-6229

[10-10-25]

BOARD FOR THE CERTIFICATION OF RESIDENTIAL CHILD CARE PROGRAM ADMINISTRATORS

Subject: Public Meeting
Date and Time: June 11, 2010, 9— 11 a.m.
Place: 4201 Patterson Ave., Baltimore, MD
Contact: Kimberly Mayer (410) 764-5911

[10-10-15]

STATE CHILD FATALITY REVIEW TEAM

Subject: Quarterly Meeting
Date and Time: May 12, 2010, 9:30 a.m. — 2 p.m.
Place: Md. Dept. of Transportation, 7201 Corporate Center Dr., Hanover, MD
Add'l. Info: If planning to attend, please call in advance to confirm time and location.

Contact: Joan Patterson (410) 767-6727
 [10-10-32]

BOARD OF CHIROPRACTIC EXAMINERS

Subject: Public Meeting
Date and Time: May 13, 2010, 10 a.m. — 1 p.m.
Place: Dept. of Health and Mental Hygiene, 4201 Patterson Ave., Rm. 100, Baltimore, MD

Contact: Maria Ware (410) 764-5902
 [10-10-23]

MARYLAND COLLECTION AGENCY LICENSING BOARD

Subject: Public Meeting
Date and Time: May 19, 2010, 10:30 a.m. — 12:30 p.m.
Place: 6751 Columbia Gateway Dr., Columbia, MD
Contact: Kelly Mack (410) 230-6079

[10-10-22]

BOARD OF COSMETOLOGISTS

Subject: Public Meeting
Date and Time: June 7, 2010, 9:30 a.m. — 4 p.m.
Place: 500 N. Calvert St., 2nd Fl. Conf. Rm., Baltimore, MD

Add'l. Info: Centre St. Entrance
Contact: Robert Wood (410) 230-6195
 [10-10-07]

BOARD OF PROFESSIONAL COUNSELORS AND THERAPISTS

Subject: Public Meeting on Regulations
Date and Time: May 21, 2010, 11 a.m.
Place: 4201 Patterson Ave., Baltimore, MD
Contact: Aileen Taylor (410) 764-4734

[10-10-31]

GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

Subject: Public Meeting
Date and Time: May 13, 2010, 3 — 5 p.m.
Place: Howard Co. Police Dept. Headquarters, Community Rm., Ellicott City, MD
Contact: Jessica Winpigler (410) 821-2829

[10-10-16]

GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

Subject: Public Meeting
Date and Time: May 17, 2010, 3 — 5 p.m.
Place: Loch Raven Library, Baltimore, MD
Contact: Jessica Winpigler (410) 821-2829

[10-10-43]

OFFICE OF THE DEAF AND HARD OF HEARING/MARYLAND ADVISORY COUNCIL FOR THE DEAF AND HARD OF HEARING

Subject: Public Meeting
Date and Time: June 8, 2010, 11 a.m. — 2 p.m.
Place: Maryland Dept. of Transportation (MDOT), 7201 Corporate Center Dr., Ground Fl., Hughes Ste. II, Hanover, MD

Add'l. Info: For Directions visit <http://www.mdot.maryland.gov/> and there is a link in the bottom right corner. RSVP is required due to MDOT's security policies. Also, you must show a photo ID or State badge to enter the building.

This Advisory Council business meeting is open for the public to observe. (There will be no public forum following this Advisory Council meeting.)

Sign Language interpreters, real-time captioning services, and assistive listening devices will be provided.

For additional accommodations, please contact Laura Quinn at: lquinn@gov.state.md.us.

Contact: Laura Quinn (410) 767-7794
 [10-10-21]

BOARD OF DIETETIC PRACTICE

Subject: Public Meeting on Regulations
Date and Time: May 20, 2010, 12:30 — 5:30 p.m.
Place: 4201 Patterson Ave., Rms. 100/107, Baltimore, MD
Contact: Lenelle Cooper (410) 764-4733
 [10-10-24]

PROFESSIONAL STANDARDS AND TEACHER EDUCATION BOARD

Subject: Public Meeting
Date and Time: June 3, 2010, 9:30 a.m. — 12 p.m.
Place: Nancy S. Grasmick State Education Bldg., 200 W. Baltimore St., Baltimore, MD
Contact: Madeline Koum (410) 767-0385
 [10-10-02]

MARYLAND STATE BOARD OF EDUCATION

Subject: Public Meeting
Date and Time: May 25, 2010, 9 a.m. — 5 p.m.; May 26, 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
 [10-10-06]

MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES SYSTEMS (MIEMSS)

Subject: Call for Applications from Those Wishing to Be Considered for Primary Stroke Center Designation
Place: Baltimore, MD
Add'l. Info: Pursuant to COMAR 30.08.02.03C, hospitals wishing to be considered for designation as a Primary Stroke Center should submit a written letter of intent to the MIEMSS Office of Hospital Programs under COMAR 30.08.02.03. Letters of intent are due to MIEMSS by June 30, 2010. For more information contact Anna C. Aycock, MHA, RN, Director, Stroke Program, 653 W. Pratt Street, Ste. 402, Baltimore, MD 21201, (410) 706-3930, or aycock@miemss.org
 Written statements and applications should be addressed to the person and office listed above.
Contact: Leandra M. Gilliam (410) 706-4449
 [10-10-33]

BOARD OF ENVIRONMENTAL SANITARIANS

Subject: Public Meeting
Date and Time: June 2, 2010, 9 a.m. — 4 p.m.
Place: Howard Co. DPW, 8250 Old Montgomery Rd., Columbia, MD
Add'l. Info: A portion of this meeting may be held in closed session.
Contact: Kathy Glass (410) 537-3597
 [10-10-01]

COMMISSIONER OF FINANCIAL REGULATION

Subject: Bank Merger
Add'l. Info: On March 15, 2010, CNB, a Maryland State-chartered bank headquartered in Centreville, Maryland, filed an application with the Commissioner of Financial Regulation, pursuant to Financial Institutions Article, §3-703, Annotated Code of Maryland, for approval to merge Felton Bank, a Delaware-chartered bank, with and into CNB. The surviving institution will be CNB.

The public file on this application is available at the Office of the Commissioner of Financial Regulation, 500 N. Calvert St., Suite 402, Baltimore, Maryland. Comments regarding this application must be submitted in writing and must be received by the Commissioner within 20 calendar days of the date of publication of this notice.
Contact: Marcia Ryan (410) 230-6104
 [10-10-28]

COMMISSIONER OF FINANCIAL REGULATION

Subject: Bank Charter Conversion
Add'l. Info: On March 29, 2010, Sykesville Federal Savings Association, headquartered in Sykesville, Maryland, filed an application with the Commissioner of Financial Regulation for approval to convert from a federally chartered institution to a Maryland-chartered mutual savings bank. The name of the converted bank will be Carroll Community Bank of Sykesville.
 The public file on this application is available at the Office of the Commissioner of Financial Regulation, 500 N. Calvert Street, Suite 402, Baltimore, Maryland. Comments regarding this application must be submitted in writing and must be received by the Commissioner within 20 calendar days of the publication date of this notice.
Contact: Marcia Ryan (410) 230-6104
 [10-10-29]

COMMISSIONER OF FINANCIAL REGULATION

Subject: Bank Charter Conversion
Add'l. Info: On February 9, 2010, Madison Bank of Maryland, a federally chartered savings bank headquartered in Forest Hill, Maryland, filed an application with the Commissioner of Financial Regulation for approval to convert from a federal institution to a Maryland-chartered mutual savings bank. The name of the converted bank will be Madison Bank of Maryland.
 The public file on this application is available at the Office of the Commissioner of Financial Regulation, 500 N. Calvert Street, Suite 402, Baltimore, Maryland. Comments regarding this application must be submitted in writing and must be received by the Commissioner within 20 calendar days of the publication date of this notice.
Contact: Marcia Ryan (410) 230-6104
 [10-10-30]

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subject: Public Meeting
Date and Time: May 12, 2010, 6 — 8 p.m.
Place: 201 W. Preston St., Rm. L-1, Baltimore, MD
Add'l. Info: State Advisory Council on Hereditary & Congenital Disorders Meeting (<http://fha.maryland.gov/genetics/newprog.cfm>)
Contact: Susan Panny, MD (410) 767-6733
 [10-10-38]

DEPARTMENT OF HEALTH AND MENTAL HYGIENE/ LABORATORIES ADMINISTRATION/FORENSIC LABORATORY ADVISORY COMMITTEE

Subject: Public Meeting
Date and Time: May 27, 2010, 10 a.m. — 12 p.m.
Place: MSP Forensic Science Division, Pikesville, MD
Contact: Michael Wajda (410) 767-6909
 [10-10-26]

DEPARTMENT OF HEALTH AND MENTAL HYGIENE/MARYLAND BOARD OF PHYSICIANS

Subject: Public Meeting

GENERAL NOTICES

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Date and Time: May 26, 2010, 9 — 10 a.m. (Open meetings will be held at 9 a.m. and 3 p.m.)

Place: 4201 Patterson Ave., Rms. 108/109, Baltimore, MD

Add'l. Info: Appropriate auxiliary aids and services provided for qualified individuals upon request. Call Ellen Smith at (410) 764-2477.

Contact: Tammy Austin (410) 764-4769
[10-10-11]

DEPARTMENT OF HEALTH AND MENTAL HYGIENE/OFFICE OF HEALTH SERVICES

Subject: Waiver for Older Adults and the Community Pathways Waiver

Add'l. Info: The Department of Health and Mental Hygiene submitted Medicaid home and community-based services waiver amendments for the Waiver for Older Adults and the Community Pathways to the Centers for Medicare and Medicaid Services on April 16, 2010.

The purpose of the amendments is to clarify longstanding Medicaid financial eligibility policy with regard to the treatment of medical and remedial expenses incurred prior to an individual's application date. Medicaid will continue to consider medical or remedial expenses incurred during the 3 months prior to the application date.

For more information on the Community Pathways amendment you may contact Terri Elliott at 410-767-5421. For information on the Older Adults Waiver amendment you may contact Sumayyah Kelly at 410-767-5220.

Contact: Long Term Care and Waiver Services (410) 767-5220
[10-10-36]

BOARD OF HEATING, VENTILATION, AIR-CONDITIONING, AND REFRIGERATION CONTRACTORS (HVACR)

Subject: Public Meeting

Date and Time: May 12, 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
[10-10-08]

BOARD OF HEATING, VENTILATION, AIR-CONDITIONING, AND REFRIGERATION CONTRACTORS (HVACR)

Subject: Public Meeting

Date and Time: June 9, 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
[10-10-09]

BOARD OF CERTIFIED INTERIOR DESIGNERS

Subject: Public Meeting

Date and Time: May 24, 2010, 2 p.m.

Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD

Contact: Pamela J. Edwards (410) 230-6263
[10-10-46]

DIVISION OF LABOR AND INDUSTRY/ADVISORY COUNCIL ON PREVAILING WAGE RATES

Subject: Public Meeting

Date and Time: May 18, 2010, 10 a.m.

Place: 1100 N. Eutaw St., Rm. 600, Baltimore, MD

Add'l. Info: The Council is scheduled to meet to discuss issues relating to prevailing wage rates. Interested persons should call the contact person to confirm the meeting.

Contact: Debbie Stone (410) 767-2225
[10-10-35]

MARYLAND STATE LOTTERY COMMISSION

Subject: Public Meeting

Date and Time: May 21, 2010, 10 a.m. — 12 p.m.

Place: Montgomery Park Business Center, 1800 Washington Blvd., Suite 330, Baltimore, MD

Contact: Marie A. Torosino (410) 230-8790
[10-10-52]

MARYLAND HEALTH CARE COMMISSION

Subject: Public Meeting

Date and Time: May 20, 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
[10-10-18]

MARYLAND HEALTH CARE COMMISSION

Subject: Public Meeting

Date and Time: June 17, 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
[10-10-19]

MARYLAND HEALTH CARE COMMISSION

Subject: Formal Start of Review

Add'l. Info: Waldorf Health & Rehabilitation Center. — Docket No. 10-08-2309 — Construction of a new 67-bed comprehensive care facility (CCF) with an 80-bed assisted living facility to be located at 3735 Leonardtown Road, Waldorf. Cost: \$9,574,536 (CCF facility only)

Pursuant to COMAR 10.24.01 et seq., on May 7, 2010, the Maryland Health Care Commission hereby gives notice of docketing of the above-referenced applications.

Persons desiring to become interested parties in the Commission's review of the above-referenced applications 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 on June 7, 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.

Questions may be directed to Pamela Barclay, Director, Center for Hospital Services at (410) 764-5982, or sent to the MHCC, 4160 Patterson Avenue, Baltimore, Maryland 21215.

Contact: Ruby Potter (410) 764-3276
[10-10-44]

MARYLAND HEALTH CARE COMMISSION

Subject: Formal Start of Review

Add'l. Info: Anne Arundel Medical Center — Docket No. 10-02-2308 — Build out of the 6th-floor shell space approved in CON 04-02-2153 and the addition of a 30-bed medical/surgical unit. Cost: \$5,243,815

GENERAL NOTICES

Pursuant to COMAR 10.24.01 et seq., on May 7, 2010, the Maryland Health Care Commission hereby gives notice of docketing of the above-referenced applications.

Persons desiring to become interested parties in the Commission's review of the above-referenced applications 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 on June 7, 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.

Questions may be directed to Pamela Barclay, Director, Center for Hospital Services at (410) 764-5982, or sent to the MHCC, 4160 Patterson Avenue, Baltimore, Maryland 21215.

Contact: Ruby Potter (410) 764-3276
[10-10-45]

**MINORITY BUSINESS
ENTERPRISE ADVISORY
COMMITTEE**

Subject: Public Meeting
Date and Time: May 26, 2010, 8:30 a.m. — 5 p.m.

Place: Harry R. Hughes Dept. of Transportation Bldg., 7201 Corporate Center Drive, Ground Fl., Harry R. Hughes Stes. 1 and 2, Hanover, MD

Contact: Catherine Svoboda (410) 865-1357
[10-10-48]

**BOARD OF EXAMINERS OF
NURSING HOME
ADMINISTRATORS**

Subject: Public Meeting
Date and Time: May 12, 2010, 9:30 a.m.

Place: 4201 Patterson Ave., Rm. 110, Baltimore, MD

Contact: Patricia A. Hannigan (410) 764-4750
[10-10-13]

**BOARD OF EXAMINERS OF
NURSING HOME
ADMINISTRATORS**

Subject: Public Meeting
Date and Time: June 16, 2010, 9:30 a.m.

Place: 4201 Patterson Ave., Rm. 110, Baltimore, MD

Contact: Patricia A. Hannigan (410) 764-4750
[10-10-54]

**BOARD OF EXAMINERS IN
OPTOMETRY**

Subject: Public Meeting
Date and Time: May 26, 2010, 9:30 a.m. — 1 p.m.

Place: Metro Executive Bldg., 4201 Patterson Ave., Rm. 110, Baltimore, MD

Add'l. Info: Health Occupations Article, Title 11, Annotated Code of Maryland, and COMAR 10.28, amendments, additions, and revisions, including fee changes, may be discussed/voted on. Budget information may also be discussed. It may be necessary to go into executive session.

Contact: Patricia G. Bennett (410) 764-4710
[10-10-14]

BOARD OF PLUMBING

Subject: Public Meeting
Date and Time: May 20, 2010, 10:30 a.m. — 12:30 p.m.

Place: 500 N. Calvert St., Rm. 302, Baltimore, MD

Contact: Brenda Clark (410) 230-6164
[10-10-10]

**BOARD OF PODIATRIC MEDICAL
EXAMINERS**

Subject: Public Meeting
Date and Time: June 10, 2010, 1 — 2 p.m.

Place: 4201 Patterson Ave., Baltimore, MD

Contact: Eva Schwartz (410) 764-4785
[10-10-20]

**BOARD OF PUBLIC
ACCOUNTANCY**

Subject: Public Meeting
Date and Time: June 1, 2010, 9 a.m. — 12 p.m.

Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD

Contact: Dennis L. Gring (410) 230-6224
[10-10-05]

**BOARD OF WATERWORKS AND
WASTE SYSTEMS OPERATORS**

Subject: Public Meeting
Date and Time: June 17, 2010, 10 a.m. — 3 p.m.

Place: Howard County Bureau of Utilities, Columbia, MD

Add'l. Info: A portion of this meeting may be held in closed session.
Contact: Pat Kratochvil (410) 537-3167
[10-10-03]

**WORKERS' COMPENSATION
COMMISSION**

Subject: Public Meeting
Date and Time: May 27, 2010, 9 — 11 a.m.

Place: 10 E. Baltimore St., Baltimore, MD

Add'l. Info: A portion of this meeting may be held in closed session.

Contact: Amy Lackington (410) 864-5300
[10-10-04]

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Title 10

Department of Health and Mental Hygiene: Part & Subtitles

Part 1

- 01 Procedures
- 02 Division of Reimbursements
- 03 Health Statistics
- 04 Fiscal
- 05 Freestanding Ambulatory Care Facilities
- 06 Diseases
- 07 Hospitals
- 08 Health Facilities Grants

Part 2

- 09 Medical Care Programs

Part 3

- 10 Laboratories
- 11 Maternal and Child Health
- 12 Adult Health
- 13 Drugs
- 14 Cancer Control
- 15 Food
- 16 Housing
- 17 Sanitation
- 18 Human Immunodeficiency Virus (HIV) Infection and
Acquired Immunodeficiency Syndrome (AIDS)
- 19 Dangerous Devices and Substances
- 20 Kidney Disease Program
- 21 Mental Hygiene Regulations
- 22 Developmental Disabilities

Part 4

- 23 Advance Directive Registry
- 24 Maryland Health Care Commission
- 25 Maryland Health Care Commission
- 26 Board of Acupuncture
- 27 Board of Nursing
- 28 Board of Examiners in Optometry
- 29 Board of Morticians and Funeral Directors
- 30 Commission on Kidney Disease
- 31 Health Occupation Boards
- 32 Board of Physicians
- 33 Board of Examiners of Nursing Home Administrators
- 34 Board of Pharmacy
- 35 Postmortem Examiners Commission
- 36 Board of Examiners of Psychologists

Part 5

- 37 Health Services Cost Review Commission
- 38 Board of Physical Therapy Examiners
- 39 Board of Nursing – Certified Nursing Assistants
- 40 Board of Podiatric Medical Examiners
- 41 Board of Examiners for Audiologists, Hearing Aid
Dispensers, and Speech-Language Pathologists
- 42 Board of Social Work Examiners
- 43 Board of Chiropractic Examiners
- 44 Board of Dental Examiners
- 45 Maryland Community Health Resources Commission
- 46 Board of Occupational Therapy Practice
- 47 Alcohol and Drug Abuse Administration
- 48 Child Abuse and Neglect Medical Reimbursement Program
- 49 State Anatomy Board
- 50 Tissue Banks
- 51 Vacant
- 52 Preventive Medicine
- 53 Board of Nursing—Electrology Practice Committee
- 54 Special Supplemental Nutrition Program for Women,
Infants, and Children (WIC)
- 55 State Board of Spinal Cord Injury Research
- 56 Board of Dietetic Practice
- 57 Board for Certification of Residential Child Care Program
Professionals
- 58 Board of Professional Counselors and Therapists
- 59 Catastrophic Health Emergencies

Title 11

Department of Transportation – Volume & Subtitles

Volume 1

- 01 Office of the Secretary
 - 02 Transportation Service Human Resources System
 - 03 Maryland Aviation Administration
 - 04 State Highway Administration
 - 05 Maryland Port Administration
 - 06 Mass Transit Administration
 - 07 Maryland Transportation Authority
 - 08 Vacant
 - 09 Vacant
 - 10 Vacant
- #### Volume 2 and Volume 3
- 11 Motor Vehicle Administration – Administrative Procedures
 - 12 MVA – Licensing of Businesses and Occupations
 - 13 MVA – Vehicle Equipment
 - 14 MVA – Vehicle Inspections
 - 15 MVA – Vehicle Registration
 - 16 MVA – Vehicle Operations
 - 17 MVA – Driver Licensing and Identification Documents
 - 18 MVA – Financial Responsibility Requirements
 - 19 MVA – School Vehicles
 - 20 MVA – Motorcycle Safety Program
 - 21 MVA – Commercial Motor Vehicles
 - 22 MVA – Preventive Maintenance Program
 - 23 MVA – Drivers' Schools, Instructors, Driver Education Program

Title 26

Department of the Environment – Part & Subtitles

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- 02 Occupational, Industrial, and Residential Hazards
- 03 Water Supply, Sewerage, Solid Waste, and Pollution Control
Planning and Funding
- 04 Regulation of Water Supply, Sewage Disposal, and Solid Waste
- 05 Board of Well Drillers
- 06 Waterworks and Waste Systems Operators
- 07 Board of Environmental Sanitarians

Part 2

- 08 Water Pollution
- 09 Maryland CO₂ Budget Trading Program
- 10 Oil Pollution and Tank Management
- 11 Air Quality
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Part 3

- 13 Disposal of Controlled Hazardous Substances
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