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# Maryland Register

Issue Date: July 2, 2010

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Volume 37 • Issue 14 • Page 927—974

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Judiciary  
Regulations  
Special Documents  
General Notices

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before June 14, 2010, 5:00 p.m.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 June 14, 2010.

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



# Information About the Maryland Register and COMAR

## MARYLAND REGISTER

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

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

The following information is also published regularly in the Register:

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

### CITATION TO THE MARYLAND REGISTER

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

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

### CODE OF MARYLAND REGULATIONS (COMAR)

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

### CITATION TO COMAR REGULATIONS

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

### DOCUMENTS INCORPORATED BY REFERENCE

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

## HOW TO RESEARCH REGULATIONS

Each COMAR title has a Table of Contents and Index. An Administrative History at the end of every COMAR chapter gives information about past changes to regulations. To determine if there have been any subsequent changes, check the "Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed" which is found online at [www.dsd.state.md.us/CumulativeIndex.pdf](http://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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### COMAR Online

The Code of Maryland Regulations is available at [www.dsd.state.md.us](http://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](http://www.dsd.state.md.us).

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

### Availability of Monthly List of Maryland Documents

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

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

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## CLOSING DATES and ISSUE DATES through January 28, 2011

ISSUE DATE	Emergency and Proposed Regulations* 5:00 p.m.	Final Regulations 10:30 a.m.	Notices, etc. 10:30 a.m.
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

\* 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](http://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

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#### 03 COMPTROLLER OF THE TREASURY

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**03.02.06.01—.05** • 37:12 Md. R. 801 (6-4-10)

**03.06.01.37** • 37:13 Md. R. 855 (6-18-10)

#### 07 DEPARTMENT OF HUMAN RESOURCES

**07.02.05.01—.10** • 36:6 Md. R. 493 (3-13-09)

**07.02.06.01—.07** • 36:6 Md. R. 495 (3-13-09)

**07.02.27.02** • 37:10 Md. R. 726 (5-7-10)

**07.03.03.04,.11,.12,.15** • 37:12 Md. R. 802 (6-4-10)

**07.07.20.07** • 37:8 Md. R. 632 (4-9-10)

#### 08 DEPARTMENT OF NATURAL RESOURCES

**08.02.01.01** • 37:14 Md. R. 942 (7-2-10) (ibr)

**08.02.01.05** • 37:11 Md. R. 770 (5-21-10)

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**08.03.13.05** • 37:13 Md. R. 856 (6-18-10)

**08.07.06.02** • 36:22 Md. R. 1730 (10-23-09)

**08.08.05.03** • 36:21 Md. R. 1598 (10-9-09)

**08.08.05.06** • 36:21 Md. R. 1599 (10-9-09)

#### 09 DEPARTMENT OF LABOR, LICENSING, AND REGULATION

**09.01.09.01—.09** • 36:24 Md. R. 1863 (11-20-09)

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- 10.21.30.01—.09 • 37:3 Md. R. 207 (1-29-10)
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- 10.32.09.01—.09 • 36:18 Md. R. 1396 (8-28-09)
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- 10.34.20.01—.04 • 37:12 Md. R. 805 (6-4-10)
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**26 DEPARTMENT OF THE ENVIRONMENT**

**Subtitles 01—07 (Part 1)**

- 26.04.04 • 36:23 Md. R. 1819 (11-6-09) (err)
- 26.04.04.01—.39 • 36:22 Md. R. 1765 (10-23-09)  
36:25 Md. R. 1971 (12-4-09)
- 26.04.10.03 • 37:5 Md. R. 440 (2-26-10)
- 26.04.11.01—.10 • 37:5 Md. R. 442 (2-26-10)
- 26.05.02.10 • 37:2 Md. R. 103 (1-15-10)

**Subtitles 08 — 12 (Part 2)**

- 26.10.04.01 • 35:21 Md. R. 1851 (10-10-08)
- 26.11.01.01 • 37:2 Md. R. 108 (1-15-10)  
37:14 Md. R. 961 (7-2-10)
- 26.11.09.01 • 37:14 Md. R. 961 (7-2-10)
- 26.11.09.08-1 • 37:14 Md. R. 962 (7-2-10)
- 26.11.14.07 • 37:2 Md. R. 108 (1-15-10)
- 26.11.19.06 • 37:14 Md. R. 964 (7-2-10)
- 26.11.19.11 • 37:14 Md. R. 966 (7-2-10)

**Subtitles 13—18 (Part 3)**

- 26.14.02.02, .02-1, .02-2, .02-3 • 36:22 Md. R. 1782 (10-23-09)
- 26.17.02.01,.01-2,.05 • 37:11 Md. R. 774 (5-21-10)

**27 CRITICAL AREA COMMISSION FOR THE  
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

- 27.01.02.08 • 37:13 Md. R. 913 (6-18-10)
- 27.03.01.03 • 37:13 Md. R. 914 (6-18-10)

**29 MARYLAND STATE POLICE**

- 29.06.06.01—.07 • 36:20 Md. R. 1554 (9-25-09)

**30 MARYLAND INSTITUTE FOR EMERGENCY MEDICAL  
SERVICES SYSTEMS (MIEMSS)**

- 30.01.01.02 • 37:8 Md. R. 650 (4-9-10)
- 30.03.01.01 • 37:8 Md. R. 650 (4-9-10)
- 30.03.02.02 • 37:8 Md. R. 652 (4-9-10)
- 30.03.04.04,.06,.07 • 37:8 Md. R. 650 (4-9-10)
- 30.03.09.01—.03 • 37:8 Md. R. 652 (4-9-10)
- 30.08.04.05 • 37:8 Md. R. 650 (4-9-10)
- 30.09.01.02 • 37:8 Md. R. 650 (4-9-10)
- 30.09.08.06 • 37:8 Md. R. 650 (4-9-10)

**PENDING PROPOSALS**

934

**30.09.11.02,.04** • 37:8 Md. R. 650 (4-9-10)

**31 MARYLAND INSURANCE ADMINISTRATION**

**31.08.12** • 37:2 Md. R. 111 (1-15-10) (err)

**31.09.15.01—,13** • 37:13 Md. R. 914 (6-18-10)

**31.10.25.02,.04** • 37:4 Md. R. 376 (2-12-10)

**31.10.28.02,.05** • 37:4 Md. R. 377 (2-12-10)

**31.11.10.02,.04** • 37:4 Md. R. 377 (2-12-10)

**31.12.07.02,.04,.05** • 37:4 Md. R. 379 (2-12-10)

**31.17.03.02** • 37:8 Md. R. 653 (4-9-10)

**33 STATE BOARD OF ELECTIONS**

**33.07.05.02** • 37:12 Md. R.813 (6-4-10)

**33.10.02.07** • 37:11 Md. R. 775 (5-21-10)

**33.10.02.38** • 37:12 Md. R.813 (6-4-10)

**33.17.04.01,.03** • 37:14 Md. R. 968 (7-2-10)

**33.17.05.02** • 37:14 Md. R. 968 (7-2-10)

**33.17.06.05** • 37:12 Md. R.814 (6-4-10)

**33.17.06.06** • 37:12 Md. R.813 (6-4-10)

**33.17.07.01,.04** • 37:12 Md. R.814 (6-4-10)

**35 DEPARTMENT OF VETERANS AFFAIRS**

**35.05.01.01—,04** • 36:21 Md. R. 1622 (10-9-09)

36:22 Md. R. 1799 (10-23-09) (err)



# The Judiciary

## COURT OF APPEALS OF MARYLAND

### DISCIPLINARY PROCEEDINGS

This is to certify that by an Order of this Court dated June 4, 2010, **RICHARD WAYNE ALLISON, II**, FMC Butner, BOP #50313-037, Federal Medical Center, P.O. Box 1600, Butner, NC 27509, has been disbarred, effective immediately, from the further practice of

law in this State and his 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 Opinion and Order of this Court dated May 18, 2010, **JEFFREY S. MARCALUS**, 2450 Riva Road, Suite 2A, Annapolis, MD 21401, has been suspended for sixty (60) days, effective June 17, 2010, from the further practice of law in this State, and his name as an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 16-713).

[10-14-33]

## ADMINISTRATIVE OFFICE OF THE COURTS

### ADMINISTRATIVE MEMORANDUM 10-2

#### ADMINISTRATIVE REGULATION XIX CIVIL COST SCHEDULE

By direction of Chief Judge Robert M. Bell, and for the information and guidance for all concerned, the attached notice is published for the purpose of advising of the revision to the District Court Administrative Regulation to become effective July 1, 2010. The attached revision has been adopted by the Chief Judge of the District Court.

Frank Broccolina  
State Court Administrator

June 4, 2010

#### DISTRICT COURT OF MARYLAND COST SCHEDULE

	<b>Filing Fee</b>	<b>Service Fee</b>
Assignment of Wages.....	\$[20] 28*	(a)
Body Attachment.....		(b)
Complaint (other than Small Claims) filed in action of:		
1) Tort, Contract, Detinue, Confessed Judgment, Attachment Before Judgment, [and] Grantee Suit for Possession, Replevin[,] and Show Cause Order, Injunction.....	\$[30] 38*	(a)
2) Wrongful Entry and Detainer, Breach of Lease, Tenant Holding Over, [Injunction].....	\$[30] 38*	(b)
Cross Claims, Counter Claims, Third Party Claims and Interpleader Action.....	\$[20] 28*	(a)
Complaint in Small Claims Actions.....	\$[20] 28*	(a)
Small Claims Actions – Cross Claims, Counter Claims, Third Party Claims.....	\$[10] 18*	(a)
Distress and Show Cause Order.....	\$[20] 28*	(a)
	if amount of rent is \$500 or less; add \$5 for each additional \$500 rent	
Reissue of Distress & Show Cause Order.....	\$ 2	---
Distress Order of Levy.....	\$ 5	(b)
Notice of Lien.....	\$15 payable to Circuit Court	---
Temporary Peace Order.....	\$[30] 38*	(c)
Petition for Show Cause Order (per defendant).....	\$10	(a)
Recordation of Foreign Judgment.....	\$[35] 43*	---
Renewal of Judgment.....	\$10	---
Renewal (per defendant) of Order for Oral Examination, Show Cause Order, Summons (includes Notice of Confessed Judgment).....	\$5	(a)
Request for Certification of Judgment Under Act of Congress (Triple Seal).....	\$10	---
Request for Oral Examination (per defendant).....	\$10	(a)
Request for Writ of Execution or Possession.....	\$10	(b)
(Service fee also applies to Execution issued in Attachment before Judgment)		
Request for Writ of Garnishment of Property or Wages.....	\$10	(a)
(Service fee also applies to Garnishment issued in Attachment before Judgment)		
Subpoena.....	---	(a)
Summary Ejectment:		
In all counties except Baltimore City.....	\$[9] 12*	\$ 5
Summary Ejectment:		for each tenant of record
In Baltimore City.....	\$[13] 16*	\$ 5

**THE JUDICIARY**

for each location; additional fee of \$5 for each tenant for whom personal service is requested

Transmittal of Certified Copy of Judgment, Assignment of Judgment, Recording L/T Judgment.....	\$10	----
Warrant of Restitution.....	----	(b) per case
Writ of Replevin.....	----	(b)
Appeal.....	\$10	----

(Plus \$[105] 135 payable to Circuit Court)

**\*Includes MD Legal Services Corporation Fund Surcharge \$[10] 18 – New Civil Filings \$[5] 8 – Summary Ejectment Cases**

**SERVICE FEES:**

(Sheriff Service, make payable to the Sheriff’s Office. In Baltimore City, checks to Sheriff must be made payable to Director of Finance. Constable service, make check payable to the District Court.)

- (a) Fee if served by Sheriff/Constable is \$40 for each defendant or address  
Fee if mailed by clerk is \$10 for each defendant or address.
- (b) Sheriff/Constable service required by law. Fee is \$40 for each defendant.
- (c) Fee if served by Sheriff is \$40 for each defendant or address.
- (d) Fee if served by Sheriff is \$60 for each defendant or address for service of paper originating from a foreign court.

**OTHER CHARGES**

Photocopies.....	\$.50 per page
Computer printouts.....	\$.50 per page
Certification of Copies (DC 33).....	\$5 per request (plus photocopy fee)
Transcripts.....	\$75 deposit + \$3 per page for orig. + 1 copy
Recordings.....	\$15 per case
Petition for Expungement (excluding cases with verdict of acquittal).....	\$30
Petition to Extend Time/Strike Bond Forfeiture.....	\$25
Petition to Remit Bond Forfeiture.....	\$25
Motion for Allowance of Expenses after Voluntary Surrender.....	\$25

**NO FEES TO PETITIONER**

Domestic Violence (filing, service, recordation of foreign judgment, or appeal) no fee

**DCA 109** (Rev. [7/2010] 7/1/2010)

**IMPORTANT NOTICE**

**District Court Administrative Regulation XIX — Civil Costs**

In all civil cases, except those noted below, the required costs, including the fee for service of process, shall be paid at the time the complaint, writ, petition, or request is filed.

Exceptions:

- (1) The State of Maryland and officers, agencies, and departments thereof shall not be taxed costs in any District Court proceeding.
- (2) Advance payment of costs shall not be required in a case in which the plaintiff/petitioner is represented by counsel paid through JUDICARE; provided by Maryland Legal Aid Bureau, Inc.; or retained through a pro bono or legal services program that is recognized by Maryland Legal Services Corporation if the program provides the clerk with a memorandum that names the program, attorney(s) and client(s) and that specifies that representation is being provided for client(s) meeting the financial eligibility criteria of the corporation.
- (3) Advance payment of costs shall not be required in a case filed by a county or municipality of the State of Maryland.

In any civil case in which no advance costs have been paid, the Court shall allow costs in favor of the prevailing party.

If the judgment creditor is the prevailing party, he shall, upon being paid all amounts due, including costs, furnish to the judgment debtor and file with the clerk a written statement (order of satisfaction) that the judgment has been satisfied. The clerk shall not accept the order for filing unless the costs are tendered with it.

If the judgment debtor is the prevailing party, the clerk shall bill the plaintiff for all costs, except no payment is required by the State of Maryland.

The attached schedule is hereby adopted as the costs to be paid for all proceedings in any civil case in the District Court.

**REFUNDS**

Except as provided by statute, a charge, cost, or fee is not refundable. Overpayment refunds of \$5 or less will not be processed unless the individual due the refund makes a request in writing, in person, or by telephone.

If the Sheriff is unable to serve a paper, 50% of the service fee shall be refunded to the party requesting the service and if the Sheriff is unable to serve Summary Ejectment papers, the full fee shall be refunded to the party requesting the service.

**BAD CHECKS**

An additional \$10 service fee will be imposed for each dishonored check.

**GENERAL INFORMATION**

A MAXIMUM OF TWENTY (20) CIVIL CASE FILINGS, PER CHECK, WILL BE ACCEPTED FROM ATTORNEYS AND OTHER INTERESTED PARTIES. [(This requirement does not pertain to Landlord/Tenant actions for non-payment of rent.)]

*A MAXIMUM OF TWENTY (20) LANDLORD/TENANT FILINGS WILL BE ACCEPTED FROM ATTORNEYS AND OTHER INTERESTED PARTIES PER CREDIT CARD TRANSACTION.*

**In correspondence with the court, including inquiries, motions, and pleadings:**

Please include the case number and trial date. This information should also appear on the envelope in which papers are mailed to the court, so that priority matters may be expeditiously handled. The address for service should include apartment number (if there is a number), zip codes as part of the address, and county. "P.O." is not appropriate when requesting service. Positive identification of all motor vehicles to be seized is required, including make and model. A copy of title must be submitted. All liens must be shown in order that value may be determined.

**If service of process is to be made on the:**

STATE DEPARTMENT OF ASSESSMENTS AND TAXATION, an additional \$50 fee is required. A check or money order should be made payable to the State Department of Assessments and Taxation. All county and Baltimore City governmental agencies are exempt from this fee. (This agency requires two copies of each paper for each defendant to be served);

MARYLAND INSURANCE ADMINISTRATION, an additional \$15 fee is required. A check or money order should be made payable to the Maryland Insurance Administration. (This agency requires two copies of each paper for each defendant to be served.)

[10-14-37]

# 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 05

### DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

#### Subtitle 04 SPECIAL LOAN PROGRAMS

##### 05.04.05 Indoor Plumbing Loan Program

Authority: Housing and Community Development Article, §§4-910 and 4-927, Annotated Code of Maryland

#### Notice of Final Action

[10-109-F]

On June 8, 2010, the Secretary of Housing and Community Development adopted amendments to Regulations .03—.05, .07—.13, and .15—.17, the repeal of existing Regulation .20, amendments to and the recodification of existing Regulation .21 to be Regulation .20, and the recodification of existing Regulation .22 to be Regulation .21 under **COMAR 05.04.05 Indoor Plumbing Loan Program**. This action, which was proposed for adoption in 37:8 Md. R. 626—630 (April 9, 2010), has been adopted as proposed.

**Effective Date: July 12, 2010.**

RAYMOND A. SKINNER  
Secretary of Housing and Community Development

## 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 Final Action

[10-138-F]

On June 22, 2010, the Secretary of Natural Resources adopted amendments to Regulation .12 under **COMAR 08.02.05 Fish**. This action, which was proposed for adoption in 37:10 Md. R. 726—727 (May 7, 2010), has been adopted as proposed.

**Effective Date: July 12, 2010.**

JOHN R. GRIFFIN  
Secretary of Natural Resources

## Title 10

### DEPARTMENT OF HEALTH AND MENTAL HYGIENE

#### Subtitle 36 BOARD OF EXAMINERS OF PSYCHOLOGISTS

##### 10.36.01 Procedures

Authority: Health Occupations Article, §§18-206, 18-301(b)(3) and (d), 18-302—18-305, and 18-317, Annotated Code of Maryland

#### Notice of Final Action

[10-035-F]

On June 22, 2010, the Secretary of Health and Mental Hygiene adopted amendments to Regulation .01, the repeal of existing Regulation .04, and new Regulations .04—.04-4, under **COMAR 10.36.01 Procedures**. This action, which was proposed for adoption in 37:3 Md. R. 225—227 (January 29, 2010), has been adopted as proposed.

**Effective Date: September 1, 2010.**

JOHN M. COLMERS  
Secretary of Health and Mental Hygiene

## Title 11

### DEPARTMENT OF TRANSPORTATION

#### Subtitle 02 TRANSPORTATION SERVICE HUMAN RESOURCE SYSTEM

#### Notice of Final Action

[10-116-F]

On May 11, 2010, the Secretary of Transportation adopted amendments to:

- (1) Regulations .01, .02, and .03 under **COMAR 11.02.09 Grievances**; and
- (2) Regulation .02 under **COMAR 11.02.10 Employee Performance Appraisal**.

This action, which was proposed for adoption in 37:7 Md. R. 582—583 (March 26, 2010), has been adopted as proposed.

**Effective Date: July 12, 2010.**

BEVERLY K. SWAIM-STALEY  
Secretary of Transportation

## Subtitle 19 MOTOR VEHICLE ADMINISTRATION—SCHOOL VEHICLES

### Notice of Final Action

[10-117-F]

On May 25, 2010, the Administrator of the Motor Vehicle Administration adopted:

(1) Amendments to Regulations **.01-1—, .08, .10—, .14, .16, .17, .18, .20, .21, .23, .25, .27—, .34, .37—, .39, and .41** and new Regulation **.42** under **COMAR 11.19.02 Type I School Vehicles—Construction Standards**;

(2) Amendments to Regulations **.02—, .05, .07, .08, .10, .11, .14—, .17, .19—, .21, .24, .26, .28—, .34, .38, and .40** and the repeal of Regulation **.27** under **COMAR 11.19.03 Type II School Vehicles—Construction Standards**; and

(3) Amendments to Regulations **.01—, .04, .07, .08, and .10** and the repeal of Regulation **.06** under **COMAR 11.19.04 School Vehicle Inspection**.

This action, which was proposed for adoption in 37:8 Md. R. 636—650 (April 9, 2010), has been adopted with the nonsubstantive changes shown below.

**Effective Date: July 12, 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 11.19.02.21J(3): Removes the bracket and deletion of "This requirement applies to school vehicles constructed as of and add June 20, 2005", to restore part of the text removed that clarifies which school vehicles require a noise reduction switch. COMAR 11.19.02.32A(1)(b): Removes "ground" and adds "top surface of the bottom step" to clarify where the door measurement is taken from in order to be consistent with National School Transportation Specifications.

COMAR 11.19.02.32C(1): Adds "above or below on the" to clarify where the words "Emergency Exit" shall be placed on Type I School Vehicles.

### **.21 Electrical (Body) — Lamps, Signals, Reflectors, and Fuses.**

A.—I. (proposed text unchanged)

#### J. Switches.

(1) — (2) (proposed text unchanged)

(3) A noise reduction off and on switch shall be installed to permit the driver to shut off the radio and *all interior* fan motors. [ ] This requirement applies to school vehicles constructed as of June 20, 2005.

### **.32 Service Doors, Emergency Windows, Doors, and Exits.**

#### A. Service Door.

(1) The service door shall be:

(a) (proposed text unchanged)

(b) Manually or power operated by the seated operator and designed to afford easy release and prevent accidental opening. Parts of the hand lever may not come together so as to shear or crush fingers. If one section of the folding door opens inward and the other opens outward, the forward section shall open outward. Vertical closing edges shall be equipped with padding to prevent injury. The bottom of the lower glass panel shall be not more than *10 inches* from the [ ] top surface of the bottom step when the bus is unloaded. The top of the upper glass panel shall be not more than 6 inches from the top of the door. Power-operated doors shall be

equipped for emergency release in case of power failure and shall be labeled on the inside with letters at least ½ inch high and instructions for emergency opening.

(2)—(9) (proposed text unchanged)

B. (proposed text unchanged)

C. Emergency Windows.

(1) The words "Emergency Exit" shall be in letters at least 2 inches in height above the window on the inside and above or below on the outside of the vehicle.

(2)—(5) (proposed text unchanged)

D. (proposed text unchanged)

JOHN T. KUO

Administrator

Motor Vehicle Administration

## Title 14

## INDEPENDENT AGENCIES

### Subtitle 01 STATE LOTTERY AGENCY

#### 14.01.10 Video Lottery Terminals

Authority: State Government Article, Title 9, Subtitle 1A, Annotated Code of Maryland

### Notice of Final Action

[10-045-F]

On June 11, 2010, the Maryland State Lottery Agency adopted amendments to Regulation **.02** and new Regulations **.15, .16, and .17** under **COMAR 14.01.10 Video Lottery Terminals**. This action, which was proposed for adoption in 37:9 Md. R. 688 (April 23, 2010), has been adopted as proposed.

**Effective Date: July 12, 2010.**

STEPHEN L. MARTINO

Director

State Lottery Agency

### Subtitle 01 STATE LOTTERY AGENCY

#### 14.01.10 Video Lottery Terminals

Authority: State Government Article, Title 9, Subtitle 1A, Annotated Code of Maryland

### Notice of Final Action

[10-044-F]

On June 11, 2010, the Maryland State Lottery Agency adopted amendments to Regulation **.03** under **COMAR 14.01.10 Video Lottery Terminals**. This action, which was proposed for adoption in 37:9 Md. R. 689 (April 23, 2010), has been adopted as proposed.

**Effective Date: July 12, 2010.**

STEPHEN L. MARTINO

Director

State Lottery Agency

## Subtitle 18 MARYLAND STATE ARCHIVES

### Notice of Final Action

[10-132-F]

On June 18, 2010, the Maryland State Archives and the Secretary of General Services adopted:

(1) The repeal of existing Regulations **.01—.04** and new Regulations **.01—.16** under **COMAR 14.18.02 Records Retention and Disposition Schedules**; and

(2) The repeal of existing Regulations **.01—.04** under **COMAR 14.18.04 Electronic Records**.

This action, which was proposed for adoption in 37:9 Md. R. 689—691 (April 23, 2010), has been adopted as proposed.

**Effective Date: July 12, 2010.**

EDWARD C. PAPPENFUSE

State Archivist and Commissioner of Land Patents

## Title 20 PUBLIC SERVICE COMMISSION

### Subtitle 31 TERMINATIONS OF SERVICE

#### Notice of Final Action

[10-107-F]

On June 8, 2010, the Public Service Commission adopted:

(1) Amendments to Regulation **.02** under **COMAR 20.31.01 General Regulations**; and

(2) Amendments to Regulation **.03**, new Regulations **.04** and **.05**, and the recodification of existing Regulation **.04** to be Regulation **.06** under **COMAR 20.31.03 Restrictions on Terminations**.

This action, which was proposed for adoption in 37:9 Md. R. 691—692 (April 23, 2010), has been adopted as proposed.

**Effective Date: July 12, 2010.**

TERRY J. ROMINE

Executive Secretary  
Public Service Commission

# Withdrawal of Regulations

## Title 09

### DEPARTMENT OF LABOR, LICENSING, AND REGULATION

#### Subtitle 11 REAL ESTATE COMMISSION

##### 09.11.06 Continuing Education

Authority: Business Occupations and Professions Article, §§17-208 and 17-315, Annotated Code of Maryland

##### Notice of Withdrawal

[10-096-W]

The Real Estate Commission withdraws its proposal to amend Regulation **.01**, repeal Regulations **.02—05**, and adopt new Regulations **.02—10** under **COMAR 09.11.06 Continuing Education**, as published in 37:5 Md. R. 436—438 (February 26, 2010). This action was taken by the Commission at a public meeting, notice of which was given pursuant to State Government Article, §10-506, Annotated Code of Maryland.

KATHERINE F. CONNELLY  
Executive Director  
Real Estate Commission

# 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 08

# DEPARTMENT OF NATURAL RESOURCES

## Subtitle 02 FISHERIES SERVICE

### 08.02.01 General

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

#### Notice of Proposed Action

[10-185-P-I]

The Secretary of Natural Resources proposes to amend Regulation **.01** under **COMAR 08.02.01 General**.

#### Statement of Purpose

The purpose of this action is to incorporate by reference Amendment I to the 2004 Chesapeake Bay Oyster Management Plan (September 2010). This amendment includes three strategies and associated actions to align the current plan with future shellfish aquaculture practices.

#### Sanctuaries

As a result of the dramatically expanded sanctuary network, sanctuaries no longer consist primarily of natural oyster bars. Instead, the expanded sanctuary network includes additional non-oyster bottom that surrounds the larger areas of interconnected natural oyster bars. The intention of the expanded sanctuary areas is not to prohibit clamming; therefore, the proposed action modifies Strategy 4.2 and allows clamming from within the new sanctuary boundaries as described in Section II of Oyster Sanctuaries of the Chesapeake Bay and Its Tidal Tributaries (September 2010). The plan limits clamming to existing clamming areas, and maintains the existing 150 foot buffer from any natural oyster bar and leased area. The best available science concludes that this set back distance mitigates concerns about sedimentation impacts from clamming on oysters. This modification will allow commercial clamming to continue in traditional and currently legal areas within the proposed sanctuaries. The prohibition of all wild shellfish harvest, including clamming, will be maintained for previously established sanctuaries.

Current law prohibits the Department from issuing new aquaculture leases in designated sanctuaries. The Department is, however, supportive of this concept under certain conditions, and plans to pursue legislative change during the 2011 Session of the General Assembly. Aquaculture in sanctuaries under specified conditions can be compatible to restoration by adding to localized water quality improvements, providing ecosystem functions through oyster shell habitat creation, and enhancing natural recruitment of baby oysters within the sanctuary when reproductive oysters are used. If aquaculture leasing were allowed in sanctuaries, the Department is interested in establishing initial limits on the amount of allowed leased area (i.e., no more than 10% of entire sanctuary), prohibiting leases on and within 150 feet of natural oyster bars described in the survey of 1906 – 1912.

#### Enforcement

The proposed action modifies Strategy 4.6 to require appropriate enforcement measures pertaining to the allowance of certain aquaculture activities and clamming in designated oyster sanctuaries. Enforcement measures are necessary to protect wild oysters and their associated reef habitat, and private leased areas. The Department will monitor clamming in sanctuaries through implementation of a new reporting system. The actions to achieve this strategy include the utilization of the new Maryland Law Enforcement Information Network (MLEIN), a monitoring system using radar, day cameras, and infrared detectors, to provide 24 hours/7 days a week monitoring of any potential illegal activity in designated sanctuaries. Additionally, the Department will work with the Maryland District Court to prosecute natural resource violations, and to expand the 2010 “Natural Resource Day” pilot program in Anne Arundel County to other counties. This pilot program has proven to be effective and beneficial since its implementation.

#### Shellfish Sanitation Control

The proposed action creates Strategy 5.5 and sets forth action for Maryland compliance with the National Shellfish Sanitation Program (NSSP), a federal/state cooperative program recognized by the U.S. Food and Drug Administration and the Interstate Shellfish Sanitation Conference (ISSC) for the sanitary control of shellfish produced and sold for human consumption. The Department will seek to accomplish specific actions in the future including: tagging requirements for harvested oysters, dealer record-keeping



requirements, and the implementation of a harvest tracking system. Failure to comply with the NSSP requirements could result in a closure to Maryland’s public and private oyster harvest.

**Regional Oyster Industry Advisory Committees**

While not specifically identified in a plan at this time, the Department is committed to enhancing and/or establishing the process to obtain advisory information pertaining to the management of Maryland’s public oyster fishery from the oyster industry. Currently, the Department obtains input from the County Oyster Committees established by Natural Resources Article, §4-1106, Annotated Code of Maryland. The Oyster Advisory Commission recommended that the structure of the County Oyster Committees be evaluated. More recently, oyster industry representatives have requested the Department’s consideration of the establishment of Regional Oyster Industry Advisory Committees. The purpose of these regional committees would be to provide recommendations pertaining to the regional management of Maryland’s public oyster fishery consistent with the Department’s management principles. Rather than having two separate advisory bodies, County Oyster Committees and Regional Oyster Industry Advisory Committees, the Department plans to have further discussions with the industry before proceeding, recognizing that this will require legislative action during the 2011 Session of the General Assembly.

**Five-Year Review**

The adoption of a fishery management plan, including the 2004 Chesapeake Bay Oyster Management Plan, establishes a framework for adaptive management over time. Fishery management plans are periodically reviewed to determine if the goals, objectives, strategies, and actions are still appropriate. The Department has committed to reviewing the effectiveness of the locations of sanctuaries, public shellfish fishery areas, and aquaculture areas every 5 years and to propose changes where needed.

**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 Oyster and Aquaculture Plan Comment, Regulatory Staff, Department of Natural Resources, 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 August 16, 2010.

Public hearings will be held concerning the adoption of this proposal on:

- July 7 at 6 p.m. at Anne Arundel Community College, Pascal Center for Performing Arts, 101 College Parkway, Arnold, MD 21012;
- July 13 at 6 p.m. at Leonardtown High School Auditorium, 23995 Point Lookout Road, Leonardtown, MD 20650;
- July 22 at 6 p.m. at Salisbury University, Caruthers Hall Auditorium, 1101 Camden Ave., Salisbury, MD 21801; and
- August 5 at 6 p.m. at the Chesapeake College, Rufus M. and Loraine Hall Todd Performing Arts Center, located at corner of Rte. 50 and Rte. 213, Wye Mills, MD 21679.

Sign language interpreters and other appropriate accommodations for individuals will be provided upon request.

**Editor’s Note on Incorporation by Reference**

Pursuant to State Government Article, §7-207, Annotated Code of Maryland, Amendment I to the 2004 Chesapeake Bay Oyster Management Plan (September 2010) has been declared a document generally available to the public and appropriate for incorporation by reference. For this reason, it will not be printed in the Maryland Register or the Code of Maryland Regulations (COMAR). Copies of this document are filed in special public depositories located throughout the State. A list of these depositories was published in 37:1 Md. R. 9 (January 4, 2010), and is available online at www.dsd.state.md.us. The document may also be inspected at the office of the Division of State Documents, 16 Francis Street, Annapolis, Maryland 21401.

**.01 Fishery Management Plans.**

A. The following Chesapeake Bay Program Agreement Commitment Reports (Fishery Management Plans) are adopted and incorporated by reference:

(1) — (2) (text unchanged)

(3) Chesapeake Bay Oyster Management Plan (July 1989), Chesapeake Bay 1994 Oyster Fishery Management Plan (December 1994), [and] 2004 Chesapeake Bay Oyster Management Plan (December 2005), and Amendment I to the 2004 Chesapeake Bay Oyster Management Plan (September 2010);

(4) — (15) (text unchanged)

B. — C. (text unchanged)

JOHN R. GRIFFIN  
Secretary of Natural Resources

**Subtitle 02 FISHERIES SERVICE**

**Notice of Proposed Action**

[10-181-P]

The Secretary of Natural Resources proposes to amend:

- (1) Regulation .12 under **COMAR 08.02.02 Soft-Shell Clams**; and
- (2) Regulations .02 and .03 under **COMAR 08.02.07 Hard-Shell Clams**.

**Statement of Purpose**

The purpose of this action is to correct language pertaining to the harvest of clams. Restrictions applying to shellfish harvest are corrected in order to align these regulations with the requirements proposed for adoption under Ch. 173, Acts of 2009.

As a result of the dramatically expanded sanctuary network, sanctuaries no longer primarily consist of natural oyster bars. Instead, the expanded sanctuary network includes additional non-oyster bottom that surrounds the larger areas of interconnected natural oyster bars. Currently, all shellfish (oysters and clams) harvest is prohibited in existing sanctuaries. The prohibition of all wild shellfish harvest, including clamming, will be maintained for existing sanctuaries. However, the Department proposes to modify the management of commercial clamming in new sanctuaries. This modification will allow commercial clamming to continue in traditional and currently legal areas within the proposed sanctuaries. If this action is not taken, there will be an unintended economic impact to the commercial clamming industry. The Department will monitor clamming in sanctuaries through an additional reporting system.

Specifically, the proposed action clarifies that clam harvest is prohibited within 150 feet of a public shellfish fishery area, a natural oyster bar (including bars in sanctuaries), sanctuaries established in

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Section I of the Oyster Sanctuaries of the Chesapeake Bay and Its Tidal Tributaries (September 2010), or leased areas. This prohibition protects physical damage to oyster reefs as well as damage to young oysters from sedimentation.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** The proposal has an economic impact on the issuing agency.

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

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

A. The increase in expenses associated with these regulations corresponds to increased enforcement costs associated with the new regulations. Since a prior number of regulation infractions is unknown, it is impossible to know the increase in expenses associated with these regulations. However, assuming that the infractions are minimal, the increase in enforcement expenditures should also be minimal.

**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 Oyster and Aquaculture Plan Comment, Regulatory Staff, Department of Natural Resources, 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 August 16, 2010.

Public hearings will be held concerning the adoption of this proposal on:

- July 7 at 6 p.m. at Anne Arundel Community College, Pascal Center for Performing Arts, 101 College Parkway, Arnold, MD 21012;
- July 13 at 6 p.m. at Leonardtown High School Auditorium, 23995 Point Lookout Road, Leonardtown, MD 20650;

- July 22 at 6 p.m. at Salisbury University, Caruthers Hall Auditorium, 1101 Camden Ave., Salisbury, MD 21801; and
- August 5 at 6 p.m. at the Chesapeake College, Rufus M. and Loraine Hall Todd Performing Arts Center, located at corner of Rte. 50 and Rte. 213, Wye Mills, MD 21679.

Sign language interpreters and other appropriate accommodations for individuals will be provided upon request.

**08.02.02 Soft-Shell Clams**

Authority: Natural Resources Article, §§4-215, 4-1033, and 4-1039, Annotated Code of Maryland

**.12 Restricted Areas.**

A. From May 1 through September 30, [a person] *an individual* may not catch or attempt to catch soft-shell clams by hydraulic dredge within 300 feet of a private bathing beach which extends not more than 300 feet along the shore and is marked with a sign which shall:

[A.] (1) — [F.] (6) (text unchanged)

B. *An individual may not harvest soft-shell clams within 150 feet of a:*

- (1) *Natural oyster bar;*
- (2) *Leased area;*
- (3) *Public shellfish fishery area established in COMAR 08.02.04.17A; or*

(4) *Sanctuary designated in Section I of "Oyster Sanctuaries of the Chesapeake Bay and Its Tidal Tributaries (September 2010)" that is incorporated by reference in COMAR 08.02.04.15A.*

**08.02.07 Hard-Shell Clams**

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

**.02 Use of Hard-Shell Clam Dredges in Tangier Sound and Pocomoke Sound.**

A. (text unchanged)

B. Areas Where Hard-Shell Clams May Be Taken by Dredge. Subject to the provisions of [§C of this regulation] *Regulation .03C of this chapter*, a licensed person may catch hard-shell clams with a dredge in the following waters:

(1) — (2) (text unchanged)

[C.] (proposed for repeal)

[D.] C. (text unchanged)

**.03 General.**

A. — B. (text unchanged)

C. *An individual may not harvest hard-shell clams within 150 feet of a:*

- (1) *Natural oyster bar;*
- (2) *Leased area;*
- (3) *Public shellfish fishery area established in COMAR 08.02.04.17A; or*

(4) *Sanctuary designated in Section I of Oyster Sanctuaries of the Chesapeake Bay and Its Tidal Tributaries (September 2010) that is incorporated by reference in COMAR 08.02.04.15A.*

JOHN R. GRIFFIN  
Secretary of Natural Resources

## Subtitle 02 FISHERIES SERVICE

### 08.02.04 Oysters

Authority: Natural Resources Article, §§4-215, 4-1004, 4-1009, 4-1009.1, 4-1013, 4-1015, 4-1015.1, 4-1103, 4-1106, and 4-2A-03, Annotated Code of Maryland

#### Notice of Proposed Action

[10-179-P-I]

The Secretary of Natural Resources proposes to amend Regulations .06, .10, and .11, repeal existing Regulation .15, and adopt new Regulation .15 under **COMAR 08.02.04 Oysters**.

#### Statement of Purpose

The purpose of this action is to remove all former oyster sanctuaries and incorporate by reference Oyster Sanctuaries of the Chesapeake Bay and Its Tidal Tributaries (September 2010). This document contains coordinates for existing and proposed oyster sanctuaries in waters of the Chesapeake Bay and its tidal tributaries.

#### Sanctuary Expansion Process

Sanctuaries are areas where the wild harvest of oysters, and both oysters and clams in previously established sanctuaries, is prohibited. Aquaculture leases existing at the time of the enactment of Ch. 173, Acts of 2009, will be excluded from the sanctuary until terminated or surrendered. These existing leases are not located on natural oyster bars. The existing network of sanctuaries is made up of small dispersed areas. The Department's sanctuary network proposal will shift the sanctuary program from protecting only 9% of the remaining oyster bar habitat to one that protects 25% (9,000 acres). The remaining 75% (27,000 acres) of productive oyster bar habitat will remain open to the public oyster fishery. The expanded sanctuary network will also include half of the best remaining oyster bars. These "best bars" were identified through a scientific analysis of 282 oyster bars from Maryland's annual fall oyster survey. Best bars are oyster bars that over the last 10 years have consistently been among the top 10% of the oyster bars surveyed in Maryland. The other half of these best bars will remain in the public oyster fishery and be designated as public shellfish fishery areas.

The expansion of the network of sanctuaries was developed as a result of 6 years of extensive scientific evaluation and public participation. Both the Federal/State Programmatic Environmental Impact Statement (2004—09) on Oyster Restoration Alternatives for Chesapeake Bay and Maryland's Oyster Advisory Commission (2008—09) recommended an expanded sanctuary program, increased aquaculture, and a more targeted and scientifically based managed public oyster fishery.

#### Benefits

The sanctuary network is designed to:

- Protect half of the Bay's most productive oyster grounds that remain — allow investigation of the reasons why these areas remain most productive despite disease, sedimentation, degrading water quality, and, in some cases, harvest pressure;
- Facilitate development of natural disease resistance — the long-term strategy for restoring oysters;
- Provide essential natural ecological functions that can not be obtained on a harvest bar;
- Serve as a reservoir of reproductive capacity, generating larvae to populate other areas, including public shellfish fishery areas;
- Provide a broad geographic distribution across all salinity zones; and
- Increase our ability to protect these important areas from poaching.

Protecting at least 25% of quality oyster habitat is essential to both the future health and prosperity of the Bay's oyster population and to sustainable harvest. This plan is needed because:

- The current management approach is not sustainable and is not yielding the results for our ecosystem or our watermen; and
- More than \$40 million of State and federal funds have been invested since 1994 and 75% of these funds have been directed towards the commercial oyster fishery. The results of our past actions include:
- The Chesapeake Bay's oyster population stands at 1% of historic levels;
- Over the past 25 years Maryland has lost 80% of its oyster bars, 90% of its oyster harvest, 75% of its oyster harvesters, and 80% of its oyster processing companies; and
- The ecological function of oysters has been lost and 1,500+ watermen can no longer make a living from the Bay's oyster population.

The proposed action increases the amount paid by the Department for oyster shell from 25 cents to 50 cents based on laws enacted under Ch. 319, Acts of 2009.

It is anticipated that both recreational and commercial fishing will benefit from improved oyster bar habitat in sanctuaries because oyster bar habitat provides critical habitat to blue crabs, striped bass, white perch, and other important finfish species. Oysters within sanctuaries are also expected to increase the abundance of adult oysters whose larvae are expected to settle not only within the sanctuary, but also on public shellfish fishery areas in the vicinity of the sanctuaries.

#### Aquaculture in Sanctuaries

Current law prohibits the Department from issuing new aquaculture leases in sanctuaries. The Department is, however, supportive of this concept under certain conditions and plans to pursue legislative authority during the 2011 Session of the General Assembly. Aquaculture leasing in sanctuaries under specified conditions can be compatible to restoration by adding to localized water quality improvements, providing ecosystem functions through habitat creation, and if reproductive oysters are used for aquaculture could enhance natural recruitment within the sanctuary. If aquaculture leasing were allowed in sanctuaries, the Department is interested in establishing initial limits on the amount of allowed leased area (i.e., 10% of entire sanctuary), prohibiting leases to occur on natural oyster bars as described by the charts of the oyster survey of 1906 to 1912, prohibiting leasing from within 150 feet of a natural oyster bar and implementing stringent penalties to lease holder for poaching on a natural oyster bar within a sanctuary. The best available science concludes that this set back distance mitigates concerns about sedimentation impacts from clamming on oysters.

#### Modifications from Original Proposal

The proposed action is a result of modifications made to the draft proposed sanctuary areas released for public review on December 3, 2009, based upon an extensive public participation process that included four 8-hour open houses located across the State where the public could attend and learn about the draft proposal, get their questions answered, and provide comments. The Department also obtained public input through meetings of its Oyster Advisory Commission, Sport and Tidal Fisheries Advisory Commissions, and Department of Agriculture's Aquaculture Coordinating Council, and several meetings with representatives of the State's fishing industry organizations (Maryland Watermen's Association, Chesapeake Bay Commercial Fishermen's Association, and Maryland Oystermen's Association), County Oyster Committees, Sport Fishing Organizations, State Aquaculture Agencies, Scientific Community, and Environmental Advocacy Organizations. Furthermore, there were extensive public deliberations on this issue with legislators and the

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public during the 2010 Session of the General Assembly. Modifications include:

- Modifications to the draft proposed sanctuaries in each of the counties where sanctuaries were proposed to mitigate industry concerns while still achieving the Department’s sanctuary objectives.
- Protecting half of the best bars for sanctuaries and the other half for the public shellfish fishery (best bars were identified by a scientific analysis of oyster data — these represent the most robust oyster bars in the State).
- The Department added several new sanctuary areas to accommodate the Marylanders Grow Oysters Program.

The Department recognizes that the proposed sanctuary network may have a short-term negative economic impact of 10—15% of the commercial oyster industry’s harvest or a gross economic impact of \$350,000 — \$500,000 based upon the dockside value of the 2009—10 harvest reports. To mitigate this economic impact, the State intends to implement programs to support a sustainable public oyster fishery. This is in addition to the \$4 million of State and federal funding available to pay watermen for restoration work and to help them invest in aquaculture business. Since December 2008, the Department has contracted 500—800 watermen each year to perform restoration projects for a total payout of \$2 to \$2.5 million annually. The federal portion of this funding is part of the \$15 million that Senator Barbara Mikulski and Maryland’s Congressional Delegation was able to obtain in response to a federal fishery disaster declaration for the blue crab fishery.

Sanctuary changes by county that have been made from the draft proposed sanctuary areas released for public review on December 3, 2009 and this regulatory submission are summarized below.

**Baltimore**

- Reduced draft proposal to establish the entire Man O War Shoal as a sanctuary to splitting the area with the eastern side being proposed as a sanctuary and the larger, western side remaining open to the public oyster fishery.

**Anne Arundel**

- Added Chesapeake Bay mainstem sanctuary from Cedarhurst to Chesapeake Beach as compensation for modifications made in other counties.

**Calvert**

- Added a small sanctuary in the creeks north of Solomons Island to support the Marylanders Grow Oysters Program.
- Added a sanctuary on the mainstem north of Cove Point and near Chesapeake Beach as compensation for modifications made in other counties.

**St. Mary’s**

- Removed north side of proposed Point Lookout sanctuary for a reduction of the proposed sanctuary area by 75%.
- Added Breton Bay as a sanctuary as compensation for the reduction of Point Lookout.
- Added small sanctuary in Wicomico River to support Marylanders Grow Oysters Program.

**Kent**

- Removed proposed sanctuary in middle of Chester River.
- Added sanctuary near mouth of Chester River as compensation for above modification.
- Department commitment to add power dredge study area.

**Queen Anne’s**

- Removed proposed sanctuary in middle of Chester River.
- Added sanctuary at mouth of Chester River as compensation for above modification.
- Added sanctuary at Cox Creek to provide increased equity of impact across counties.

- Added sanctuary from Chesapeake Bay Environmental Center to Piney Neck to provide increased equity of impact across counties.
- Added Wye River sanctuary to provide increased equity of impact across counties.

**Talbot**

- Removed lower part of Tred Avon River sanctuary.
- Added sanctuary, but reduced size, in Miles River to provide increased equity of impact across counties.
- Added sanctuaries on north and south side of western shore of Tilghman Island as compensation for modifications to Tred Avon River, Miles River and Harris Creek sanctuaries.
- Added Wye River sanctuary to provide increased equity of impact across counties.
- Removed 65% of the power dredge area included in the proposed Harris Creek sanctuary.
- Department commitment to add power dredge study area.

**Dorchester**

- Reduced proposed sanctuary for the entire Little Choptank River by removing the proposed sanctuary area at mouth of Little Choptank River.
- Added sanctuaries to the Choptank River on the Dorchester County side (Rt. 50 to Castle Haven) as compensation for modification to the Little Choptank River sanctuary.
- Expanded Cooks Point sanctuary as compensation for modification to the Little Choptank River sanctuary.
- Department commitment to add power dredge study area.

**Somerset**

- Reduced the size of sanctuary west of Smith Island by removing a large portion of the southeast section.
- Added sanctuary in Nanticoke River as compensation for the above modification.
- Added sanctuary in Manokin River as compensation for the above modification.
- Added small sanctuary in Big Annemessex River to support the Marylanders Grow Oysters Program.

**Wicomico**

- Added Nanticoke River sanctuary as compensation for the modification to the sanctuary west of Smith Island in Somerset County.

**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 economic impacts on the Agency and regulated industry.

Revenue (R+/R-)

**II. Types of Economic Impact.**

Expenditure (E+/E-) Magnitude

**A. On issuing agency:**

- (1) Licensing (R-) Indeterminable
- (2) Enforcement (E+) Indeterminable

**B. On other State agencies: NONE**

**C. On local governments: NONE**

	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
(1) Oyster harvesters	(-)	Indeterminable
(2) Oyster aquaculture enterprises	(-)	Indeterminable
E. On other industries or trade groups:		
(1) Commercial crabbers (blue crab)	(+)	Indeterminable
(2) Commercial and recreational finfish fishermen	(+)	Indeterminable
(3) Oyster shucking houses	(-)	Indeterminable
(4) Seafood restaurants	(-)	Indeterminable
F. Direct and indirect effects on public:		
Public benefits	(+)	Indeterminable

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

A(1). The closure of segments of the bay to wild harvest may lead some oystermen to allow their Oyster Harvester license (OYH — \$50), Oyster Dredge Boat license (ODB-\$250), or Unlimited Tidal Fish License (TFL — \$300) to lapse. However, the number of individuals that may take this drastic measure is expected to be very small. A more realistic response is for these individuals to keep their licenses and discontinue paying the oyster harvester surcharge of \$300. Regardless of the exact response, the overall impact on revenue is expected to be minimal.

A(2). Sanctuary expansion can be expected to increase the cost of enforcement of sanctuary boundaries and regulations by MD Natural Resource Police. The magnitude of these increased expenditures will correspond to the level of sanctuary regulation violations (i.e., poaching and other sanctuary infractions) and the overall increase in the amount of the bay protected as sanctuaries. Direct costs of oyster bar restoration and rehabilitation will also be incurred, including an increase in the amount paid for oyster shell from 25 cents to 50 cents. The larger, more contiguous nature of the proposed sanctuaries will actually make identification and enforcement of sanctuary infractions easier, and offset some costs of monitoring more sanctuaries. Though not part of the proposed regulations associated with the sanctuary expansion the implementation of the MLEIN monitoring system, with its combination of radar, remote video sensors, and access to mapping and criminal databases, will also ease the cost of enforcement. The increase in penalties associated with infractions and enhanced judiciary support associated with this proposal is expected to further deter regulation violations, and minimize the additional cost of enforcement.

D(1). Based on last season’s harvest reports (2009—2010), it is estimated the new sanctuaries will reduce the public oyster fishery by 10 to 15% in the short term, an economic impact of approximately \$350,000 to \$500,000 on gross revenue. There is also expected to be increased costs of harvesting (through increased travel costs to and from fishing areas as well as increased competition on the remaining bars open to public oyster harvesters, the opportunity cost of time as harvesters familiarizing themselves with new regulations and oyster bars, etc.) and a decrease in the biomass of oysters available for public harvest. The magnitude of this impact will directly correspond to the size and geographic distribution of the oyster population which will continue to be available to public oyster harvesters. This impact is expected to be minor as the industry is already traveling increased distances to harvest oysters. In the long run, however, the sanctuaries

will provide genetic diversity and serve as refuges against the threats associated with disease (particularly MSX and Dermo). The sanctuaries will also serve as sources of juvenile oysters which can enhance spat settlement in Public Shellfish Fishery Areas. Ultimately these sanctuaries will lead to a healthier oyster fishery. However, these benefits will likely accrue many years in the future.

D(2). Existing leases in the expanded sanctuaries will not be affected by the new regulations. There is, therefore, no additional cost to existing lease holders. However, the expansion of existing leases into the new sanctuaries will not be feasible. This should be a temporary impact, as the DNR supports leasing in sanctuaries under specified conditions, and will seek a legislative change to permit this activity in 2011. In the short-run, however, this could lead to higher costs than would otherwise be incurred if current leaseholders decide to expand operations. These additional costs could include increased travel time between lease holdings, and other costs associated with holding disjoint leases for the purpose of oyster aquaculture. Conversely, the existence of leases inside new sanctuary boundaries could lead to benefits from increased surveillance, particularly in the form of decreased incidents of poaching.

E(1). Oyster bars provide essential habitat to crabs. The sanctuaries are thus expected to help bolster the crab population to the benefit of commercial crabbers. These benefits will likely be delayed due to the time necessary to rehabilitate and restore sanctuary oyster bars. A study on the Patuxent River showed that habitat improvement could lead to higher catches in the blue crab trotline fishery with the same level of fishing effort. Commercial crab harvester’s income could increase by a total of \$350,000 a year in that tributary alone. The magnitude of this impact Bay-wide is indeterminable.

E(2). The benefits to finfish fisheries stem from the additional optimal habitat that sanctuaries will provide to both juvenile and mature individuals. A survey of Chesapeake Bay recreational fishermen showed that they preferred to fish around oyster reefs and had significantly higher catches around reefs. The study estimated that recreational fishermen benefited about \$340 per restored acre per year due to increased catches. A successful oyster restoration program will be of significant benefit to sports fishermen and the charter boat industry. For example, it has been estimated that simply increasing the average catch rate per trip by striped fisherman by .5 fish per trip would increase the benefit from recreational fishing by \$5 million per year. These benefits will likely be delayed due to the time necessary to rehabilitate and restore sanctuary oyster bars.

E(3). Based on harvest data collected in 2009—2010, there will be an estimated decline in harvest of approximately 10-15%. The overall impact on oyster shucking houses will depend on the ability of cultured and imported oysters to attenuate this decline in harvest. If the combination of cultured and imported oysters result in a net increase in oysters supplied to shucking houses, the overall effect on oyster shucking houses could actually be positive even though the expansion of the sanctuaries taken alone would provide a negative impact. The remaining oyster shucking houses in Maryland obtain most of their shellstock from the Gulf of Mexico. The effects of the oil spill from an offshore drilling rig in the Gulf of Mexico on April 20, 2010, are likely to be the dominant impact on the future of these businesses rather than the small change in landings due to these regulations. While it is true that the processing industry has declined over the past 25 years with a 70% decrease in the number of oyster processing companies, there is no indication that this decline will continue and that the industry is not now in equilibrium. Any additional costs in terms of decreased supply of shellstock to shucking houses is relative to the status quo.

E(4). Because of the relatively small dip in supply of oysters associated with the sanctuary expansion compared to the overall

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supply of oysters to Maryland from not only Chesapeake Bay, but from other parts of the country and the world, the impact on seafood restaurants in general is expected to be minimal. Though not directly a result of the regulations governing sanctuary expansion, the impact on seafood restaurants could be offset by an expanded aquaculture industry, improvements in other commercial fisheries and more science based management of the public oyster fishery, such that the net impact could be positive.

F. Public benefits stem from numerous sources including:

(1) Reductions in water turbidity (particularly reductions in pollution and algal blooms), leading to increased potential for recreational activities (boating, swimming, scuba, etc.) within Chesapeake Bay.

(2) Increased availability of recreational sports fish, blue crabs, and oysters.

(3) Increased value of private shoreline property due to expected decreases in pollution and algal blooms.

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 Oyster and Aquaculture Plan — Comment, Regulatory Staff, Maryland Department of Natural Resources Fisheries Service, 580 Taylor Ave., B-2, Annapolis, MD 21401, or call 410-260-8260, or email to fisheriespubliccomment@dnr.state.md.us, or fax to 401-260-8310. Comments will be accepted through August 16, 2010. A public hearing will be held, TBD

Public hearings will be held concerning the adoption of this proposal on:

- July 7 at 6 p.m. at Anne Arundel Community College, Pascal Center for Performing Arts, 101 College Parkway, Arnold, MD 21012;
July 13 at 6 p.m. at Leonardtown High School Auditorium, 23995 Point Lookout Road, Leonardtown, MD 20650;
July 22 at 6 p.m. at Salisbury University, Caruthers Hall Auditorium, 1101 Camden Ave., Salisbury, MD 21801; and
August 5 at 6 p.m. at the Chesapeake College, Rufus M. and Loraine Hall Todd Performing Arts Center, located at corner of Rte. 50 and Rte. 213, Wye Mills, MD 21679.

Sign language interpreters and other appropriate accommodations for individuals will be provided upon request.

Editor's Note on Incorporation by Reference

Pursuant to State Government Article, §7-207, Annotated Code of Maryland, the Oyster Sanctuaries of the Chesapeake Bay and Its Tidal Tributaries (September 2010) has been declared a document generally available to the public and appropriate for incorporation by reference. For this reason, it will not be printed in the Maryland Register or the Code of Maryland Regulations (COMAR). Copies of this document are filed in special public depositories located throughout the State. A list of these depositories was published in 37:1 Md. R. 9 (January 4, 2010), and is available online at www.dsd.state.md.us. The document may also be inspected at the office of the Division of State Documents, 16 Francis Street, Annapolis, Maryland 21401.

the daily catch limits for the taking of oysters from the [natural oyster bars] waters of the State are the following:

A. — C. (text unchanged)

.10 Dredging with an Auxiliary Yawl Boat.

A. A dredge boat may be propelled by means of an auxiliary yawl boat carried on the dredge boat to catch oysters in areas where dredge boats are permitted, except in [the waters]:

(1) [Above] The waters above a line in the Choptank River extending from Horn Point to Martin Point; [or]

(2) [Bordering] The waters bordering Kent Island south of the William Preston Lane Memorial Bridge and north of a line running due east from Bloody Point Lighthouse[.]; or

(3) Areas established as oyster sanctuaries in Regulation .15A of this chapter.

B. — C. (text unchanged)

.11 General Provisions.

A.— C. (text unchanged)

[D.] (proposed for repeal)

[E.] D. (text unchanged)

[F.] (proposed for repeal)

[G.] E. (text unchanged)

[H.] F. Fees for Purchasing, Hauling, and Planting Fresh Oyster Shell.

(1) (text unchanged)

(2) The rate to be paid to purchase fresh oyster shell shall be [25] 50 cents per bushel.

[I.] G. (text unchanged)

.15 Oyster Sanctuaries.

A. Oyster Sanctuaries of the Chesapeake Bay and Its Tidal Tributaries (September 2010) designates oyster sanctuaries in the Chesapeake Bay and its tidal tributaries and is hereby incorporated by reference.

B. A person may not harvest:

(1) Wild oysters from a sanctuary established in §A of this regulation; or

(2) Clams from a sanctuary designated in Section I of Oyster Sanctuaries of the Chesapeake Bay and Its Tidal Tributaries (September 2010) that is incorporated by reference in §A of this regulation.

C. Aquaculture in Sanctuaries.

(1) Except as provided in §C(2) of this regulation, a shellfish lease may not be located in a sanctuary or within 150 feet of an oyster sanctuary established in §A of this regulation.

(2) Until termination in accordance with Natural Resources Article, §4-11A-09(f), Annotated Code of Maryland or surrender in accordance with COMAR 08.02.23.03K, leased areas and all areas within 150 feet of the leased areas existing at the time of the enactment of Ch.173, Acts of 2009 shall not be considered part of the sanctuaries as established in §A of this regulation.

(3) A leaseholder under Natural Resources Article, §4-11A, Annotated Code of Maryland or permit registrant under COMAR 08.02.23.04 shall notify the Department as specified on the Shellfish Aquaculture Harvester Permit 48 hours in advance of using a power dredge in areas described in §C(2) of this regulation.

JOHN R. GRIFFIN
Secretary of Natural Resources

.06 Daily Catch Limit.

Except as provided in Regulation [.13] .14 of this chapter or in areas for which a permit has been issued under COMAR 08.02.23.04,

**Subtitle 02 FISHERIES SERVICE**

**08.02.04 Oysters**

Authority: Natural Resources Article, §§4-215 and 4-11A-04, Annotated Code of Maryland

**Notice of Proposed Action**

[10-180-P-I]

The Secretary of Natural Resources proposes to adopt new Regulation .17 under **COMAR 08.02.04 Oysters**.

**Statement of Purpose**

The purpose of this action is to incorporate by reference Public Shellfish Fishery Areas of the Chesapeake Bay and Its Tidal Tributaries (September 2010). This document contains coordinates for all public shellfish fishery areas (PSFA) in the Chesapeake Bay and its tidal tributaries. A PSFA is an area in State waters determined to be economically viable to the commercial oyster fishery and as a result is reserved for commercial harvest of wild oysters. The proposed PSFAs will maintain 168,000 acres of natural oyster bars and 75% (27,000 acres) of the remaining productive oyster habitat for the public oyster fishery. Leasing for shellfish aquaculture is prohibited on PSFAs.

**Declassifying PSFA**

While increasing aquaculture opportunities, Ch. 173, Acts of 2009, directed the Department to set aside areas for the public fishery based on specific criteria. The proposed action also describes the process by which a person would petition the Department to declassify a PSFA. A petition for declassification may be approved if the results of a biological survey indicate that the area is no longer viable for the commercial fishery. The Department will also take into consideration oyster harvest reports and other information, including public input at scoping and leasing public meetings and during comment periods, that it deems necessary to make an informed decision about declassifications. A PSFA will not be declassified for use as a demonstration lease.

**Modifications from Original Proposal**

The proposed action is a result of modifications made to the draft proposed PSFAs released for public review on December 3, 2009, based upon an extensive public participation process that included four 8-hour open houses located across the State where the public could attend and learn about the draft proposal, pose questions, and provide comments. The Department also obtained public input through meetings of its Oyster Advisory Commission, Sport and Tidal Fisheries Advisory Commissions, and Department of Agriculture’s Aquaculture Coordinating Council, and several meetings with representatives of the State’s fishing industry organizations (Maryland Watermen’s Association, Chesapeake Bay Commercial Fishermen’s Association, and Maryland Oystermen’s Association), county oyster committees, sport fishing organizations, state aquaculture agencies, scientific community and environmental advocacy organizations. Furthermore, there were extensive public deliberations on this issue with legislators and the public during the 2010 Session of the General Assembly. A modification was made to the original proposal in order to retain 16 oyster bars (over 1,000 acres total) as PSFAs rather than making them available for leasing. This modification was based upon information provided by the traditional public oyster industry that indicated these areas are of current use by the industry.

Since the Secretary of Natural Resources only has authority to prohibit submerged land leasing in designated PSFAs, the Maryland Department of the Environment will submit a companion regulatory change to prohibit water column (cage and float aquaculture) leasing on PSFAs in the mainstem of the Chesapeake Bay.

**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 Agency.

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

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

A. Additional costs will be associated with the biological survey of PSFAs associated with the new density threshold for declassifying of PSFAs of one oyster per square meter.

**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 Oyster and Aquaculture Plan — Comment, Regulatory Staff, Maryland Department of Natural Resources Fisheries Service, 580 Taylor Ave., B-2, Annapolis, MD 21401, or call 410-260-8260, or email to fisheriespubliccomment@dnr.state.md.us, or fax to 410-260-8310. Comments will be accepted through August 16, 2010.

Public hearings will be held concerning the adoption of this proposal on:

- July 7 at 6 p.m. at Anne Arundel Community College, Pascal Center for Performing Arts, 101 College Parkway, Arnold, MD 21012;
- July 13 at 6 p.m. at Leonardtown High School Auditorium, 23995 Point Lookout Road, Leonardtown, MD 20650;
- July 22 at 6 p.m. at Salisbury University, Caruthers Hall Auditorium, 1101 Camden Ave., Salisbury, MD 21801; and
- August 5 at 6 p.m. at the Chesapeake College, Rufus M. and Loraine Hall Todd Performing Arts Center, located at corner of Rte. 50 and Rte. 213, Wye Mills, MD 21679.

Sign language interpreters and other appropriate accommodations for individuals will be provided upon request.

Editor's Note on Incorporation by Reference

Pursuant to State Government Article, §7-207, Annotated Code of Maryland, the Public Shellfish Fishery Areas of the Chesapeake Bay and Its Tidal Tributaries (September 2010) has been declared a document generally available to the public and appropriate for incorporation by reference. For this reason, it will not be printed in the Maryland Register or the Code of Maryland Regulations (COMAR). Copies of this document are filed in special public depositories located throughout the State. A list of these depositories was published in 37:1 Md. R. 9 (January 4, 2010), and is available online at [www.dsd.state.md.us](http://www.dsd.state.md.us). The document may also be inspected at the office of the Division of State Documents, 16 Francis Street, Annapolis, Maryland 21401.

**.17 Public Shellfish Fishery Area.**

*A. Public Shellfish Fishery Areas of the Chesapeake Bay and Its Tidal Tributaries (September 2010) designates public shellfish fishery areas in the Chesapeake Bay and its tidal tributaries and is hereby incorporated by reference.*

**B. Declassification.**

(1) *A person may petition the Department to declassify a portion of a public shellfish fishery area by submitting a lease application as described in COMAR 08.02.23.03A or B and Natural Resources Article, §4-11A-08, Annotated Code of Maryland.*

(2) *The declassification of a public shellfish fishery area may be approved:*

(a) *If the results of a biological survey conducted by the Department or a designated agent show that the average density of oysters per square meter is equal to or below the maximum threshold of one oyster that is 1 inch or greater per square meter;*

(b) *After commercial harvest activity and other quantitative data is considered by the Department;*

(c) *If the lease application meets the requirements of COMAR 08.02.23.03; and*

(d) *If the lease application is approved in accordance with Natural Resources Article, Title 4, Subtitle 11A, Annotated Code of Maryland.*

JOHN R. GRIFFIN  
Secretary of Natural Resources

**Subtitle 02 FISHERIES SERVICE**

**Notice of Proposed Action**

[10-178-P]

The Secretary of Natural Resources proposes to:

(1) Repeal Regulations **.06**, **.11**, and **.12** under **COMAR 08.02.08 Shellfish—General**;

(2) Amend Regulations **.01** and **.03** under **COMAR 08.02.14 Aquaculture Permits**; and

(3) Amend and recodify existing Regulation **.01** to be Regulation **.02** and adopt new Regulations **.01**, **.03**, **.04**, **.06**, and **.07** under **COMAR 08.02.23 Shellfish Aquaculture and Leasing**.

**Statement of Purpose**

The purpose of this action is to implement regulations in order to create a shellfish aquaculture and leasing system under the requirements of Ch. 173, Acts of 2009. Additionally, Ch. 173, Acts of 2009, required that the Department streamline the regulatory process for shellfish aquaculture, open new areas to leasing to promote shellfish aquaculture industry growth, and provide alternative economic opportunities for watermen. This legislation was developed with broad stakeholder involvement and was passed unanimously by the General Assembly as a result of Governor Martin O'Malley's lease law legislation, Senate Bill 271.

Aquaculture is now the predominant means of shellfish harvesting around the world and the proposed action will facilitate the development of aquaculture leasing in Maryland. Just next door in Virginia, privatized shellfish aquaculture has quickly grown to a multi-million dollar annual business. In comparison, numerous obstacles prevented Maryland from transitioning towards aquaculture until the 2009 General Assembly approved the aquaculture lease law reform bill. The scientific findings of a 6-year state/federal Programmatic Environmental Impact Statement (PEIS) that concluded in June 2009, and recommendations from Maryland's Oyster Advisory Commission and Aquaculture Coordinating Council conclude that privatized aquaculture will provide Maryland with the best opportunity to once again become a major contributor in the worldwide oyster industry. The proposed action is critically needed as the Chesapeake Bay's oyster population is less than 1% of historical abundance and 80% of the productive oyster bar habitat in the Bay has been lost in the past 25 years. In response, Maryland's public oyster industry over the past 25 years has experienced a 90% decrease in harvest, 75% decrease in oyster harvesters, and 80% decrease in oyster processing companies.

Expanding from a public fishery to include privatized aquaculture has proven to be a major economic contributor to local economies across the world. By opening more areas to aquaculture leasing in Maryland, we hope to unleash the entrepreneurial spirit of watermen and other business people, and generate additional tax revenues associated with a more robust oyster industry. Based on an economic analysis by the University of Maryland Sea Grant, expanding aquaculture in Maryland is projected to create and sustain 250 jobs and have a \$25 million economic benefit to Maryland over the next several years. To accomplish this, the Department will provide technical and financial resources to help watermen and other interested persons establish aquaculture businesses. Funding will be available for the establishment of remote larvae setting, facilities, preparation of lease bottoms, purchase of hatchery seed, and training.

This action will make thousands of bottom, previously off-limits, available for leasing, including 95,000 acres of natural oyster bars that are no longer utilized by the commercial oyster fishery. The development of a new aquaculture program, along with the implementation of an expanded sanctuary network and a more scientifically managed public oyster fishery, will set forth the necessary strategies to achieve the goal of restoring an abundant, self-sustaining native oyster population to the Chesapeake Bay and its tidal tributaries and revitalizing Maryland's oyster industry. Achievement of this oyster goal will provide sustainable ecological, economic, and cultural resource benefits for the Bay and for Maryland citizens.

The proposed action clarifies the scope of the chapter and renames COMAR 08.02.14 Aquaculture in order to ensure that it does not apply to shellfish aquaculture on leased and licensed areas under COMAR 08.02.23 Leasing. The proposed action also adds a purpose regulation to the leasing chapter and clarifies and adds definitions as needed.

**Process and Permitting**

The proposed action describes lease procedures for: submerged land leases, including a \$300 application fee and rent per acre per year of \$3.50; water column leases, in an aquaculture enterprise zone, including a \$150 application fee and rent per acre per year of \$40; and demonstration leases, including no application fee or rent. The action requires certain individuals, except those with demonstration leases, to obtain a Shellfish Aquaculture Harvester Permit. The proposed action establishes reporting requirements, including a requirement to report annually by December 31. The action lists locations prohibited to leasing and prohibited activities, including the requirement to obtain the Department's authorization when adding fill or sediment to a lease. The action describes the requirements for



marking a lease and gear placed on a lease, including the liability for that gear. The action allows for the transfer and surrender of a lease.

The proposed action creates a Shellfish Aquaculture Harvester Permit (SAHP), which is required for an individual with a tidal wetlands license or a lease prior to engaging in aquaculture activities. The permit is valid for one year and is renewable, but not transferable. The action establishes an application process for the SAHP including requiring the listing of individuals performing aquaculture activities on a leased or licensed area. Individuals listed under the SAHP will be called permit registrants and will be issued a Shellfish Aquaculture Harvester Registration Card (SAHRC). The action requires monthly harvest reporting for SAHP holders. The action requires the SAHRC holders to keep the card in their possession while performing aquaculture activities. The action requires SAHP or SAHRC holders to abide by National Shellfish Sanitation Program (NSSP) requirements under the NSSP Model Ordinance. One of the requirements of the Model Ordinance is to tag containers of shellfish being sold for human consumption. The Department intends to add a tagging requirement by regulation in a future proposal after the details of tagging are determined. The action requires written permission to possess undersized oysters outside of a lease. The Department is committed to responding to these written permission requests within 2 business days. The action requires oysters harvested for human consumption to be at least 3 inches and sold to an oyster buy station. The aquaculture industry has expressed an interest for a smaller minimum size limit for aquaculture. This, however, is prohibited by current Maryland statute (Natural Resources Article, §4-1015, Annotated Code of Maryland). The Department is open to this request and plans to work with the Maryland Department of Agriculture to determine if a legislative change should be pursued in the 2011 Session of the General Assembly. Failure to comply with the NSSP compliance requirements will result in the public and private oyster fishery being closed.

Coastal Bays

The proposed action establishes pre-approved leasing areas in the Coastal Bays. These areas are in Chincoteague Bay and are named South Point Shoal and Whale Gizzard Shoal. A pre-approved leasing area means an area of the Atlantic coastal bays approved for leasing of submerged land by the Department. Leases in these areas are subject to all leasing and permit requirements. Water column leases (on bottom cages and float aquaculture) are not permitted on a pre-approved leasing area. Leases outside of these pre-approved areas may be approved on specific application and reviewed by the Department.

Penalties

Finally, the proposed action creates penalties for certain shellfish violations by a leaseholder, tidal wetlands license holder, or SAHRC holder.

Access

The proposed regulations allow for normal fishing activities in a leased area, including commercial crabbing and recreational fishing as long as the fishing activity does not destroy or damage shellfish or gear which may be placed there.

Modifications from Original Proposal

The proposed action is a result of modifications made to the draft aquaculture lease proposal released for public review on December 3, 2009, based upon an extensive public participation process that included four 8-hour open houses located across the State where the public could attend and learn about the draft proposal, get their questions answered, and provide comments. The Department also obtained public input through meetings of its Oyster Advisory Commission, Sport and Tidal Fisheries Advisory Commissions, and Maryland's Aquaculture Coordinating Council, and several meetings with representatives of the State's fishing industry organizations (Maryland Watermen's Association, Chesapeake Bay Commercial Fishermen's Association, and Maryland Oystermen's Association), county oyster committees, sport fishing organizations, state aquaculture agencies, scientific community, and environmental advocacy organizations. Furthermore, there were extensive public deliberations on

this issue with legislators and the public during the 2010 Session of the General Assembly. Modifications include:

- Clarification of access issues on aquaculture lease areas for commercial crabbing and recreational fishing.
- Agreement by the Maryland Department of the Environment (MDE) to submit companion regulatory changes to prohibit off bottom aquaculture in designated natural oyster bars in the mainstem of Chesapeake Bay to mitigate potential user conflicts with sports fishermen
- Agreement to establish an interested parties list or other appropriate mechanism, by DNR (for bottom leasing) and MDE (for off-bottom leasing), for individuals who want to be notified of aquaculture permit applications. This will ensure that those interested can provide input during the permit review process.
- Reduction of the South Point Shoal pre-approved lease area in Maryland's coastal bays by 50%. The modification extended the distance of this lease area from the South Point shoreline from 1/2 mile to 1 mile.
- Water column lease rental fees in aquaculture enterprise zones were discounted by 50% based upon the recommendations of the Aquaculture Coordinating Council.

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 agency and regulated industries.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:		
(1) Increase in the number of leases	(R+)	Indeterminable
(2) Aquaculture expansion	(E+)	Indeterminable
B. On other State agencies:		
Center for Environmental Science (UMCES)	(R+)	Indeterminable
C. On local governments:		
	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
Oyster Aquaculturalists	(+)	Indeterminable
E. On other industries or trade groups:		
(1) Oyster hatcheries	(+)	Indeterminable
(2) Cultch suppliers	(+)	Indeterminable
(3) Oyster harvesters	(-)	Indeterminable
(4) Oyster shucking houses	(+)	Indeterminable
(5) Seafood Restaurants	(+)	Indeterminable
F. Direct and indirect effects on public:	(+)	Indeterminable

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

A(1). An increase in leased bay waters for aquaculture enterprises will increase the amount of revenue generated by the MD DNR. For bottom leases this increase in revenue amounts to \$3.50/acre, while for water column leases in the Aquaculture Enterprise Zones (AEZ) the lease is \$40/acre. In addition there is a \$300 (\$150 in AEZs) non-refundable application fee incurred by anyone looking to rent acreage for aquaculture purposes. The number of additional acres which can be expected to be leased is unclear at the moment, particularly as the requirements for the active use of leased lands could decrease the total number of leases in the short term. Regardless, the overall magnitude of the revenue increase is expected to be minimal. The existing DNR public oyster hatchery will likely see demand increase for larvae and seed oysters that can be sold to private lease holders.

A(2). The expansion of aquaculture will increase the administrative costs associated with permitting and validation of leased land, including the assessment of disease presence and damage, the enforcement of regulations governing oyster aquaculture in the bay, and basic administrative costs associated with oyster aquaculture management. To the extent that oyster aquaculture activities supplement spat set on sanctuary bars, the cost of reef rehabilitation could be somewhat attenuated. However, this cost decrease is expected to be minimal, particularly in the near future, and not noticeably impact the overall increase in expenditures necessary to expand oyster sanctuaries. The increase in oyster aquaculture will lead to an increase in demand for cultch, and, considering this is a limiting input to restoration and rehabilitation, the cost of these undertakings will also increase.

B. The existing UMCES public oyster hatchery will likely see demand increase for larvae and seed oysters that can be sold to private lease holders.

D. An increase in areas available to oyster aquaculture and a streamlining of the permitting process will help aquaculturalists entering the sector. Pre-approved lease areas in Maryland’s coastal bays at South Point Shoal and Whale Gizzard Shoal will lower the fixed costs of entering into the aquaculture sector. Aquaculturalists will face increased costs associated with the opportunity cost of time required to obtain a Shellfish Aquaculture Harvester Permit and meet new reporting requirements; however, these costs are expected to be minimal and greatly outweighed by the benefits of the new regulations. Preliminary projections suggest that the annual revenue to oyster aquaculturalists could be \$9.5 million a year, with an associated creation of 225 full-time equivalent jobs. The total annual impact on the Maryland economy from an increasing size of the oyster aquaculture sector is projected to be \$25 million a year.

E(1). Private oyster hatcheries and nurseries will see an increase in demand for larvae and seed oysters. The magnitude of the increase in demand will depend on the increase in oyster aquaculture enterprises.

E(2). Private cultch suppliers will also see an increase in demand for their product. The magnitude of the increase in demand will depend on the increase in oyster aquaculture enterprises.

E(3). The increase in supply of oysters may lead to a very small decline in the ex-vessel price of oysters. However, this price decline is expected to be very minimal due to the small change in overall supply of oysters that aquaculturalists can be expected to produce in the immediate timeframe. In addition, aquaculturalists can sell their oysters outside the public commercial fishery’s harvest season, garnering a higher price for their oysters and lessening competition with the commercial fishery. The effects of the oil spill from an offshore drilling rig in the Gulf of Mexico on April 20, 2010, will be the dominant factor affecting oyster prices over the next several years.

E(4). The increase in supply of oysters will benefit oyster shucking houses in Maryland, by supplementing the supply imported from other regions.

E(5). Because the supply of oysters from aquaculture enterprises will represent such a small component of the overall supply of oysters to the area, the benefits to MD seafood restaurants can be assumed to be minimal. A larger impact can be gained if local oysters are successfully marketed as a premium product and demand a higher price.

F. Public benefits stem from numerous sources including:

(1) Reductions in water turbidity (particularly reductions in pollution and algal blooms), leading to increased potential for recreational activities (boating, swimming, scuba, etc.) within Chesapeake Bay.

(2) Increased availability of recreational sportfish, blue crabs, and oysters.

**Economic Impact on Small Businesses**

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

The proposed action has an economic impact on the agency and regulated industries

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Oyster and Aquaculture Plan - Comment, Regulatory Staff, Maryland Department of Natural Resources Fisheries Service, 580 Taylor Ave., B-2, Annapolis, MD 21401, or call 410-260-8260, or email to fisheriespubliccomment@dnr.state.md.us, or fax to 410-260-8310. Comments will be accepted through August 16, 2010.

Public hearings will be held concerning the adoption of this proposal on:

- July 7 at 6 p.m. at Anne Arundel Community College, Pascal Center for Performing Arts, 101 College Parkway, Arnold, MD 21012;
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- August 5 at 6 p.m. at the Chesapeake College, Rufus M. and Loraine Hall Todd Performing Arts Center, located at corner of Rte. 50 and Rte. 213, Wye Mills, MD 21679.

Sign language interpreters and other appropriate accommodations for individuals will be provided upon request.

**08.02.14 Aquaculture Permits**

Authority: Natural Resources Article, §§ 4-11A-02 and 4-11A-11, Annotated Code of Maryland

**.01 Scope.**

This chapter applies to the collection, permitting, possession, production, processing, marking, transporting, purchase, or sale of fish or aquatic plants, *except for shellfish aquaculture on a leased or licensed area as described in COMAR 08.02.23*, which are the products of, or intended to be used for, aquaculture as that term is defined in Natural Resources Article, §4-11A-01, Annotated Code of Maryland.

**.03 Definitions.**

[A.] (proposed for repeal)

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

B. (text unchanged)

**08.02.23 Shellfish Aquaculture and Leasing**

Authority: Natural Resources Article, §§4-215, 4-1103, 4-11A-02, [4-11A-04,] 4-11A-05, [4-11A-06,] 4-11A-07, 4-11A-08, 4-11A-09, [4-11A-10, 4-11A-12, 4-11A-13, and 4-11A-15] 4-11A-11, and 4-11A-18, Annotated Code of Maryland

**.01 Purpose.**

This chapter applies to shellfish aquaculture in waters of the State as described in Natural Resources Article, Title 4, Subtitle 11A, Annotated Code of Maryland.

**[.01] .02 Definitions.**

[A.] (proposed for repeal)

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

B. Terms Defined.

(1) "Aquaculture activities" means those activities which include the purchase, monitoring, bottom preparation, planting, sale, possession, harvest, production, breeding, transportation, and processing of shellfish in State waters on or in an area used for shellfish cultivation.

[(1)] (2) — [(6)] (7) (text unchanged)

(8) "Pole" means a buoy, float, or stake used to mark a leased oyster bottom.

[(7)] (9) — [(8)] (10) (text unchanged)

(11) "Tidal wetlands license" means written authorization by the Board of Public Works under Environment Article, §16-202, Annotated Code of Maryland, to dredge, fill, construct structures, or conduct certain other activities involving State tidal wetlands for shellfish aquaculture.

[(9)] (12) (text unchanged)

**.03 Lease Procedures.**

A. Aquaculture Activities on Submerged Land. Prior to engaging in aquaculture activities on submerged land in waters of the State, including the areas listed in Regulations .05 and .06 of this chapter, a person shall:

(1) Apply for:

(a) A submerged land lease by submitting an application on a form provided by the Department; and

(b) A shellfish aquaculture harvester permit as described in Regulation .04 of this chapter; and

(2) Submit a non-refundable fee of:

(a) \$300 for areas not in aquaculture enterprise zones as described in Regulation .05 of this chapter; or

(b) \$150 for areas in aquaculture enterprise zones as described in Regulation .05 of this chapter.

B. Aquaculture Activities in the Water Column. Prior to engaging in aquaculture activities in the water column of:

(1) Aquaculture enterprise zones listed in Regulation .05 of this chapter, a person shall:

(a) Apply for:

(i) An aquaculture lease by submitting an application on a form provided by the Department; and

(ii) A shellfish aquaculture harvester permit as described in Regulation .04 of this chapter; and

(b) Submit a non-refundable fee of \$150; or

(2) Waters of the State not listed in Regulation .05 of this chapter, a person shall apply for a:

(a) Shellfish aquaculture harvester permit as described in Regulation .04 of this chapter; and

(b) Tidal wetlands license as described in Environment Article, Title 16, Subtitle 2, Annotated Code of Maryland.

C. Demonstration Lease.

(1) A person may apply for a demonstration lease on a form provided by the Department as described in Regulation .03A and B of this chapter.

(2) There are no application or rental fees for a demonstration lease.

D. Reporting. A leaseholder shall submit to the Department an annual report on a form provided by the Department not later than December 31.

E. Rent.

(1) Except as provided in §E(3) of this regulation, the rental rate for a submerged land lease is \$3.50 per acre per year and is due in full to the Department by December 31 of the preceding year.

(2) Except as provided in §E(3) of this regulation, the rental rate for a water column lease in areas listed in Regulation .05 of this chapter is \$40 per acre per year and is due to the Department by December 31 of the preceding year.

(3) The rental rate for the first year of a lease may be prorated and is due in full to the Department within 30 days of lease approval.

F. Locations. In addition to restrictions provided in Natural Resources Article, Title 4, Subtitle 11A, Annotated Code of Maryland, a lease may not be located in:

(1) Waters classified as restricted by the Maryland Department of the Environment unless the person:

(a) Provides proof to the Department of a viable relay location; or

(b) Has a demonstration lease;

(2) Assateague Island National Seashore as described in 16 U.S.C. §459f; or

(3) A sanctuary as established in COMAR 08.02.04.15A.

G. Prohibited Activities.

(1) A leaseholder may not make any alteration which includes adding any type of fill or sediment other than shell to the existing condition of the lease without first obtaining the Department's written consent.

(2) Shell present in the leased area at the time the lease is issued may not be removed from the leased area without the written permission of the Department.

H. Marking a Lease. A leaseholder shall:

(1) Place a minimum of four poles at the corners of the lease perimeter;

(2) Mark each pole with an 8-inch by 12-inch marker displaying only the initials or name of the leaseholder and the lease number; and

(3) Maintain and meet any standards for corner marker structures as required by the Department in documents available on its website.

I. Gear.

(1) All equipment, gear, or manmade material placed on the lease shall be permanently and individually marked with the lease number and name of the leaseholder.

(2) The leaseholder shall be responsible and liable for equipment, gear, or material:

(a) That has been found adrift or unattended outside the boundaries of the lease area; or

(b) Remaining on the lease after the surrender, default, abandonment, or termination of the lease.

J. Transfer of Lease.

(1) A leaseholder may apply to transfer a lease by completing forms provided by the Department.

(2) Prior to receiving approval of a transfer, the person receiving a transferred lease shall complete a lease application and a shellfish aquaculture harvester permit application and submit the required forms with the transfer form described in §J(1) of this regulation.

PROPOSED ACTION ON REGULATIONS

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K. Surrender of a Lease. A lease may be surrendered by completing a form provided by the Department.

.04 Shellfish Aquaculture Harvester Permit.

A. A lease applicant, a lease transfer applicant, a tidal wetlands license applicant, or an individual as described in Natural Resources Article, §4-11A-16, Annotated Code of Maryland, shall submit an application for a shellfish aquaculture harvester permit prior to engaging in aquaculture activities.

B. A shellfish aquaculture harvester permit:

(1) Shall be valid for a 1-year term beginning on January 1 and expiring on December 31 each year;

(2) Shall be automatically renewed for a new term upon receipt of all reports required under Regulation .03D of this chapter; and

(3) Is not transferable.

C. Application. An application shall:

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

(2) Include a list of all individuals who may be engaging in aquaculture activities within the area described in the applicant's lease application or tidal wetlands license application.

D. Reporting. A person who is permitted by the Department under this regulation shall submit a monthly aquaculture harvest activity report on forms provided by the Department by the 10th day following the end of each month.

E. Permit Registrants.

(1) An individual engaged in aquaculture activities on the area described in the permit applicant's lease or tidal wetlands license application shall be:

(a) Named as a permit registrant under the shellfish aquaculture harvester permit; and

(b) Issued a shellfish aquaculture harvester registration card by the Fisheries Service.

(2) A shellfish aquaculture harvester permittee shall immediately notify the Department of any changes to the list of named permit registrants on a form provided by the Department.

(3) A shellfish aquaculture harvester registration card shall be issued to each shellfish aquaculture harvester permittee.

F. A shellfish aquaculture harvester permittee or permit registrant:

(1) Shall be in possession of the individual's shellfish aquaculture harvester registration card while engaged in aquaculture activities on a leased area;

(2) Shall harvest in accordance with the National Shellfish Sanitation Program Model Ordinance that is incorporated by reference in COMAR 10.15.07.01A;

(3) Except as provided in §F(4) of this regulation, may not harvest oysters that are less than 3 inches from hinge to bill;

(4) Shall have written permission from the Department if in possession of undersized shellfish outside of the leased or licensed area; and

(5) May only sell oysters to an oyster buying station, designated under COMAR 08.02.08.02B, unless that person has written permission from the Department.

.06 Pre-Approved Leasing Areas in the Coastal Bays.

A. The following areas are established as pre-approved leasing areas.

B. A "pre-approved leasing area" means an area of the Atlantic coastal bays approved for leasing of submerged land by the Department.

C. Areas Defined.

(1) South Point Shoal. All of the waters Chincoteague Bay enclosed by a line beginning at a point at or near Lat. 38°10.860' N, Long. 75°13.379' W; then running 310° True to a point at or near Lat. 38°10.980' N, Long. 75°13.560' W; then running 19° True to a point at or near Lat. 38°12.060' N, Long. 75°13.079' W; then running

112° True to a point at or near Lat. 38°11.768' N, Long. 75°12.145' W; then running 227° True to the point of beginning.

(2) Whale Gizzard Shoal. All of the waters Chincoteague Bay enclosed by a line beginning at a point at or near Lat. 38°5.288' N, Long. 75°15.311' W; then running 271° True to a point at or near Lat. 38°5.303' N, Long. 75°16.148' W; then running 4° True to a point at or near Lat. 38°5.775' N, Long. 75°16.106' W; then running 76° True to a point at or near Lat. 38°5.932' N, Long. 75°15.288' W; then running 182° True to the point of beginning.

.07 General.

A. Penalties. A shellfish aquaculture harvester permit or a shellfish aquaculture harvester registration card may be revoked or suspended by the Department if the individual:

(1) Receives a violation under:

(a) This chapter;

(b) Natural Resources Article, Title 4, Subtitle 11A, Annotated Code of Maryland; or

(c) Environment Article, Title 16, Subtitle 2, Annotated Code of Maryland; or

(2) Receives a conviction for taking oysters:

(a) From a location more than 150 feet within a closed or prohibited area;

(b) With illegal gear;

(c) More than 2 hours after sunset or anytime before sunrise; or

(d) During the closed season.

B. Fishing in a Leased Area. Fishing is permitted in a leased area if the fishing activity does not destroy or damage shellfish or gear which may be planted there.

JOHN R. GRIFFIN  
Secretary of Natural Resources

Title 10  
DEPARTMENT OF HEALTH  
AND MENTAL HYGIENE

Subtitle 09 MEDICAL CARE  
PROGRAMS

Notice of Proposed Action

[10-182-P]

The Secretary of Health and Mental Hygiene proposes to amend:

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

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

Statement of Purpose

The purpose of this action is to clarify the reasonable limits the Department of Health and Mental Hygiene will impose on considering the costs of medical expenses and remedial care incurred by Medical Assistance long-term care and Home/Community Based Services Waiver for Older Adults applicants' contribution to the cost of their care.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

**Economic Impact on Small Businesses**

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

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 210 W. Preston St., Room 512, Baltimore, Maryland 21201, or call 410-767-6499, or email to regs@dhmh.state.md.us, or fax to 410-767-6483. Comments will be accepted through August 2, 2010. A public hearing has not been scheduled.

**10.09.24 Medical Assistance Eligibility**

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

**.04 Application.**

A.—I. (text unchanged)

J. Processing Applications — Time Limitations.

(1)—(9) (text unchanged)

(10) Reapplication After the Period Under Consideration Has Expired.

(a) (text unchanged)

(b) A part of the expired current period under consideration may not be converted to a retroactive period *for purposes of determining eligibility. A part of the expired current period under consideration may constitute part or all of the 3 months before the month of application for purposes of post-eligibility deductions.*

(c)—(d) (text unchanged)

K.—W. (text unchanged)

**.09 Determining Financial Eligibility for Noninstitutionalized Persons.**

A. (text unchanged)

B. Retroactive Eligibility.

(1)—(3) (text unchanged)

(4) Retroactive Spend-Down Eligibility.

(a) In determining retroactive spend-down eligibility, documented medical *and remedial* expenses incurred during the [retroactive period] *3 months before the month of application* of any person whose income and resources are considered in determining eligibility shall be considered if the incurred expenses [are not subject to payment or reimbursement by third party]:

(i) *Have not been paid for by any third party, including a family member or an insurer; and*

(ii) *Are not required to be paid for by any third party, such as an insurer.*

(b)—(e) (text unchanged)

C. Current Eligibility.

(1)—(3) (text unchanged)

(4) Spend-Down Eligibility.

(a) (text unchanged)

(b) Medical expenses incurred before the month of application shall be considered if:

(i)—(ii) (text unchanged)

(iii) The expenses are not [subject to third-party payment or reimbursement] *paid for by any other person*, remain the obligation of [any] *the person whose income and resources are considered in determining eligibility, and [the debt has] have not been forgiven by the provider of the services[,]* as evidenced by account statements dating up to 3 months before the month of application.

(c) Medical expenses incurred at any time during or after the month of application and before the end of the period under consideration by any person whose income and resources are considered in determining eligibility [shall be] shall be considered if [they are not subject to third-party payment or reimbursement] *the medical expenses:*

(i) *Have not been paid for by any third party, including a family member or an insurer; and*

(ii) *Are not required to be paid for by any third party, such as an insurer.*

(d)—(h) (text unchanged)

**.10 Determining Financial Eligibility for Institutionalized Persons.**

A.—B. (text unchanged)

C. Retroactive Eligibility.

(1)—(3) (text unchanged)

(4) Determination of Available Income for the Retroactive Period. The following amounts shall be deducted from the total income in the following order:

(a)—(e) (text unchanged)

(f) Incurred expenses for medical care or remedial service that [are not subject to payment by a third party] *have not been paid for by any third party, including a family member or an insurer, and are not required to be paid for by any third party, such as an insurer, including:*

(i)—(iii) (text unchanged)

(g) Incurred expenses for necessary medical care or remedial service described under §C(4)(f)(iii) of this regulation as follows:

(i) For eligibility determinations on or after August 1, 2005, unless a court of competent jurisdiction issues a contrary ruling in a final unappealable order, incurred expenses may not include medical expenses for dates of service [before the retroactive period associated with the month of the] *more than 3 months before the month of the Medical Assistance application; and*

(ii) (text unchanged)

(h) (text unchanged)

(5)—(7) (text unchanged)

(8) Retroactive Spend-Down Eligibility.

(a) In determining retroactive spend-down eligibility, documented medical expenses incurred [during the retroactive period] *more than 3 months before the month of the Medical Assistance application* shall be considered if the incurred expenses [are not subject to payment or reimbursement by a third party or] :

(i) *Have not been paid for by any third party, including a family member or an insurer;*

(ii) *Are not required to be paid for by any third party, such as an insurer;*

(iii) *Were not incurred during a penalty period; and*

(iv) *Were not forgiven by the provider.*

(b)—(e) (text unchanged)

D. Current Eligibility.

(1) (text unchanged)

(2) Determination of Available Income. The following amounts shall be deducted from total income in the following order:

(a)—(f) (text unchanged)

(g) Incurred expenses for necessary medical care or remedial service described under §D(2)(f)(iii) of this regulation as follows:

(i) For eligibility determinations on or after August 1, 2005, unless a court of competent jurisdiction issues a contrary ruling in a final unappealable order, incurred expenses may not include medical expenses for dates of service [before the retroactive period associated with the month of] *more than 3 months before the month of the Medical Assistance application; and*

(ii) (text unchanged)

(h) (text unchanged)

**Subtitle 22 DEVELOPMENTAL  
DISABILITIES**

**10.22.17 Fee Payment System for Licensed  
Residential and Day Programs**

Authority: Health General Article, §§2-104(b), 7-306.1, 7-910(c), 15-105, 15-107 and 16-201, Annotated Code of Maryland

**Notice of Proposed Action**

[10-183-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .02, .03, and .06—.08 under **COMAR 10.22.17 Fee Payment System for Licensed Residential and Day Programs**.

**Statement of Purpose**

The purpose of this action is to implement rate reductions for residential, day and supported employment providers by decreasing the amount of the provider and add-on components of the rates. It also increases the monthly personal needs allowance.

**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 decreases the current provider component base rates for residential, day and supported employment services and also decreases the add-on component rates for these services. The issuing agency, Developmental Disabilities Administration's appropriation has been reduced for the services above for these decreases. Service recipients retained for personal needs allowance an additional \$37 per month.

- (3)—(5) (text unchanged)
- (6) Spend-down Eligibility.
  - (a) (text unchanged)
  - (b) Medical expenses incurred before the month of application shall be considered if the expenses:
    - (i) (text unchanged)
    - (ii) Were not used to establish spend-down eligibility for a prior certification; [and]
    - (iii) [Are not subject to third-party payment or reimbursement, remain] *Have not been paid for by any third party, including a family member or an insurer, and are not required to be paid for by any third party, such as an insurer;*
    - (iv) *Were not incurred during a penalty period;*
    - (v) *Remain* the obligation of any person whose income and resources are considered in determining eligibility[,]; and [the debt has]
      - (vi) *Have* not been forgiven by the provider of the services, as evidenced by account statements dating up to 3 months before the month of application.
  - (c) Medical expenses incurred at any time during or after the month of application and before the end of the period under consideration shall be considered if they [are not subject to payment or reimbursement by a third party or] :
    - (i) *Were not paid for by any third party, including a family member or an insurer;*
    - (ii) *Are not required to be paid for by any third party, such as an insurer;*
    - (iii) *Were not incurred during a penalty period; and*
    - (iv) *Have not been forgiven by the provider.*
  - (d)—(k) (text unchanged)

**10.09.54 Home/Community Based Services  
Waiver for Older Adults**

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

**.03 Participant Eligibility.**

- A.—B. (text unchanged)
- C. Medical Assistance Eligibility.
  - (1)—(7) (text unchanged)
  - (8) Post Eligibility Determination of Available Income.
    - (a) For individuals eligible under §C(3) of this regulation who reside in an assisted living facility, the Department shall reduce its monthly payment for assisted living services specified in Regulation .16 of this chapter by the amount remaining after deducting from the individual's total non-excluded monthly income the following amounts in the following order:
      - (i)—(ii) (text unchanged)
      - (iii) Incurred *and unpaid* medical expenses in accordance with *COMAR 10.09.24.10C(4)(f) and (g) and COMAR 10.09.24.10D(2)(f) and (g)*.
    - (b)—(e) (text unchanged)
- D.—E. (text unchanged)

JOHN M. COLMERS  
Secretary of Health and Mental Hygiene

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency: (E-)		\$19,754,703 TF; \$12,712,770 GF; \$7,041,933 FF
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(-)	\$19,754,703 TF
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

A. These amounts are the result of the FY2010 cost containment Board of Public Works actions.

D. This amount reflects the decrease for licensed providers based on comparing the proposed rate tables to the current rate tables.

**Economic Impact on Small Businesses**

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

The across-the-board decrease in rates will impact all providers, large and small. The proposed decrease gives providers less revenue for community services.

**Impact on Individuals with Disabilities**

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

Rates paid to providers impact individuals with disabilities by decreasing the amount paid to providers for services. However, the personal needs allowance increase which was effective January 1, 2009, assists disabled recipients.

**Opportunity for Public Comment**

Comments may be sent to Michele A. Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499, or email to regs@dhmh.state.md.us, or fax to 410-767-6483. Comments will be accepted through August 2, 2010. A public hearing has not been scheduled.

**.02 Definitions.**

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

(1)—(35) (text unchanged)

(36) "Unit of service for residential programs" means:

- (a) For awake support services, 1 hour; and
- (b) For support services other than awake support services, the provider cost plus permissible fringe benefits times the number of annual hours approved divided by the rate.

[(36)] (37)—[(37)] (38) (text unchanged)

**.03 General.**

- A.—B. (text unchanged)
- C. Personal Needs Allowance.

(1) On [January 1, 2008] *January 1, 2009*, the Administration set the personal needs allowance at [\$262] \$299 per month for an individual.

(2)—(3) (text unchanged)

**.06 Determination of Individual Component.**

- A.—F. (text unchanged)

G. Table of Individual Components Effective [July 1, 2008] *July 1, 2009*.

(1)—(2) (text unchanged)

**.07 Provider Components.**

Effective [July 1, 2008] *July 1, 2009*, the provider components for all regions are as follows:

A. The residential program provider component is [\$58.20] \$56.27; and

B. The day habilitation, vocational, and supported employment program provider component is [\$32.21] \$31.16.

**.08 [Add-on] Add-On Component.**

- A.—I. (text unchanged)

J. Reimbursement for Add-On Components.

(1) (text unchanged)

(2) Effective [July 1, 2008] *July 1, 2009*, the amount per unit of service for residential programs is as follows:

(a) In Baltimore City and Allegany, Anne Arundel, Baltimore, Caroline, Carroll, Dorchester, Garrett, Harford, Howard, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Washington, Wicomico, and Worcester counties—[\$16.66] \$16.53;

(b) In Cecil County—[\$17.54] \$17.40; and

(c) In Calvert, Charles, Frederick, Montgomery, and Prince George's counties—[\$17.76] \$17.62.

(3) Effective [July 1, 2008] *July 1, 2009*, the amount per unit of service for day habilitation, vocational and supported employment is as follows:

(a) In Baltimore City and Allegany, Anne Arundel, Baltimore, Caroline, Carroll, Dorchester, Garrett, Harford, Howard, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Washington, Wicomico, and Worcester counties—[\$16.40] \$16.26;

(b) In Cecil County—[\$17.18] \$17.03; and

(c) In Calvert, Charles, Frederick, Montgomery, and Prince George's counties— [\$17.38] \$17.23.

(4) Effective [July 1, 2008] *July 1, 2009*, the amount per unit of service per individual for professional services is as follows:

(a) In Baltimore City and Allegany, Anne Arundel, Baltimore, Caroline, Carroll, Dorchester, Garrett, Harford, Howard, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Washington, Wicomico, and Worcester counties—[\$26.16] \$26.04;

(b) In Cecil County—[\$27.63] \$27.50; and

(c) In Calvert, Charles, Frederick, Montgomery, and Prince George's counties— [\$28] \$27.87.

JOHN M. COLMERS  
Secretary of Health and Mental Hygiene

**Title 11**  
**DEPARTMENT OF**  
**TRANSPORTATION**  
**Subtitle 11 MOTOR VEHICLE**  
**ADMINISTRATIVE PROCEDURES**

**11.11.07 Gratis and Complimentary Records**

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

**Notice of Proposed Action**

[10-173-P]

The Administrator of the Motor Vehicle Administration proposes to amend Regulations .02 and .03 under **COMAR 11.11.07 Gratis and Complimentary Records**.

**Statement of Purpose**

The purpose of this action is to correct the mailing address for requests for multiple records and to add designee to Administrator to provide an individual with a complimentary copy of their own driving record.

**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 Carolyn Decker, Regulations Coordinator, Motor Vehicle Administration, Room 200, 6601 Ritchie Highway N.E., 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 August 2, 2010. A public hearing has not been scheduled.

**.02 Gratis Records.**

A.— B. (text unchanged)

C. Multiple Requests. Requests from government agencies for more than five records without charge shall be made on the agency's letterhead, and shall be addressed to [the Special Assistant to the Administrator] *Driver Services*, Motor Vehicle Administration, Room [200] 145, 6601 Ritchie Highway, Glen Burnie, Maryland 21062.

**.03 Complimentary Records.**

A. The Administrator *or designee* may provide individuals with a complimentary copy of their own driving records upon display of identification acceptable to the Administration.

B. (text unchanged)

JOHN T. KUO  
Administrator  
Motor Vehicle Administration

**Title 20  
PUBLIC SERVICE  
COMMISSION**

**Subtitle 61 RENEWABLE ENERGY  
PORTFOLIO STANDARD PROGRAM**

**Notice of Proposed Action**

[10-184-P]

The Public Service Commission proposes to:

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

This action was considered at a scheduled rule-making meeting on December 15, 2009, notice of which was given under State Government Article, §10-506, Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to revise the definition of Level 1 and Level 2 solar; remove an optional solar renewable energy credit tracking system; clarify and revise the filing requirements for photovoltaic solar systems; amend the follow-up obligations of a certified renewable energy facility; clarify the useful life of a REC for purposes of compliance; amend consumer protection; and revise and amend provisions relating to the Maryland Energy Administration's use of the Maryland Strategic Energy Investment Fund.

**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 Terry J. Romine, Executive Secretary, Public Service Commission, William Donald Schaefer Tower, 6 St. Paul Street, Baltimore, Maryland 21202-6806, or call 410-767-8067. Comments will be accepted through August 2, 2010. A public hearing has not been scheduled.

**20.61.01 General**

Authority: Public Utility Companies Article, §§2-121, 5-101, and 7-701—7-713, Annotated Code of Maryland

**.03 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1) — (6) (text unchanged)

(6-1) "Level 1 solar" means a solar *photovoltaic* renewable energy facility that is less than or equal to 10kW in rated capacity *at the point of interconnection with the utility*.

(6-2) "Level 2 solar" means a solar *photovoltaic* renewable energy facility that is greater than 10kW in rated capacity *at the point of interconnection with the utility*.

(6-3) — (13) (text unchanged)

[(14) "Retroactive REC" means a REC associated with electricity generated on or after January 1, 2004 and before November 24, 2005.]

[(15)] (14) — [(17)] (16) (text unchanged)

[(18)] (17) "Tier 2 renewable source" has the meaning stated in Public [Utility] *Utility* Companies Article, §7-701, Annotated Code of Maryland.

**.04 Applicable Renewable Portfolio Standard.**

A. — C. (text unchanged)

D. Tier 1 Solar Compliance Schedule — Delay Request.

(1) — (2) (text unchanged)

(3) A supplier request under §D(1) of this regulation shall contain the following information:

(a) (text unchanged)

(b) The actual or projected total annual retail [electric] *electricity* sales revenue for the electricity supplier seeking the compliance fee schedule deferral and the formula used to calculate these figures; and

(c) (text unchanged)

**.05 Solar REC Purchases.**

A. — B. (text unchanged)

C. When a supplier purchases Tier 1 solar RECs directly from a Level 1 or Level 2 solar renewable energy facility, the supplier shall:

(1) For a Level 1 solar renewable energy facility:

(a) (text unchanged)

(b) Calculate the net present value using:

(i) The number of solar RECs purchased and recorded in a GATS account[, or in the case of a solar renewable energy facility only, a Commission authorized solar renewable energy credit tracking system,] multiplied by 80 percent of the compliance fee



specified in Public Utility Companies Article, §7-705, Annotated Code of Maryland; and

- (ii) (text unchanged)
- (c) (text unchanged)
- (2) (text unchanged)

**.06 Satisfaction of Renewable Energy Portfolio Standard.**

A. A supplier shall have a calendar year renewable energy portfolio consisting of renewable energy credits associated with Tier 1 renewable sources, including the required solar renewable energy credits[, or] *and* Tier 2 renewable sources.

B. A supplier shall satisfy Tier 1 REC requirements by submitting to the Commission the following:

- (1) — (2) (text unchanged)
- (3) For each REC submitted under this regulation, a copy of the REC registration with GATS [or in the case of a solar energy facility only, a Commission authorized solar renewable energy credit tracking system,] or documentation of a REC authorized under COMAR [20.61.03.04] *20.61.03.03*; and
- (4) (text unchanged)

C. A supplier shall satisfy Tier 2 REC requirements by submitting to the Commission the following:

- (1) (text unchanged)
- (2) A copy of a REC registration with GATS [or documentation of] *documenting* a REC authorized under COMAR [20.61.03.04] *20.61.03.03*; and
- (3) (text unchanged)

D. — F. (text unchanged)

G. A supplier that is required to file a report under Public Utility Companies Article, §7-705, Annotated Code of Maryland, shall open and maintain an account in good standing with GATS [or in the case of a solar energy facility only, a Commission authorized solar renewable energy credit tracking system].

**20.61.02 Certifiable Renewable Energy Facilities**

Authority: Public Utility Companies Article, §§2-121, 5-101, and 7-701—7-713, Annotated Code of Maryland

**.01 Application Requirements.**

- A. (text unchanged)
- B. [The] *Except as provided in §D of this regulation, the* renewable energy facility application form shall include:
  - (1) — (7) (text unchanged)

C. [An] *In addition to the requirements of §A of this Regulation, an applicant for certification as a renewable energy facility [ , other than] that consists of a Level 1 or Level 2 photovoltaic solar [facility under §D of this regulation] system, shall file:*

(1) [A renewable energy facility application on the] *A photovoltaic solar system specifications* form provided by the Commission; and

- (2) (text unchanged)

D. [An applicant for a Level 1 and Level 2 solar facility shall file:

- (1) A photovoltaic solar system specifications form provided by the Commission; and
- (2) A copy of the interconnection agreement between the applicant and the applicant's electric company.]

*An applicant for certification as a renewable energy facility that consists of a Level 1 solar photovoltaic solar system is not required to file the following:*

- (1) *A copy of a certificate of good standing issued by the state in which the owner's business is formed, provided the owner is not a corporation;*
- (2) *Documentation indicating that the renewable energy facility meets the resource eligibility criteria for a Tier 1 renewable source; and*

(3) *Certification that the applicant is substantially in compliance with all applicable environmental and administrative requirements under Public Utility Companies Article, §7-704, Annotated Code of Maryland.*

**.02 Renewable Energy Facility — REC Account.**

A. Except as provided under COMAR [20.61.03.04] *20.61.03.03*, a renewable energy facility or its authorized representative shall apply to PJM Environmental Information Services, Inc. to establish an account with GATS [or in the case of a solar energy facility only, a Commission authorized solar renewable energy credit tracking system] in its name not later than 30 days after Commission certification of the renewable energy facility.

B. Except as provided under COMAR [20.61.03.04] *20.61.03.03*, a renewable energy facility shall maintain in good standing an account with GATS [or in the case of a solar energy facility only, a Commission authorized solar renewable energy credit tracking system] in order for a REC to be considered eligible to satisfy the renewable energy portfolio standard in Maryland.

**.03 Obligation of Certified Renewable Energy Facility.**

A. After a GATS account [or in the case of a solar energy facility only a Commission authorized alternative tracking system] is established, the renewable energy facility may record metered electricity generation from Tier 1 renewable sources or Tier 2 renewable sources, other than from Level 1 solar facilities, for the purpose of receiving a Maryland-eligible REC.

B. Level 1 Solar *Renewable Energy Facility — Recording Renewable Energy Credits.*

(1) A Level 1 solar renewable energy facility owner or designee may record electric generation into its GATS account [or a Commission authorized alternative solar energy credit tracking system] based on the schedule established by the Commission for the facility.

- (2) (text unchanged)

C. Within 30 days of a change in the information contained in its original application or any subsequent amended application, the renewable energy facility shall file a copy of the updated or supplemental information with the Commission, *including:*

- (1) *Reference to the original filing and the information contained in it; and*
- (2) *A detailed explanation of the proposed change and how the change will affect the original filing.*

D. (text unchanged)

**20.61.03 Renewable Energy Credit**

Authority: Public Utility Companies Article, §§2-121, 5-101, and 7-701—7-713, Annotated Code of Maryland

**.01 RPS Eligible REC.**

A. Except as provided under Regulation [.04] .03 of this chapter, a Maryland-eligible REC shall be recorded with GATS[, or in the case of a solar energy facility only, a Commission authorized solar renewable energy credit tracking system].

B. If not required by GATS, [or in the case of a solar energy facility only, a Commission authorized solar renewable energy credit tracking system authorized by the Commission,] the REC recordation under §A of this regulation shall include:

- (1) — (4) (text unchanged)

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

**[.03].02 REC Creation from Renewable On-Site Generation.**

A. Except under §C of this regulation, a renewable on-site generator may receive a Maryland-eligible REC associated with on-site generation if:

- (1) (text unchanged)
- (2) An authorized representative of the renewable on-site generator enters its generation data at least annually in a GATS account[, or in the case of a solar energy facility only, an account with a Commission authorized solar renewable energy credit tracking system account,] maintained in good standing; and

(3) An authorized representative of the renewable on-site generator files a renewable on-site generator report with the Commission under §B of this regulation within 1 week of each recording with GATS[, or in the case of a solar energy facility only, a Commission authorized solar renewable energy credit tracking system].

B. (text unchanged)

C. A Level 1 solar renewable energy facility may receive a Maryland-eligible REC associated with on-site generation based on the schedule established by the Commission derived from Commission certified engineering estimates under COMAR 20.61.02 if:

- (1) (text unchanged)
- (2) The Level 1 solar facility or its authorized representative enters generation data into a GATS [or a Commission authorized solar renewable energy credit tracking system account maintained in good standing].

D. A Maryland-eligible REC issued to a renewable on-site generator under this regulation is considered issued only upon its recording with GATS[, or in the case of a solar energy facility only, a Commission authorized solar renewable energy credit tracking system authorized by the Commission].

E. A Maryland-eligible REC issued to a renewable on-site generator under this regulation is valid for [3 years after the month and year of generation] *compliance for the year of generation and the following 2 calendar years.*

**[.05].04 GATS — Maryland REC Designation.**

If a renewable energy facility is approved by the Commission under COMAR 20.61.02 and the facility's GATS account[, or in the case of a Commission authorized solar energy facility only, an alternative tracking system,] continues to be maintained in good standing, the renewable energy facility may achieve a Maryland designation for a Tier 1 renewable source or Tier 2 renewable source REC recorded with GATS[, or in the case of a solar energy facility only, a Commission authorized solar renewable energy credit tracking system authorized by the Commission,] before the Commission's approval of the facility only during the calendar year of the Commission's approval.

**20.61.04 Consumer Protection, Reporting, and Enforcement**

Authority: Public Utility Companies Article, §§2-121, 5-101, 7-507, and 7-701—7-713, Annotated Code of Maryland

**.01 Consumer Protection.**

A. (text unchanged)

B. A supplier contract for the sale of electricity that is marketed as renewable or having the characteristics of a Tier 1 renewable source or Tier 2 renewable source shall include:

- (1) — (2) (text unchanged)
- (3) A statement that a supplier may meet its RPS obligation by paying a compliance fee to the [Maryland Renewable Energy] Fund under Public Utility Companies Article, §7-705(b), Annotated Code of Maryland.

C. The statement required by §B(3) of this regulation shall include, if appropriate, the dollar amount of the Tier 1 *including solar* and Tier 2 compliance fee.

D. Report Required.

(1) On or before April 1 of each year, a supplier shall file with the Commission a report of any activity under §A of this regulation on a form provided by the Commission.

(2) The supplier report required under [§C(1)] §D(1) of this regulation shall include:

- (a) — (b) (text unchanged)

**.02 Annual Report Required.**

A. — B. (text unchanged)

C. The report shall be accompanied by at least the following:

- (1) — (2) (text unchanged)
- (3) List of all RECs used to meet the RPS, including the REC identification number or documentation of a REC created under COMAR [20.61.03.04] 20.61.03.03;
- (4) — (8) (text unchanged)

**20.61.05 Maryland [Renewable] Strategic Energy Investment Fund**

Authority: Public Utility Companies Article, §§2-121, 5-101, and 7-701—7-713, Annotated Code of Maryland

**.01 General Provisions.**

A. The [Maryland Energy Administration (the) Administration()] shall administer the [Maryland Renewable Energy Fund (the) Fund()] consistent with the purpose described in Public Utility Companies Article, §7-707, Annotated Code of Maryland].

[B.] (proposed for repeal)

[C.] *B. Eligibility Criteria for Projects Supported by the Fund.*

(1) Except under [§C(3)] §B(3) of this regulation, a project supported by the Fund shall be designed to support the creation of new Tier 1 renewable energy sources in Maryland.

(2) (text unchanged)

(3) Monies in the Fund derived from compliance fees [identified in §B(4) of this regulation,] *collected from a shortfall in meeting the required Tier 1 solar renewable energy portfolio standard under Public Utility Companies Article, §7-705, Annotated Code of Maryland,* shall only be designated to support the creation of Level 1 and Level 2 solar renewable energy facilities.

**.02 Annual Report to the Commission.**

A. (text unchanged)

B. The report shall detail the following as of December 1 of that year:

- (1) Number and types of *RPS* projects funded;
- (2) Amount of funding provided for each *RPS* project;
- (3) Description and status of each *RPS* project funded;
- (4) RECs generated from *RPS* projects funded;
- (5) Uncommitted balance of the Fund *related to RPS*; and
- (6) Identification of loans in default *related to RPS*.

C. The report shall detail the following for the immediately preceding year:

- (1) — (2) (text unchanged)
- (3) Payments received in repayment of loans and investment earnings of the Fund *that relate to RPS*; and
- (4) Administrative fees and expenses *that relate to RPS*.

TERRY J. ROMINE  
Executive Secretary

# Title 26 DEPARTMENT OF THE ENVIRONMENT

## Subtitle 11 AIR QUALITY

### Notice of Proposed Action

[10-174-P]

The Secretary of the Environment proposes to amend:

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

#### Statement of Purpose

The purpose of this action is to remove the word "furnace" from the definition of fuel-burning equipment in COMAR 26.11.01.01B(17) and to remove the definition "fuel-burning equipment" from COMAR 26.11.09.01.

This action will be submitted to the U.S. Environmental Protection Agency (EPA) for approval as part of Maryland's State Implementation Plan.

#### Background:

The term "fuel-burning equipment" was originally defined in order to differentiate between a boiler that involves the indirect heating of air or water and fuel-burning installations that involve direct heat exchange. A fuel-burning installation, such as a kiln, is subject to the general requirements for SO<sub>2</sub> and particulate matter whereas fuel burning equipment is subject to different standards in the form of pounds per million Btu per hour heat input or the sulfur content of the fuel.

Since a "furnace" is usually direct heat exchange, it should not be included in the definition of fuel-burning equipment. There are few, if any, examples of indirect heat exchange furnaces. Additionally, EPA has suggested that the term "furnace" in that definition is not consistent with federal requirements for boilers such as in the NO<sub>x</sub> RACT requirements for non-trading sources.

There is no federal definition of the term "fuel-burning equipment". However, the term "fuel-burning equipment" is consistent with the federal definition of the term "boiler".

#### Sources Affected:

The Department has found only one indirect heat exchange furnace in the State. That furnace, however, has been subject to the general requirements as a fuel-burning installation. Therefore, to the Department's knowledge there are no sources affected by this amendment.

#### Emission Reduction:

No emission reduction will occur as a result of this amendment.

#### Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

#### Estimate of Economic Impact

The proposed action has no economic impact.

#### Economic Impact on Small Businesses

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

#### Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

### Opportunity for Public Comment

The Department of the Environment will hold a public hearing on the proposed action on August 4, 2010, at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Aeris Conference Room, Baltimore, Maryland 21230-1720. Interested persons are invited to attend and express their views. Comments may be sent to Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration, Department of the Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or emailed to drabin@mde.state.md.us. Comments must be received not later than August 4, 2010, or be submitted at the hearing. For more information, call Deborah Rabin at 410-537-3240.

Copies of the proposed action and supporting documents are available for review at the following locations: The Air and Radiation Management Administration; regional offices of the Department in Cumberland and Salisburry; all local air quality control offices; and local health departments in those counties not having separate air quality control offices.

Anyone needing special accommodations at the public hearing should contact the Department's Fair Practices Office at 410-537-3964. TTY users may contact the Department through the Maryland Relay Service at 1-800-735-2258.

### 26.11.01 General Administrative Provisions

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

#### .01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (16) (text unchanged)

(17) "Fuel-burning equipment" means any:

(a) Boiler [or furnace] that has the primary function of heating air, water, or any other medium through indirect heat transfer from the burning of fuels; or

(b) (text unchanged)

(18) — (53) (text unchanged)

C. — D. (text unchanged)

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

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

#### .01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (7) (text unchanged)

[(8) "Fuel-burning equipment" means any:

(a) Boiler or furnace that has the primary function of heating air, water, or any other medium through indirect heat transfer from the burning of fuels; or

(b) Stationary internal combustion engine or stationary combustion turbine used to produce mechanical or electrical energy.]

[(9)] (8) — [(23)] (22) (text unchanged)

SHARI T. WILSON  
Secretary of the Environment

**Subtitle 11 AIR QUALITY**

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

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

**Notice of Proposed Action**

[10-175-P]

The Secretary of the Environment proposes to amend Regulation .08-1 under **COMAR 26.11.09 Control of Fuel-Burning Equipment, Stationary Internal Combustion Engines, and Certain Fuel-Burning Installations**.

**Statement of Purpose**

The purpose of this action is to:

1. Clarify the applicability of this regulation and the application of the 10-hour exclusion;
2. Require load shaving units to install a time meter to record total operating time; and
3. Clarify the procedures for securing NO<sub>x</sub> allowances for compliance purposes.

**Background:**

The current regulation sets forth general requirements for NO<sub>x</sub> emissions from emergency generators and load shaving units (engines), including compliance options for both existing and new engines. The current regulation requires existing and new engines that operate for purposes of load shaving to meet a NO<sub>x</sub> emissions standard of 1.4 grams per brake horsepower hour. Both existing and new engines have an alternative compliance option that allows the source to secure ozone season NO<sub>x</sub> allowances in lieu of meeting the required NO<sub>x</sub> emissions standards. The regulation also provides a 10-hour exclusion in which engines may load shave for up to 10 hours per ozone season without the need to install controls. Additionally, an owner that chooses to meet compliance through the purchase of ozone season NO<sub>x</sub> allowances does not include the initial 10 hours of operation when calculating total NO<sub>x</sub> emissions.

For existing engines, compliance may also be met by replacing the engine with a new engine that meets federal New Source Performance Standards (NSPS). All new engines must meet NSPS. A new NSPS engine must be further controlled to meet the 1.4 NO<sub>x</sub> standard except for engines with a capacity of 1,000 brake horsepower or less, or in the case where an existing engine is replaced with a new NSPS engine. Engines are required to obtain a permit to construct for its intended use.

**Sources Affected and Locations:**

This regulation applies Statewide to numerous types of buildings and industries that contain an emergency generator or load shaving unit, including health care facilities, schools, State and federally owned facilities, and other large buildings.

**Requirements:**

1. These amendments clarify that:
  - (a) A gas or propane fired engine is exempt from requirements except for the prohibition to test on a poor air quality day;
  - (b) Emergency engines at a nuclear power plant or a national security facility are exempt from the requirements in this regulation;
  - (c) If an engine fails a test, the required maintenance and re-test may be done on any day regardless of the air quality on that day;
  - (d) If a person installs a used engine, the engine is considered a new engine if it was manufactured after January 1, 2009; and
  - (e) The 10-hour exclusion applies to both existing and new engines and, if NO<sub>x</sub> allowances are secured, the emissions during the first 10 hours of operation are not considered.

2. All other emergency generators, including those at health care facilities, are exempt from these requirements except testing when air quality is poor.

3. Load shaving units are required to install non-resettable hourly time meters.

4. Load shaving units, regardless of size, are required to maintain operating logs.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** Most of the amendments are clarifications to existing requirements except for the requirement to install a non-resettable hourly time meter. Most engines are already equipped with time meters but for those that are not equipped, the cost is \$200 or less per meter. The time meters are required, however, only if the engines are used for load shaving purposes. Those engines that load shave or participate in a load response program are well compensated for those activities. Therefore, for most engines, there is an economic gain.

There is no impact on the Department as a result of these amendments.

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

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

D. The sources that are using their generators for other than emergency purposes are usually well compensated.

**Economic Impact on Small Businesses**

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

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

The Department of the Environment will hold a public hearing on the proposed action on August 4, 2010, at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Aeris Conference Room, Baltimore, Maryland 21230-1720. Interested persons are invited to attend and express their views. Comments may be sent to Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration, Department of the

Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or emailed to drabin@mde.state.md.us. Comments must be received not later than August 4, 2010, or be submitted at the hearing. For more information, call Deborah Rabin at 410-537-3240.

Copies of the proposed action and supporting documents are available for review at the following locations: The Air and Radiation Management Administration; regional offices of the Department in Cumberland and Salisbury; all local air quality control offices; and local health departments in those counties not having separate air quality control offices.

Anyone needing special accommodations at the public hearing should contact the Department's Fair Practices Office at 410-537-3964. TTY users may contact the Department through the Maryland Relay Service at 1-800-735-2258.

**.08-1 Additional NO<sub>x</sub> Requirements.**

[A.] (proposed for repeal)

**A. Applicability and General Requirements for Emergency Generators and Load Shaving Units.**

(1) *The owner or operator of an emergency generator may not operate the generator except for emergencies, testing, and maintenance purposes.*

(2) *Except as provided in §A(5) of this regulation, this regulation does not apply to any engine that is fueled with natural gas or propane.*

(3) *This regulation does not apply to any engine that operates as a redundant system for power without direct or indirect compensation that is:*

(a) *Located at a nuclear power plant; or*

(b) *Located at a facility where operation of the engine is necessary to support critical national activities relating to security, aerospace research, or communications.*

(4) *The owner or operator of an emergency generator or load shaving unit may be subject to the federal standards for stationary internal combustion engines under 40 CFR Parts 60 and 63.*

(5) *The owner or operator of an emergency generator or load shaving unit may not operate the engine for testing and engine maintenance purposes between 12:01 a.m. and 2 p.m. on any day on which the Department forecasts that the air quality will be a code orange, code red, or code purple unless the engine fails a test and engine maintenance and a re-test are necessary.*

(6) *The owner or operator of an engine that is used for any purpose other than for emergency purposes shall install and operate a non-resettable hourly time meter on the engine for the purpose of maintaining the operating log required in §E of this regulation.*

**B. Requirements for Existing Load Shaving Units [Constructed] Installed on or Before January 1, 2009.**

(1) The owner or operator of an existing load shaving unit [constructed] *that was installed* on or before January 1, 2009, shall:

(a) (text unchanged)

(b) Replace the engine with a new engine that meets federal new source performance standards *and was manufactured after January 1, 2009; or*

(c) [Limit operation of the load shaving unit to not] *Not operate the engine for more than a total of 10 hours during the period of May 1 to September 30 of any year.*

(2) The 10 hour limit in §B(1)(c) of this regulation is exclusive of the time that the unit operates [in response to a PJM Declared Emergency as defined in Regulation .01B(4-4) of this chapter] *for emergency purposes and the time for testing and engine maintenance.*

(3) — (4) (text unchanged)

(5) *If an owner or operator purchases and installs a used engine, that engine, for the purpose of this regulation, is considered an existing engine unless the used engine was manufactured after January 1, 2009.*

**C. Requirements for New Load Shaving Units [Constructed] Installed After January 1, 2009.**

(1) Except as provided in [§C(2)] §§B(1)(b) and C(3) of this regulation, a load shaving unit [constructed] *that is installed* after January 1, 2009 [shall be equipped with]:

(a) *Shall be equipped with a NO<sub>x</sub> control system [that reduces NO<sub>x</sub> emissions to meet] that meets a NO<sub>x</sub> emissions rate of not more than 1.4 grams per brake horsepower[.]; or*

(b) *May not operate the engine for more than a total of ten hours during the period of May 1 to September 30 of any year.*

(2) *The 10 hour limit in §C(1)(b) of this regulation is exclusive of the time that the unit operates for emergency purposes and the time for testing and engine maintenance.*

[(2)] (3) An engine with a capacity of 1,000 horsepower or less [constructed] *manufactured and installed* after January 1, 2009 that meets applicable federal new source performance standards is exempt from the requirements in §C(1) of this regulation.

**[E.] D. Alternative Method of Achieving Compliance.**

[(1)] For the period May 1 to September 30 of each year, the owner or operator of an existing load shaving unit constructed on or before January 1, 2009 may achieve compliance as follows:

(a) Secure ozone season allowances for the total ozone season NO<sub>x</sub> emissions that are discharged after the 10 hour limit.

(b) In accordance with §E(1)(c) of this regulation, to determine the number of allowances to be secured, the total tons, or fraction thereof, of NO<sub>x</sub> emissions discharged during the ozone season in excess of the 10 hour limit shall be multiplied by three to determine the total number of allowances to be secured.

(c) When compliance is achieved through the use of allowances, an owner or operator shall secure not less than one allowance. Allowance calculations that result in a fraction of an allowance shall be rounded to the next whole allowance. For example, if the owner or operator of an existing load shaving unit discharges an additional 700 pounds of NO<sub>x</sub> emissions, the total of 2,100 pounds (after multiplying the emissions by three) would require two allowances to be secured.

(2) For the period of May 1 to September 30 of each year, the owner or operator of a new load shaving unit constructed after January 1, 2009 may achieve compliance by securing NO<sub>x</sub> allowances as follows:

(a) Secure ozone season allowances for the total ozone season NO<sub>x</sub> emissions in excess of an emissions rate of 1.4 grams NO<sub>x</sub> per brake horsepower.

(b) To determine the number of allowances to be secured, the total tons, or fraction thereof, of NO<sub>x</sub> emissions discharged during the ozone season in excess of 1.4 grams NO<sub>x</sub> per brake horsepower shall be multiplied by five to determine the total number of allowances to be secured.

(3) The owner or operator who complies with §E(1) or(2) of this regulation shall secure the allowances by December 31 of each year and submit the allowances to the Department for retirement by February 1 of the following year.

(4) The ozone season NO<sub>x</sub> allowances shall be secured from a source located in the State, if available.]

(1) *The owner or operator of a load shaving unit may, in lieu of meeting the requirements of §B or C of this regulation, achieve compliance by securing ozone season NO<sub>x</sub> allowances for the period of May 1 to September 30 of each year.*

(2) *The owner or operator of a load shaving unit who chooses to secure ozone season NO<sub>x</sub> allowances in lieu of complying with §B or C of this regulation shall:*

(a) *Secure not less than one ozone season NO<sub>x</sub> allowance;*

(b) *Round up to the next whole number if the number of allowances to be secured under §D(3)(c) or (4)(d) results in a fractional number;*

(c) When calculating the total amount of  $NO_x$  emitted during the period May 1 to September 30 under §D(3)(a) or (4)(a) and (b) of this regulation, exclude from those calculations the amount of  $NO_x$  emitted during the initial 10 hours of operation during that period; and

(d) Secure the ozone season  $NO_x$  allowances by December 31 of each year and submit those allowances to the Department for retirement by February 1 of the following year.

(3) The owner or operator of an existing load shaving unit installed on or before January 1, 2009, who chooses to secure ozone season  $NO_x$  allowances in lieu of compliance with §B of this regulation shall:

(a) Calculate, in tons, the total amount of  $NO_x$  emitted during the period May 1 to September 30;

(b) Multiply the total tons of  $NO_x$  emitted, as calculated in §D(3)(a) of this regulation, by three; and

(c) Secure at least the same number of ozone season  $NO_x$  allowances as the number resulting from the calculation performed in §D(3)(b) of this regulation.

(4) The owner or operator of a new load shaving unit installed after January 1, 2009, who chooses to secure ozone season  $NO_x$  allowances in lieu of compliance with §C of this regulation shall:

(a) Calculate, in tons, the total amount of  $NO_x$  emitted during the period May 1 to September 30;

(b) Calculate, in tons, the total amount of  $NO_x$  that would have been emitted during the period May 1 to September 30 if the engine had met the  $NO_x$  emission rate of 1.4 grams per brake horsepower;

(c) Subtract the number calculated in §D(4)(b) from the number calculated in §D(4)(a), then multiply the result by five; and

(d) Secure at least the same number of ozone season  $NO_x$  allowances as the number resulting from the calculations performed in §D(4)(c) of this regulation.

[D.] E. Record Keeping.

(1) The owner or operator of a load shaving unit [with a rated capacity equal to or greater than 200 horsepower] shall maintain an operating log that includes the date the unit operated and the total operating time for each day that the unit operated.

(2) The operating log shall be maintained for 5 years and made available to the Department upon request.

F. (text unchanged)

SHARI T. WILSON  
Secretary of the Environment

**Subtitle 11 AIR QUALITY**

**26.11.19 Volatile Organic Compounds from Specific Processes**

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

**Notice of Proposed Action**  
[10-177-P]

The Secretary of the Environment proposes to amend Regulation .06 under **COMAR 26.11.19 Volatile Organic Compounds from Specific Processes**.

**Statement of Purpose**

The purpose of this action is to adopt the requirements of the Environmental Protection Agency (EPA) Control Techniques Guidelines (CTG) for large appliance coating. EPA develops CTGs as guidance on control requirements for source categories. States can follow the CTGs or adopt more restrictive standards. MDE proposes to adopt a new standard and requirements for large appliance coating.

This action will be submitted to the U.S. EPA for approval as a revision to Maryland's State Implementation Plan.

**Background:**

EPA published a CTG for large appliance coating, entitled "Control of Volatile Organic Emissions from Existing Stationary Sources, Volume V: Surface Coating of Large Appliances," EPA-450/2-77-034 (1977 CTG). In October 1982, EPA promulgated the National Standards of Performance for New Stationary Sources (NSPS): Standards of Performance for Industrial Surface Coating: Large Appliances, 40 CFR part 60, subpart SS (1982 NSPS). In 2002, EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP): Surface Coating of Large Appliances, 40 CFR part 63, subpart NNNN (2002 NESHAP). The 1977 CTG recommends and the 1982 NSPS requires VOC emissions limits based on VOC content of low VOC coating materials. The 2002 NESHAP establishes organic hazardous air pollutants (HAP) emissions limits based on the organic HAP content of low organic HAP coating materials.

Large appliance coatings include, but are not limited to, materials referred to as paint, topcoats, basecoats, primers, enamels, and adhesives used in the manufacture of large appliance parts or products. A large appliance part is defined as any organic surface coated metal lid, door, casing, panel, or other interior or exterior metal part or accessory that is assembled to form a large appliance product. A large appliance product is also defined as any organic surface-coated metal range, oven, microwave oven, refrigerator, freezer, washer, dryer, dishwasher, water heater, or trash compactor manufactured for household, commercial, or recreational use.

Several different types of application technologies are used to apply liquid coatings, and the selection of the application technology can have a significant effect on the amount of coating used and the resulting VOC emissions from the operation. The CTG requires that coatings can only be applied by coating applicators such as: air atomized spray coating, electrostatic spray coating, high volume/low pressure (HVLP) spray coating, dip coating, flow coating, roll coating, electrocoating, and autophoretic coating. Powder coatings can be applied through electrostatic spraying or dipping.

Cleaning activities other than surface preparation also occur at large appliance coating facilities. Cleaning materials are used during these activities to remove coating residue or other unwanted materials from equipment related to coating operations, as well as the cleaning of spray guns, transfer lines (e.g., tubing or piping), tanks, and the interior of spray booths. These cleaning materials are typically mixtures of VOC containing solvents. Emission control requirements for cleaning materials are in the CTG.

**Affected Sources:**

This action will affect sources that coat doors, cases, lids, panels, or other interior or exterior part or accessory of residential and commercial washers, dryers, ranges, refrigerators, freezers, water heaters, dishwashers, trash compactors, air conditioners, ovens, microwave ovens, and other similar products.

**Requirements:**

COMAR 26.11.19.06 is amended to set the VOC coating standard of 2.3 pounds per gallon of coating applied (minus water) / 0.275 kilogram/liter of coating applied (minus water). Application of coatings on large appliances can only be conducted using one of the following methods:

1. Electrostatic application;
2. HVLP spray;
3. Flow coat;
4. Roller coat;
5. Dip coat including electrodeposition;
6. Brush coat; or

7. Other coating application method capable of achieving a transfer efficiency equivalent or better than that achieved by HVLP spraying.

The requirements of the regulation can be met by complying with the standard for VOC content of coating and using one of the options for application methods or achieving an overall capture and control of VOC emissions from the large appliance coating installation through the use of control equipment which achieves an overall VOC emissions reduction of at least 90 percent.

**Expected Emissions Reductions:**

EPA's CTG for large appliance coating operations will result in minimal VOC emissions reductions in Maryland. However, emissions of VOCs from large appliance coating operations are expected to be reduced by 18 percent nationally. The maximum benefit will be provided during the ozone season when VOCs readily combine with NO<sub>x</sub> to form the pollutant ground level ozone.

**Comparison to Federal Standards**

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** The economic impact of these amendments has been estimated by EPA on a national level. Cost effectiveness is approximately \$500/ton of VOC controlled. The impact on the Department is going to be minimal as affected sources are already regulated. The Department will need to ensure compliance with the new standard and requirements.

II. Types of Economic Impact.	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(E+)	Minimal
B. On other State agencies:	(E+)	Minimal
C. On local governments:	(E+)	Minimal
	Benefit (+) Cost (-)	
	Magnitude	
D. On regulated industries or trade groups:	(-)	\$500/ton of VOC controlled
E. On other industries or trade groups:	(+)	Unable to Estimate
F. Direct and indirect effects on public:	(+)	Unable to Estimate

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

A. Inspections and reporting would be required if new materials are used or an add-on control device is installed.

B. Permits and licensing may be required for the installation of control devices and the use of new materials.

C. Local governments may be required to review and issue permits if a control device is installed to meet requirements.

D. The impact on the regulated industry has been estimated by EPA to be \$500/ton VOC for compliance with the requirements of the CTG.

E. The installation of air pollution control devices may be necessary having a positive impact on those companies that manufacture, sell, and install the equipment.

F. This action will help improve Maryland's air quality and will result in fewer negative health effects on the general public from air pollution.

**Economic Impact on Small Businesses**

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

**Impact on Individuals with Disabilities**

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

This action will have a positive impact on individuals with disabilities involving respiratory problems by reducing air pollutants that contribute to disease.

**Opportunity for Public Comment**

The Department of the Environment will hold a public hearing on the proposed action on August 4, 2010 at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Aeris Conference Room, Baltimore, Maryland 21230-1720. Interested persons are invited to attend and express their views. Comments may be sent to Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration, Department of the Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or emailed to drabin@mde.state.md.us. Comments must be received not later than August 4, 2010, or be submitted at the hearing. For more information, call Deborah Rabin at 410-537-3240.

Copies of the proposed action and supporting documents are available for review at the following locations: The Air and Radiation Management Administration; regional offices of the Department in Cumberland and Salisbury; all local air quality control offices; and local health departments in those counties not having separate air quality control offices.

Anyone needing special accommodations at the public hearing should contact the Department's Fair Practices Office at 410-537-3964. TTY users may contact the Department through the Maryland Relay Service at 1-800-735-2258.

**.06 Large Appliance Coating.**

[A.] (proposed for repeal)

**A. Definition.**

(1) *In this regulation, the following term has the meaning indicated.*

(2) *Large Appliance Coating.*

(a) *"Large appliance coating" means the coating of doors, cases, lids, panels, or other interior or exterior parts or accessories of residential and commercial washers, dryers, cooking equipment (including ranges, ovens, and microwave ovens), refrigerators, freezers, water heaters, dishwashers, trash compactors, air conditioners, and other similar products.*

(b) *"Large appliance coating" does not mean the coating of toasters, counter-top grills, and similar small products.*

**B. [Emissions Standards] Coating Standard.**

(1) (text unchanged)

(2) A person may not cause or permit the discharge into the atmosphere of any VOC from a large appliance coating installation in excess of 2.8 pounds per gallon of coating applied (minus water) (0.34 kilogram/liter of coating applied (minus water)).]

(2) *A person who uses a large appliance coating installation:*

(a) *May not cause or permit the discharge into the atmosphere of any VOC from a large appliance coating installation in excess of 2.3 pounds per gallon of coating applied (excluding water) (0.275 kilogram/liter of coating applied (excluding water)); or*

(b) Shall use control equipment to achieve an overall VOC emissions reduction of 90 percent or greater from the large appliance coating installation at the affected facility.

(3) A person who complies with §B(2)(a) of this regulation shall use one or more of the following application methods:

- (a) Electrostatic application;
- (b) HVLP spray;
- (c) Flow coat;
- (d) Roller coat;
- (e) Dip coat including electrodeposition;
- (f) Brush coat; or
- (g) Other coating application method that has a transfer efficiency equivalent to or better than that achieved by HVLP spraying.

SHARI T. WILSON  
Secretary of the Environment

## Subtitle 11 AIR QUALITY

### 26.11.19 Volatile Organic Compounds from Specific Processes

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

#### Notice of Proposed Action

[10-176-P]

The Secretary of the Environment proposes to amend Regulation .11 under COMAR 26.11.19 Volatile Organic Compounds from Specific Processes.

#### Statement of Purpose

The purpose of this action is to incorporate the Environmental Protection Agency (EPA) Control Techniques Guidelines (CTG) for lithographic and letterpress printing into the State's current regulations for the control of volatile organic compounds (VOC). The Clean Air Act requires state implementation plans (SIPs) for nonattainment areas to include reasonably available control technologies (RACT) for sources of emissions. EPA develops CTGs as guidance to assist states in determining RACT for those sources. States can follow the CTGs or adopt more restrictive standards. The Department proposes to adopt the CTG standards for lithographic and letterpress printing. The standards will reduce VOC emissions from inks, fountain solutions, and cleaning materials used in lithographic and letterpress printing.

This action will be submitted to the U.S. EPA for approval as a revision to Maryland's State Implementation Plan.

#### Background

In 1993, EPA published a draft CTG for lithographic printing (58 FR 59261). After reviewing comments on the draft CTG and review of additional information, EPA published an alternative control techniques (ACT) document in June 1994 that provided supplemental information for states to use in developing rules based on RACT for lithographic printing. The draft CTG and ACT provide information on the lithographic printing industry, VOC emissions from that industry, available control technologies for controlling emissions, and the costs of available controls. The current RACT is similar to the one proposed in 1993. EPA developed the recommendations after reviewing existing state and local VOC emission reduction approaches, reviewing the draft CTG and ACT, and considering information obtained since issuance of the ACT.

Letterpress printing and lithographic printing have several important similarities, including similar sources of VOC emissions and similar available VOC control approaches. In light of these similarities, EPA relied heavily on the substantial data and

information included in the CTG and ACT for lithographic printing in formulating the recommendations for RACT for the letterpress printing industry.

The current CTG provides control recommendations for reducing VOC emissions stemming from the use of fountain solutions, cleaning materials, and inks in lithographic printing and cleaning materials and inks in letterpress printing.

The control recommendations in the CTG for cleaning materials apply to letterpress and lithographic printing; and those for fountain solutions apply to lithographic printing.

#### Affected Sources:

These proposed amendments affect sources that use lithographic press and letterpress equipment.

#### Requirements:

The proposed amendments set standards for:

1. Heatset lithographic printing presses, including presses with a potential to emit VOC of 25 tons or more per year from the dryer, prior to controls;
2. Heatset letterpress printing presses with a potential to emit VOC of 25 tons or more per year from the dryer, prior to controls. These regulations exclude heatset presses used for book printing and heatset presses with maximum web width of 22 inches;
3. Coldset or non-heatset web lithographic printing presses;
4. Sheet fed lithographic printing press with cylinder width of at least 18 inches or a sheet size greater than 11 inches by 17 inches;
5. Heatset web lithographic printing presses located at a premises from which the actual VOC emissions from all lithographic web printing presses are 100 pounds or more per day;
6. Cleaning solutions used on the premises in excess of 110 gallons per year;
7. Control device testing; and
8. Record keeping and monitoring.

#### Impact on Ambient Air Quality:

The proposed amendments set standards for lithographic and letterpress printing. VOC emissions reductions in Maryland would be approximately 0.08 tons/day. The maximum benefit will be provided during the ozone season when VOCs readily combine with NO<sub>x</sub> to form the pollutant ground level ozone.

#### Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

#### Estimate of Economic Impact

**I. Summary of Economic Impact.** These proposed regulatory amendments adopt as regulations the CTG for lithographic and letterpress printing. The economic impact of these amendments has been estimated by EPA on a national level. Cost effectiveness is approximately \$800 to \$2,100/ton of VOC controlled.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	(E+)	Minimal
B. On other State agencies:	(E+)	Minimal
C. On local governments:	(E+)	Minimal



	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(-)	\$800 to \$2,100/ton VOC
E. On other industries or trade groups:	(+)	Unable to Estimate
F. Direct and indirect effects on public:	(+)	Unable to Estimate

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

A. Inspections and reporting will be required if new materials are used or an add-on control device is installed.

B. Permits and licensing may be required for the installation of control devices and the use of new materials.

C. Local governments may be required to review and issue permits if a control device is installed to meet requirements.

D. The impact on the regulated industry has been estimated by EPA to be in the range of \$800 to \$2,100/ton VOC for compliance with the requirements of the CTG.

E. The installation of air pollution control devices may be necessary, having a positive impact on those companies that manufacture, sell, and install the equipment.

F. This action will help improve Maryland’s air quality and will result in fewer negative health effects on the general public from air pollution.

**Economic Impact on Small Businesses**

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

**Impact on Individuals with Disabilities**

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

This action will have a positive impact on individuals with disabilities involving respiratory problems by reducing air pollutants that contribute to disease.

**Opportunity for Public Comment**

The Department of the Environment will hold a public hearing on the proposed action on August 4, 2010, at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Aeris Conference Room, Baltimore, Maryland 21230-1720. Interested persons are invited to attend and express their views. Comments may be sent to Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration, Department of the Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or emailed to drabin@mde.state.md.us. Comments must be received not later than August 4, 2010, or be submitted at the hearing. For more information, call Deborah Rabin at 410-537-3240.

Copies of the proposed action and supporting documents are available for review at the following locations: The Air and Radiation Management Administration; regional offices of the Department in Cumberland and Salisbury; all local air quality control offices; and local health departments in those counties not having separate air quality control offices.

Anyone needing special accommodations at the public hearing should contact the Department’s Fair Practices Office at 410-537-3964. TTY users may contact the Department through the Maryland Relay Service at 1-800-735-2258.

**.11 Lithographic and Letterpress Printing.**

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

[(1) “Fountain” means a shallow tank that contains a water solution composed of water and other materials such as isopropyl alcohol, resins, and additives that aid in the printing process.]

(1) “Alcohol” means an organic compound in which a hydroxyl group is bound to a carbon atom of an alkyl or substituted alkyl group and having the general formula  $[C_nH_{2n+1}OH]$   $C_nH_{(2n+1)}OH$ .

(2) “Alcohol substitute” means a material used in a fountain solution in place of alcohol.

(3) “Cleaning solution” means a solution used for cleaning blankets, rollers, plates, metering rollers, impression cylinders, rubber rejuvenators, presses, or press parts, or to remove dried ink from areas around a press.

(4) “Fountain solution” means a mixture of water, chemicals, and additives which reduces the surface tension of the water and wets the non-image areas so that the ink is maintained within the image areas.

(5) “Heatset” means any operation in which heat is required to evaporate ink oils from the printing ink, excluding ultraviolet (UV) and electron beam curing.

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

[(4) “Sheet-fed coating” means a noncontinuous method of coating.]

(8) “Sheet-fed printing” means a printing operation in which individual sheets of substrate are fed to the press sequentially.

(9) “Web printing” means a continuous printing operation in which a roll of paper is used as the printing substrate.

**B. Applicability and Exemptions.**

[(1) The provisions of §D(2) of this regulation apply to a person who owns or operates a lithographic web printing press.

(2) The provisions of this regulation do not apply to printing on fabric, metal, or plastic.

(3) The provisions of §D(1) of this regulation apply to a person who owns or operates a lithographic web printing press located at a premises from which the actual VOC emissions from all lithographic web printing presses are 100 pounds or more per day after January 1, 1990.

(4) VOC emissions from materials used to clean printing equipment are not considered in determining the applicability of §D(1) of this regulation.

(5) The provisions of §C of this regulation apply to a person who owns or operates a sheet-fed lithographic printing press with a cylinder width of 18 inches or greater.

(6) The provisions of §E of this regulation apply to all lithographic printing presses.]

(1) Printing on fabric, metal, or plastic is exempt from this regulation.

(2) Heatset presses used for book printing and heatset presses with a maximum web width of 22 inches are exempt from §E of this regulation.

(3) VOC emissions from materials used to clean printing equipment are excluded when determining the applicability of §D of this regulation.

C. Requirements for Sheet-Fed [Letter or] Lithographic Printing Press. A person may not operate a sheet-fed [letter or] lithographic printing press with a cylinder width of 18 inches or greater or with a sheet size greater than 11 inches by 17 inches where the fountain solution contains alcohol unless:

(1) The fountain solution is refrigerated to maintain a temperature of less than 55°F [if isopropyl alcohol is used];

(2) A temperature indicator is [installed] used to monitor the fountain solution temperature [if the solution is refrigerated]; and

(3) The fountain solution contains less than 8.5 percent [isopropyl] alcohol by weight.

D. Requirements for Lithographic Web Printing. [A person who owns or operates a lithographic web printing press subject to this regulation:]

(1) [Shall operate the press only if the dryer exhaust is ducted to a control device that is constructed, operated, and maintained to achieve an overall control efficiency of 90 percent or more; and] A person who owns or operates a non-heatset lithographic web printing press shall use a fountain solution which:

(a) Is limited to not more than 5 percent VOC content by weight as applied; and

(b) Does not contain alcohol.

(2) [May not use isopropyl alcohol in the fountain solution.] A person who owns or operates a heatset lithographic web printing press located at a premises from which the actual VOC emissions from all lithographic web printing presses are 100 pounds or more per day shall:

(a) Use a fountain solution that meets the requirements of §D(1)(a) and (b) of this regulation; and

(b) Operate the press only if the dryer exhaust is ducted to an air pollution control device (APCD) that is constructed, operated, and maintained to achieve an overall VOC control efficiency of 90 percent or more.

[E.] (proposed for repeal)

E. A person who owns or operates a heatset lithographic press or heatset letterpress with a potential to emit VOC of 25 tons or more per year prior to controls shall operate the press only if the dryer associated with the press is:

(1) Constructed, operated, and maintained at a negative pressure relative to the press room; and

(2) Ducted to an APCD that has:

(a) An outlet VOC concentration of 20 parts per million by volume (expressed as hexane on a dry basis) or less; or

(b) An overall VOC control efficiency of:

(i) 90 percent or more if the APCD was installed before July 1, 2010; or

(ii) 95 percent or more if the APCD was installed on or after July 1, 2010.

F. Requirements for Cleaning Materials.

(1) A person subject to this regulation may use up to a total of 110 gallons per calendar year of cleaning solutions at a premises without regard to VOC content.

(2) A person subject to this regulation that uses any cleaning solution at a premises in excess of the 110 gallons per year specified in §F(1) of this regulation shall ensure that the additional cleaning solution:

(a) Has a composite vapor pressure of less than 10 mm of mercury at 68° F (20° Celsius); or

(b) Contains less than 70 percent VOC by weight.

G. Control Device Testing.

(1) A control device shall be tested in accordance with the requirements of COMAR 26.11.19.02.

(2) The negative dryer pressure and 100 percent emissions capture efficiency may be demonstrated using an air flow direction indicator, such as a smoke stick, aluminum ribbons, or a differential pressure gauge.

H. Record Keeping. A person subject to this regulation shall maintain records on-site including the following information:

(1) The fountain solution formulations;

(2) The VOC content, in percent VOC by weight, of the fountain solutions;

(3) The temperature of the press fountain solutions for lithographic printing presses using alcohol in the fountain solution; and

(4) The quantity of cleaning solutions used and their vapor pressure or percentage VOC concentration by weight.

## Title 33 STATE BOARD OF ELECTIONS

### Subtitle 17 EARLY VOTING

#### Notice of Proposed Action

[10-149-P]

The State Board of Elections proposes to amend:

(1) Regulations .01 and .03 under COMAR 33.17.04 **Election Equipment and Materials**; and

(2) Regulation .02 under COMAR 33.17.05 **Election Judges**.

This action was considered by the State Board of Elections at an open meeting held on March 25, 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 remove references to a voting system and supplies that are not used in Maryland and alter the allocation of voting units for each early voting center.

#### 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 Nikki Baines Trella, Election Reform Director, State Board of Elections, P.O. Box 6486, Annapolis, MD 21401, or call 410-269-2843, or email to ntrella@elections.state.md.us, or fax to 410-974-2019. Comments will be accepted through August 2, 2010. A public hearing has not been scheduled.

### 33.17.04 Election Equipment and Materials

Authority: Election Law Article, §§ 2-102(b)(4) and 10-301.1(h), Annotated Code of Maryland

#### .01 Definitions.

A. In this chapter, the [following terms have] *following term* has the meaning indicated.

B. [Terms] *Term* Defined.

[(1) “Ballot printer” means a device capable of printing paper ballots that can be scanned and tabulated by an optical scan voting unit.]

[(2)] Estimated Daily Turnout.

[(a)] (1) “Estimated daily turnout” means the number of registered voters estimated to vote daily at each early voting center.

[(b)] (2) “Estimated daily turnout” is determined using the worksheet attached to the form required by COMAR 33.17.02.02.

[(3) “Transfer case” means a container that can be sealed or otherwise secured in such a way to protect against unauthorized access.]

**.03 Allocation of Equipment and Supplies.**

A. AccuVote-TS Voting Units.

(1) [Except as provided in §A(2) of this regulation, a local board shall provide for each early voting center three AccuVote-TS voting units, two of which shall be equipped for voters with disabilities.] *The local board shall provide one voting unit for each 200 early voters at an early voting center each day, plus an additional voting unit for every fractional part of that number.*

(2) [A local board may allocate up to five AccuVote-TS voting units for an early voting center if the estimated daily turnout exceeds 2,000 voters.] *To determine the number of early voters at an early voting center each day, the local board shall take the percentage of voters the State Administrator estimates will turn out during early voting divided by the number of early voting days and, if applicable, divided by the number of early voting centers.*

[B.] (proposed for repeal)

[C.] B. (text unchanged)

[D.] — [E.] (proposed for repeal)

[F.] C. (text unchanged)

**33.17.05 Election Judges**

Authority: Election Law Article, §§ 2-102(b)(4) and 10.301.1(h), Annotated Code of Maryland

**.02 Number of Election Judges.**

For each early voting center, a local board shall appoint the following:

A. — C. (text unchanged)

[D.] (proposed for repeal)

[E.] D. [One] *At least two* election [judge] *judges* for the touchscreen voting units; *and*

[F.] (proposed for repeal)

[G.] E. (text unchanged)

LINDA H. LAMONE  
 Administrator  
 State Board of Elections

## Special Documents

# DEPARTMENT OF THE ENVIRONMENT SUSQUEHANNA RIVER BASIN COMMISSION

### Notice of Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice of Approved Projects.

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

DATE: April 1, 2010, through April 30, 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 and 18 CFR §806.22(f) for the time period specified above:

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

Chesapeake Appalachia, LLC, Pad ID: Potter, ABR-20100401, Terry Township, Bradford County, Pa.; Approval Date: April 1, 2010.

Chesapeake Appalachia, LLC, Pad ID: Crawford, ABR-20100402, Terry Township, Bradford County, Pa.; Approval Date: April 1, 2010.

Southwestern Energy Production Company, Pad ID: Reeve, ABR-20100403, Herrick Township, Bradford County, Pa.; Approval Date: April 1, 2010.

Novus Operating, LLC, Pad ID: Strange, ABR-20100404, Sullivan Township, Tioga County, Pa.; Approval Date: April 2, 2010.

Ultra Resources, Inc., Pad ID: 905 Fowler, ABR-20100405, West Branch Township, Potter County, Pa.; Approval Date: April 5, 2010.

East Resources, Inc., Pad ID: Halteman 611, ABR-20100406, Delmar Township, Tioga County, Pa.; Approval Date: April 6, 2010.

Cabot Oil & Gas Corporation, Pad ID: RoseC P1, ABR-20100407, Dimock Township, Susquehanna County, Pa.; Approval Date: April 6, 2010.

Chesapeake Appalachia, LLC, Pad ID: Everbreeze, ABR-20100408, Troy Township, Bradford County, Pa.; Approval Date: April 8, 2010.

Chesapeake Appalachia, LLC, Pad ID: Ballibay, ABR-20100409, Herrick Township, Bradford County, Pa.; Approval Date: April 8, 2010.

Chesapeake Appalachia, LLC, Pad ID: Balduzzi, ABR-20100410, Wyalusing Township, Bradford County, Pa.; Approval Date: April 8, 2010.

Chesapeake Appalachia, LLC, Pad ID: Alton, ABR-20100411, Ulster Township, Bradford County, Pa.; Approval Date: April 8, 2010.

Chesapeake Appalachia, LLC, Pad ID: Allford, ABR-20100412, Smithfield Township, Bradford County, Pa.; Approval Date: April 8, 2010.

Chesapeake Appalachia, LLC, Pad ID: Frisbee, ABR-20100413, Orwell Township, Bradford County, Pa.; Approval Date: April 8, 2010.

Chesapeake Appalachia, LLC, Pad ID: Blannard, ABR-20100414, Standing Stone Township, Bradford County, Pa.; Approval Date: April 8, 2010.

East Resources, Inc., Pad ID: Wood 512, ABR-20100415, Rutland Township, Tioga County, Pa.; Approval Date: April 9, 2010.

Chief Oil & Gas, LLC, Pad ID: Myers Drilling Pad #1, ABR-20100416, Penn Township, Lycoming County, Pa.; Approval Date: April 12, 2010.

XTO Energy Incorporated, Pad ID: Marquardt Unit 8517H, ABR-20100417, Penn Township, Lycoming County, Pa.; Approval Date: April 13, 2010.

Chesapeake Appalachia, LLC, Pad ID: Dunham, ABR-20100418, Albany Township, Bradford County, Pa.; Approval Date: April 13, 2010.

Chesapeake Appalachia, LLC, Pad ID: Yoder, ABR-20100419, West Burlington Township, Bradford County, Pa.; Approval Date: April 13, 2010.

Chesapeake Appalachia, LLC, Pad ID: Brackman, ABR-20100420, Leroy Township, Bradford County, Pa.; Approval Date: April 13, 2010.

Chesapeake Appalachia, LLC, Pad ID: Koromlan, ABR-20100421, Auburn Township, Susquehanna County, Pa.; Approval Date: April 13, 2010.

Chesapeake Appalachia, LLC, Pad ID: Johnson, ABR-20100422, Monroe Township, Bradford County, Pa.; Approval Date: April 13, 2010.

Chesapeake Appalachia, LLC, Pad ID: Henry, ABR-20100423, Albany Township, Bradford County, Pa.; Approval Date: April 13, 2010.

Talisman Energy USA, Inc., Pad ID: Ziegler 03 001, ABR-20100424, Columbia Township, Bradford County, Pa.; Approval Date: April 14, 2010.

Chief Oil & Gas, LLC, Pad ID: Oliver Drilling Pad #1, ABR-20100425, Springville Township, Susquehanna County, Pa.; Approval Date: April 14, 2010.

EOG Resources, Inc., Pad ID: JENKINS 1H, ABR-20100426, Springfield Township, Bradford County, Pa.; Approval Date: April 15, 2010.

EOG Resources, Inc., Pad ID: PHC 21V, ABR-20100427, Lawrence Township, Clearfield County, Pa.; Approval Date: April 15, 2010.

East Resources, Inc., Pad ID: Lange 447, ABR-20100428, Delmar Township, Tioga County, Pa.; Approval Date: April 15, 2010.

East Resources, Inc., Pad ID: Clark 486, ABR-20100429, Sullivan Township, Tioga County, Pa.; Approval Date: April 16, 2010.

Talisman Energy USA, Inc., Pad ID: Crank 03 067, ABR-20100430, Columbia Township, Bradford County, Pa.; Approval Date: April 19, 2010.

Cabot Oil & Gas Corporation, Pad ID: BlaisureJe P1, ABR-20100431, Dimock Township, Susquehanna County, Pa.; Approval Date: April 19, 2010.

Cabot Oil & Gas Corporation, Pad ID: Rayias P1, ABR-20100432, Dimock Township, Susquehanna County, Pa.; Approval Date: April 19, 2010.

Novus Operating, LLC, Pad ID: Golden Eagle, ABR-20100433, Covington Township, Tioga County, Pa.; Approval Date: April 21, 2010.

Novus Operating, LLC, Pad ID: Chicken Hawk, ABR-20100434, Sullivan Township, Tioga County, Pa.; Approval Date: April 21, 2010.

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Chesapeake Appalachia, LLC, Pad ID: McGavin, ABR-20100435, Auburn Township, Susquehanna County, Pa.; Approval Date: April 21, 2010.

Chesapeake Appalachia, LLC, Pad ID: Nickolyn, ABR-20100436, Auburn Township, Susquehanna County, Pa.; Approval Date: April 21, 2010.

Chesapeake Appalachia, LLC, Pad ID: Rexford, ABR-20100437, Orwell Township, Bradford County, Pa.; Approval Date: April 21, 2010.

Chesapeake Appalachia, LLC, Pad ID: Amburke, ABR-20100438, Auburn Township, Susquehanna County, Pa.; Approval Date: April 21, 2010.

Seneca Resources Corporation, Pad ID: DCNR Tract 100 5H, ABR-20100439, Lewis Township, Lycoming County, Pa.; Approval Date: April 21, 2010, including a partial waiver of 18 CFR §806.15.

Ultra Resources, Inc., Pad ID: State 815, ABR-20100440, Elk Township, Tioga County, Pa.; Approval Date: April 22, 2010, including a partial waiver of 18 CFR §806.15.

Chesapeake Appalachia, LLC, Pad ID: Angie, ABR-20100441, Auburn Township, Susquehanna County, Pa.; Approval Date: April 22, 2010.

East Resources, Inc., Pad ID: Vandergrift 290, ABR-20100442, Charleston Township, Tioga County, Pa.; Approval Date: April 23, 2010.

East Resources, Inc., Pad ID: Topf 416, ABR-20100443, Delmar Township, Tioga County, Pa.; Approval Date: April 23, 2010.

East Resources, Inc., Pad ID: Gee 832, ABR-20100444, Middlebury Township, Tioga County, Pa.; Approval Date: April 26, 2010.

Talisman Energy USA, Inc., Pad ID: Storch 03 035, ABR-20100445, Wells Township, Bradford County, Pa.; Approval Date: April 28, 2010.

Chesapeake Appalachia, LLC, Pad ID: Holtan, ABR-20100446, Auburn Township, Susquehanna County, Pa.; Approval Date: April 28, 2010.

Chesapeake Appalachia, LLC, Pad ID: Polomski, ABR-20100447, Wyalusing Township, Bradford County, Pa.; Approval Date: April 28, 2010.

Chesapeake Appalachia, LLC, Pad ID: Way, ABR-20100448, Wyalusing Township, Bradford County, Pa.; Approval Date: April 28, 2010.

Chesapeake Appalachia, LLC, Pad ID: Brink, ABR-20100449, Herrick Township, Bradford County, Pa.; Approval Date: April 28, 2010.

Chesapeake Appalachia, LLC, Pad ID: Champdale, ABR-20100450, Tuscarora Township, Bradford County, Pa.; Approval Date: April 29, 2010.

Chief Oil & Gas, LLC, Pad ID: Warner Drilling Pad #1, ABR-20100451, Franklin Township, Lycoming County, Pa.; Approval Date: April 29, 2010.

Chief Oil & Gas, LLC, Pad ID: Emig Drilling Pad #1, ABR-20100452, Cogan House Township, Lycoming County, Pa.; Approval Date: April 29, 2010.

Talisman Energy USA, Inc., Pad ID: Ferguson 01 023, ABR-20100453, Granville Township, Bradford County, Pa.; Approval Date: April 30, 2010.

Williams Production Appalachia, LLC, Pad ID: Alder Run Land LP #2H, ABR-20100454, Cooper Township, Clearfield County, Pa.; Approval Date: April 30, 2010.

Range Resources - Appalachia, LLC, Pad ID: Gray's Run Club Unit #2H, ABR-20100455, Jackson Township, Lycoming County, Pa.; Approval Date: April 30, 2010.

Range Resources - Appalachia, LLC, Pad ID: Dog Run Hunting Club Unit, ABR-20100456, Cummings Township, Lycoming County, Pa.; Approval Date: April 30, 2010.

AUTHORITY: P.L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.  
Dated: May 24, 2010.

STEPHANIE L. RICHARDSON  
Secretary to the Commission

[10-14-30]

# 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 ACUPUNCTURE

**Subject:** Public Meeting on Regulations  
**Date and Time:** July 13, 2010, 1 — 4 p.m.  
**Place:** Maryland Board of Acupuncture, 4201 Patterson Ave., Rm. 105, Baltimore, MD  
**Contact:** Cynthia Dobbins (410) 764-4766

[10-14-04]

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

**Subject:** Public Meeting  
**Date and Time:** July 15, 2010, 4 — 6 p.m.  
**Place:** Metro Executive Bldg., 4201 Patterson Ave., Baltimore, MD  
**Contact:** Christopher Kelter (410) 764-4725

[10-14-08]

### ADVISORY COUNCIL ON CEMETERY OPERATIONS

**Subject:** Public Meeting  
**Date and Time:** July 22, 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

[10-14-14]

### BOARD OF CHIROPRACTIC EXAMINERS

**Subject:** Public Meeting  
**Date and Time:** July 8, 2010, 2 — 4 p.m.; Start time is approximate due to morning Board hearing.  
**Place:** Dept. of Health and Mental Hygiene, 4201 Patterson Ave., Rm. 100, Baltimore, MD  
**Contact:** Maria Ware (410) 764-5902

[10-14-13]

### BOARD OF COSMETOLOGISTS

**Subject:** Public Meeting  
**Date and Time:** August 2, 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

[10-14-03]

### GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

**Subject:** Public Meeting  
**Date and Time:** July 8, 2010, 3 — 5 p.m.  
**Place:** Howard County Police Dept. Headquarters, Ellicott City, MD  
**Contact:** Jessica Winpigler (410) 821-2829

[10-14-09]

### GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

**Subject:** Public Meeting on Regulations  
**Date and Time:** July 12, 2010, 3 — 5 p.m.  
**Place:** Baltimore County, Loch Raven Library, Baltimore, MD  
**Contact:** Jessica Winpigler (410) 821-2829

[10-14-17]

### GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

**Subject:** Public Meeting  
**Date and Time:** September 16, 2010, 3 — 5 p.m.  
**Place:** Baltimore County, Loch Raven Library, Baltimore, MD  
**Contact:** Jessica Winpigler (410) 821-2829

[10-14-18]

### GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

**Subject:** Public Meeting  
**Date and Time:** January 10, 2011, 3 — 5 p.m.  
**Place:** Baltimore County, Loch Raven Library, Baltimore, MD  
**Contact:** Jessica Winpigler (410) 821-2829

[10-14-19]

### GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

**Subject:** Public Meeting  
**Date and Time:** March 14, 2011, 3 — 5 p.m.  
**Place:** Baltimore County, Loch Raven Library, Baltimore, MD  
**Contact:** Jessica Winpigler (410) 821-2829

[10-14-20]

### BOARD OF DIETETIC PRACTICE

**Subject:** Public Meeting  
**Date and Time:** July 15, 2010, 12:30 — 5:30 p.m.

**Place:** 4201 Patterson Ave., Rms. 100/107, Baltimore, MD  
**Contact:** Lenelle Cooper (410) 764-4733  
 [10-14-23]

### MARYLAND STATE BOARD OF EDUCATION

**Subject:** Public Meeting  
**Date and Time:** July 20, 2010, 9 a.m. — 5 p.m.; July 21, 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

[10-14-02]

### EMERGENCY MEDICAL SERVICES BOARD

**Subject:** Public Meeting  
**Date and Time:** August 10, 2010, 9 — 11 a.m.; Part of the meeting may include a closed session.  
**Place:** 653 W. Pratt St., Ste. 212, Baltimore, MD  
**Add'l. Info:** The State Emergency Medical Services Board (EMS Board) meets regularly the 2nd Tuesday of each month.  
**Contact:** Leandra M. Gilliam (410) 706-4449

[10-14-25]

### BOARD OF ENVIRONMENTAL SANITARIANS

**Subject:** Public Meeting  
**Date and Time:** August 4, 2010, 9 a.m. — 4 p.m.  
**Place:** Howard Co. Bureau Of Utilities, 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

[10-14-11]

### DEPARTMENT OF HEALTH AND MENTAL HYGIENE/MARYLAND BOARD OF PHYSICIANS

**Subject:** Public Meeting  
**Date and Time:** July 28, 2010, 9 a.m. — 10 p.m.; Open meetings will be held at 9 a.m. and 3 p.m.  
**Place:** 4201 Patterson Ave., Rms. 108/109, Baltimore, MD

## GENERAL NOTICES

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**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  
[10-14-07]

### DEPARTMENT OF HEALTH AND MENTAL HYGIENE/MEDICAID PHARMACY AND THERAPEUTICS COMMITTEE

**Subject:** Public Meeting

**Date and Time:** August 19, 2010, 9 a.m. — 1 p.m.

**Place:** Conference Center at Sheppard Pratt, Stulman Auditorium, 6501 N. Charles St., Baltimore, MD

**Add'l. Info:** Meeting of the Maryland Medicaid Pharmacy Program's Pharmacy and Therapeutics Committee (Preferred Drug List). Classes of drugs to be reviewed are posted on the Maryland Pharmacy Program website at <http://www.dhmh.state.md.us/mma/mpap/prefdruglist.html>.

See website for agenda, speaker registration, restrictions, and driving directions. Submit e-mail questions to MarylandPDLQuestions@DHMH.state.md.us.

**Contact:** Alex Taylor (410) 767-5878  
[10-14-22]

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

**Subject:** Public Meeting

**Date and Time:** July 14, 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  
[10-14-05]

### BOARD OF CERTIFIED INTERIOR DESIGNERS

**Subject:** Public Meeting

**Date and Time:** July 19, 2010, 2 p.m.

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

**Contact:** Pamela J. Edwards (410) 230-6263  
[10-14-32]

### DEPARTMENT OF LABOR, LICENSING, AND REGULATION/DIVISION OF LABOR AND INDUSTRY/MARYLAND APPRENTICESHIP AND TRAINING COUNCIL

**Subject:** Public Meeting

**Date and Time:** July 13, 2010, 9 a.m. — 12 p.m.

**Place:** Community College of Baltimore County, Catonsville Campus, 800 South Rolling Rd., Bldg. H 308A, Baltimore, MD

**Add'l. Info:** The Apprenticeship and Training Council will consider the approval and registration of new apprenticeship programs, revisions to presently registered apprenticeship programs, and other business which may come before the Council.

**Contact:** John P. Taylor (410) 767-2246  
[10-14-24]

### MARYLAND STATE LOTTERY COMMISSION

**Subject:** Public Meeting

**Date and Time:** July 22, 2010, 10 a.m. — 12 p.m.

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

**Contact:** Marie A. Torosino (410) 230-8790  
[10-14-36]

### MARYLAND HEALTH CARE COMMISSION

**Subject:** Public Meeting

**Date and Time:** July 15, 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  
[10-14-10]

### MARYLAND HEALTH CARE COMMISSION

**Subject:** Receipt of Application

**Add'l. Info:** On June 4, 2010, the Maryland Health Care Commission (MHCC) received an application for Certificate of Need submitted by Bethesda Eye Center — Matter No. 10-15-2311 — Establish an ambulatory surgery center with 8 operating rooms to be located at 5001 Wilson Lane, Bethesda, Maryland. Cost: \$50,000

The MHCC shall review the application under Health-General Article, §19-101 et seq., Annotated Code of Maryland, and COMAR 10.24.01.

Any affected person may make a written request to the Commission to receive copies of relevant notices concerning the application. All further notices of

proceedings on the application will be sent only to affected persons who have registered as interested parties.

Please refer to the Matter No. listed above in any correspondence on the application. A copy of the application is available for review in the office of the MHCC, during regular business hours by appointment. All correspondence should be addressed to Pamela W. Barclay, Director, Center for Hospital Services, MHCC, 4160 Patterson Avenue, Baltimore, Maryland 21215

**Contact:** Ruby Potter (410) 764-3276  
[10-14-28]

### MARYLAND HEALTH CARE COMMISSION

**Subject:** Notice of Project Change

**Add'l. Info:** On June 4, 2010, the Maryland Health Care Commission (MHCC) received notice and a request for approval of project changes under COMAR 10.24.01.17B from Johns Hopkins Hospital, holder of a Certificate of Need (CON), Docket No. 03-24-2123 issued on December 16, 2005.

The project's sponsor has requested approval to modify a condition placed on original Certificate of Need on dates to provide schematic design drawing to extend filing period by 1 year.

Please refer to the Docket No. listed above in any correspondence on this request, a copy of which is available for review by appointment in MHCC offices during regular business hours. All correspondence should be addressed to Pamela W. Barclay, Deputy Director, Health Resources, MHCC, 4160 Patterson Avenue, Baltimore, Maryland 21215

**Contact:** Ruby Potter (410) 764-3276  
[10-14-29]

### MINORITY BUSINESS ENTERPRISE ADVISORY COMMITTEE

**Subject:** Public Meeting

**Date and Time:** July 21, 2010, 8:30 a.m. — 5 p.m.

**Place:** Harry R. Hughes Dept. of Transportation Bldg., 7201 Corporate Center Dr., Richard Trainor Conf. Rm., 1st Fl., Hanover, MD

**Contact:** Pam Gregory (410) 865-1253  
[10-14-31]

### BOARD OF MORTICIANS AND FUNERAL DIRECTORS

**Subject:** Public Meeting

**Date and Time:** July 14, 2010, 10:30 a.m. — 12:30 p.m.

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

## GENERAL NOTICES

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**Add'l. Info:** Review statutes and regulations and vote as necessary. Sign language interpreter and/or other appropriate accommodations for qualified individuals with disabilities will be provided upon request.

**Contact:** Robin Bailey (410) 764-4792  
[10-14-15]

### BOARD OF OCCUPATIONAL THERAPY PRACTICE

**Subject:** Public Meeting

**Date and Time:** July 16, 2010, 8:30 a.m. — 2 p.m.

**Place:** Spring Grove Hospital Center, 55 Wade Ave., Catonsville, MD

**Add'l. Info:** Health Occupations Article, Title 10, Annotated Code of Maryland, and COMAR 10.46 amendments, additions, and revisions, including fee changes, may be discussed/voted on. Budget information may also be discussed. It may be necessary to go into executive session. Sign language interpreters and/or appropriate accommodations for qualified individuals with disabilities will be provided upon request. Please call 1-800-735-2255.

**Contact:** Marilyn Pinkney (410) 402-8556  
[10-14-27]

### BOARD OF PLUMBING

**Subject:** Public Meeting

**Date and Time:** July 15, 2010, 10:30 a.m. — 12:30 p.m.

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

**Contact:** Brenda Clark (410) 230-6164  
[10-14-06]

### BOARD OF PUBLIC ACCOUNTANCY

**Subject:** Public Meeting

**Date and Time:** August 3, 2010, 9 a.m. — 12 p.m.

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

**Contact:** Dennis L. Gring (410) 230-6224  
[10-14-16]

### RACING COMMISSION

**Subject:** Public Meeting

**Date and Time:** July 20, 2010, 12:30 — 1 p.m.

**Place:** Laurel Park, Laurel, MD

**Contact:** J. Michael Hopkins (410) 296-9682

[10-14-26]

### BOARD OF INDIVIDUAL TAX PREPARERS

**Subject:** Public Meeting

**Date and Time:** July 12, 2010, 10 a.m. — 12 p.m.

**Place:** 500 N. Calvert St., Baltimore, MD

**Contact:** Jay Hutchins (410) 230-6262  
[10-14-35]

### MARYLAND BUSINESS TAX REFORM COMMISSION

**Subject:** Public Meeting

**Date and Time:** July 15, 2010, 2 — 4 p.m.

**Place:** Louis L. Goldstein Treasury Bldg., 80 Calvert St., Assembly Rm., Annapolis, MD

**Contact:** Linda I. Vasbinder (410) 260-7450

[10-14-34]

### MARYLAND TRANSPORTATION AUTHORITY

**Subject:** Public Meeting

**Date and Time:** July 7, 2010, 6 — 8 p.m.

**Place:** Maryland Transportation Authority, MDTA Police/Automotive Maintenance Bldg., 881 Oceanic Dr., Annapolis, MD

**Contact:** Gail Moran (410) 537-1032

[10-14-21]

### BOARD OF WELL DRILLERS

**Subject:** Public Meeting

**Date and Time:** July 28, 2010, 9 a.m. — 4 p.m.

**Place:** MDE, 1800 Washington Blvd., Terra Conf. Rm., Baltimore, MD

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

**Contact:** Kathy Glass (410) 537-3597

[10-14-12]

### WORKERS' COMPENSATION COMMISSION

**Subject:** Public Meeting

**Date and Time:** July 22, 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

[10-14-01]





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