

# Maryland Register

Issue Date: November 19, 2010

Volume 37 • Issue 24 • Pages 1631—1706

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Regulations  
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### ATTENTION COMAR SUBSCRIBERS:

Please see important information contained in the back of this issue regarding changes to COMAR. Please also complete the information sheet in the back of this issue and return it to our office as soon as possible.

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before November 1, 2010, 5 p.m.

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, I hereby certify that this issue contains all documents required to be codified as of November 1, 2010.

Brian P. Morris  
Acting Administrator, Division of State Documents  
Office of the Secretary of State



# Information About the Maryland Register and COMAR

## MARYLAND REGISTER

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

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

The following information is also published regularly in the Register:

- Governor's Executive Orders
- 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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**Martin O'Malley**, Governor; **John P. McDonough**, Secretary of State; **Brian Morris**, Acting Administrator; **Gail S. Klakring**, Senior Editor; **Mary D. MacDonald**, Editor, Maryland Register and COMAR; **Elizabeth Ramsey**, Editor, COMAR Online; **Marcia M. Diamond**, Subscription Manager, COMAR; **Tami Cathell**, Help Desk, COMAR and Maryland Register Online. Front cover: State House, Annapolis, MD, built 1772—79.

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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.

## CLOSING DATES and ISSUE DATES through JULY 29, 2011

| Issue Date   | Emergency and Proposed Regulations* 5:00 p.m. | Final Regulations 10:30 a.m. | Notices, etc. 10:30 a.m. |
|--------------|---|------------------------------|--------------------------|
| 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               |
| February 11  | January 24                                    | February 2                   | January 31               |
| February 25  | February 7                                    | February 16                  | February 14              |
| March 11**   | February 18                                   | March 2                      | February 28              |
| March 25     | March 7                                       | March 16                     | March 14                 |
| April 8      | March 21                                      | March 30                     | March 28                 |
| April 22     | April 4                                       | April 13                     | April 11                 |
| May 6        | April 18                                      | April 27                     | April 25                 |
| May 20       | May 2   | May 11                       | May 9                    |
| June 3**     | May 16  | May 24                       | May 20                   |
| June 17**    | May 26  | June 8                       | June 6                   |
| July 1       | June 13                                       | June 22                      | June 20                  |
| July 15      | June 27                                       | July 6                       | July 1                   |
| July 29**    | July 11                                       | July 20                      | July 18                  |

\* Due date for documents containing 8 to 18 pages—48 hours before date shown

Due date for documents exceeding 18 pages—1 week before date shown

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

\*\* Note closing date changes

\*\*\* Note issue date change

**The regular closing date for Proposals and Emergencies is Monday.**

## REGULATIONS CODIFICATION SYSTEM

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

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

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

## Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed

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

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

### 03 COMPTROLLER OF THE TREASURY

03.02.06.01—.04 • 37:3 Md. R. 181 (1-29-10)

### 05 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

05.04.09.02—.09,.11—.13,.16—.18 • 37:24 Md. R. 1662 (11-19-10)

05.04.11.04,.09 • 37:24 Md. R. 1666 (11-19-10)

05.05.07.01—.31 • 37:20 Md. R. 1398 (09-24-10)

### 07 DEPARTMENT OF HUMAN RESOURCES

07.02.07.01,.02,.23 • 37:19 Md. R. 1286 (9-10-10)

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07.06.23.01—.08 • 37:20 Md. R. 1407 (09-24-10)

07.07.14.01—.03,.08 • 37:22 Md. R. 1557 (10-22-10)

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### 08 DEPARTMENT OF NATURAL RESOURCES

08.02.21.03,.04 • 37:24 Md. R. 1666 (11-19-10)

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08.19.03.01 • 37:24 Md. R. 1668 (11-19-10)

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

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

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09.20.04.01,.02 • 37:4 Md. R. 346 (2-12-10)

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09.26.02.04 • 37:21 Md. R. 1440 (10-8-10)

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10.01.04.01—.10 • 36:23 Md. R. 1822 (11-6-09)

37:18 Md. R. 1233 (8-27-10)

10.01.17.02 • 37:22 Md. R. 1558 (10-22-10)

10.01.20.03 • 37:21 Md. R. 1441 (10-8-10)

#### Subtitle 09 (2nd Volume)

10.09.02.10 • 37:22 Md. R. 1566 (10-22-10)

10.09.03.10 • 37:22 Md. R. 1566 (10-22-10)

10.09.04.01—.07 • 37:21 Md. R. 1441 (10-8-10)

10.09.05.01—.04,.06,.07 • 37:21 Md. R. 1443 (10-8-10)

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 10.09.81.01—.07 • 37:20 Md. R. 1409 (09-24-10)

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 10.10.06.03 • 37:22 Md. R. 1570 (10-22-10)  
 10.14.01.01,.02,.05,.06,.08 • 37:22 Md. R. 1570 (10-22-10)  
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 10.15.04.24 • 37:24 Md. R. 1697 (11-19-10) (err)  
 10.15.06.03 • 37:21 Md. R. 1455 (10-8-10) (ibr)  
 10.18.01.01—.20 • 37:21 Md. R. 1455 (10-8-10)  
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 10.22.17.02,.03,.06—.08 • 37:14 Md. R. 956 (7-2-10)

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 10.42.01.02,.12 • 37:23 Md. R. 1616 (11-5-10)  
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### 11 DEPARTMENT OF TRANSPORTATION

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### 12 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

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### 15 DEPARTMENT OF AGRICULTURE

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### 17 DEPARTMENT OF BUDGET AND MANAGEMENT

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### 18 DEPARTMENT OF ASSESSMENTS AND TAXATION

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### 21 STATE PROCUREMENT REGULATIONS

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### 26 DEPARTMENT OF THE ENVIRONMENT

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26.10.04.01 • 35:21 Md. R. 1851 (10-10-08)  
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**29 MARYLAND STATE POLICE**

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

**30.03.02.02 • 37:8 Md. R. 652 (4-9-10)**

**30.03.09.01—.03 • 37:8 Md. R. 652 (4-9-10)**

**30.08.01.02 • 37:18 Md. R. 1251 (8-27-10)**

**30.08.12.01—.15 • 37:18 Md. R. 1251 (8-27-10)**

**31 MARYLAND INSURANCE ADMINISTRATION**

**31.09.14.05 • 37:24 Md. R. 1696 (11-19-10)**

**31.10.12.02,,03,,05—.08 • 37:21 Md. R. 1457 (10-8-10)**

**31.11.06.02,,03-1,,04,,05,,09,,11 • 37:21 Md. R. 1460 (10-8-10)**



# The Judiciary

## COURT OF APPEALS OF MARYLAND

### DISCIPLINARY PROCEEDINGS

This is to certify that by an Order of this Court dated October 26, 2010 **DONOVAN E. THOMAS**, 10819 Cheryl Turn, Waldorf, MD 20603, has been disbarred by consent 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 an Order of this Court dated September 28, 2010, **RICHARD THOMAS SIEJACK**, 13523 Long Green Pike, Suite B, Baldwin, MD 21013, has been indefinitely suspended by consent, effective November 1, 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 16-760e).

[10-24-40]

### ATTORNEYS TO BE ADMITTED TO THE BAR

Annapolis, Maryland  
October 29, 2010

The State Board of Law Examiners, after careful consideration of their qualifications, has by report to the Court recommended that the applicants named on Exhibit A attached hereto be admitted to the Bar, conditioned upon successful completion of the Professionalism Course pursuant to Rule 11 of *Rules Governing Admission to the Bar of Maryland*. As to certain applicants named in an attachment to the Report, the favorable recommendation also is conditioned upon the outcome of proceedings pending under Section (j) of Rule 13 (Out-of-State Attorneys) of *Rules Governing Admission to the Bar of Maryland*.

It is thereupon the 29th day of October, 2010, by the Court of Appeals of Maryland ORDERED that the Board's recommendation be ratified subject to the conditions therein stated on the 29th day of November, 2010, unless exceptions to the Board's recommendation of any applicant be filed on or before said date, provided a copy of this Order be published at least one time in the Maryland Register before such ratification.

ROBERT M. BELL  
Chief Judge  
Court of Appeals of Maryland

Filed: October 29, 2010

BESSIE M. DECKER  
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[10-24-38]

## ATTORNEYS TO BE ADMITTED TO THE BAR

Annapolis, Maryland  
November 5, 2010

The State Board of Law Examiners, after careful consideration of their qualifications, has by report to the Court recommended that the applicants named on Exhibit A attached hereto be admitted to the Bar, conditioned upon successful completion of the Professionalism Course pursuant to Rule 11 of Rules Governing Admission to the Bar of Maryland. As to certain applicants named in an attachment to the Report, the favorable recommendation also is conditioned upon the outcome of proceedings pending under Rule 5 (Character Review) of *Rules Governing Admission to the Bar of Maryland*.

It is thereupon the 5th day of November 2010, by the Court of Appeals of Maryland ORDERED that the Board's recommendation be ratified subject to the conditions therein stated on the 6th day of December 2010, unless exceptions to the Board's recommendation of any applicant be filed on or before said date, provided a copy of this Order be published at least one time in the Maryland Register before such ratification.

ROBERT M. BELL  
Chief Judge  
Court of Appeals of Maryland

Filed: November 5, 2010

BESSIE M. DECKER  
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 Rockwell, Brian Thomas, 1925 16th Street, N.W., #301, Washington, DC 20009  
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 Rosenthal, Daniel Gary, 2251 Eisenhower Ave., Apt. #1105, Alexandria, VA 22314  
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 Ross, Robert Bernard, 3100 Perry St., Mt. Rainier, MD 20712  
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 Rowland, Daniel James Riancho, 1508 Augusta Way, Crofton, MD 21114  
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 Schmitt, Paul Daniel, 5114 Dudley Lane, Apt. 303, Bethesda, MD 20814  
 Schoenfeld, Nancy Lynn, 923 Willowleaf Way, Rockville, MD 20854  
 Schoone-Jongen, Terence Guy, 1615 Q Street, N.W., Apt. 207, Washington, DC 20009  
 Schulman, Tamara Hope, 23 Hollyberry Ct., Rockville, MD 20852  
 Scott, Regina Nicole, 7823 Emilys Way, Greenbelt, MD 20770  
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 Severson, Justin Philip, 4121 Cadle Creek Road, Edgewater, MD 21037  
 Severson, Ryan James, 7707 Wisconsin Avenue, Apt. 609, Bethesda, MD 20814  
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 Shrout, Travis Scott, 1155 23rd Street, N.W., Unit 5-L, Washington, DC 20037

- Sickenberger, Rebecca Ann, 2405 Freshman Drive, Bel Air, MD 21015
- Sidle, Eric Michael, 425 Massachusetts Ave, NW, Apt. 727, Washington, DC 20001
- Siegel, Julie Surell, 26 Diamond Crest Court, Baltimore, MD 21209
- Siegel, Sylvia Katherine, 1513 Massachusetts Ave., S.E., Washington, DC 20003
- Sigler, Heather Jeanne Christine, 50 T Street, NW, Washington, DC 20001
- Silber, Alison Faye, 13067 Twelve Hills Road, Clarksville, MD 21029
- Silverman, Adam Joseph, 20620 Beaver Ridge Rd., Montgomery Village, MD 20886
- Silvestri, Lisetta Jane, 5520 Sand Road, Cambridge, MD 21613
- Silvia, Mark Douglas, 6 Drake Ct., Rockville, MD 20852
- Silvious, Elaine Susanne, 6109 Ridgeline Drive, Mount Airy, MD 21771
- Simak, Christina Maria, 1101 New Hampshire Ave., N.W., #515, Washington, DC 20037
- Simha, Mordecai Yehuda, 3206 Labyrinth Road, Baltimore, MD 21208
- Simon, Stacie Michelle, 1017 Main Street, Gaithersburg, MD 20878
- Simpson, Alexander Townsend, 125 Grafton St., Chevy Chase, MD 20815
- Simpson, Matthew Timothy, 3401 Claremont Street, Baltimore, MD 21224
- Sims, Tiffany Nicole, 3232 78th St., NE, Apt. B33, Washington, DC 20017
- Sinclair, Parker Mills, 7111 Woodmont Avenue, Apt. 816, Bethesda, MD 20815
- Singer, Jonathan Adam, 1200 S. Conkling St., Apt. 548, Baltimore, MD 21224
- Singhaus, Steven Joseph, 17208 Sandy Knoll Drive, Olney, MD 20832
- Skelton, Anna Zappulla, 9358 Indian Trail Way, Perry Hall, MD 21128
- Skipper, Matthew Dwane, 3204 Scarlet Oak Terrace, Bowie, MD 20715
- Skubikowski, Anna Elizabeth, 4500 Connecticut Ave., NW, Apt. 703, Washington, DC 20008
- Sloan, Nathaniel Morris, 115 D Street, Apt. G-8, Washington, DC 20003
- Smith, Callie Louise, 8 Charles Plaza, Apt. 1606, Baltimore, MD 21201
- Smith, Cara Marie, 23925 Old Hundred Road, Dickerson, MD 20842
- Smith, Charles Edward, 1515 O Street, N.W., #302, Washington, DC 20005
- Smith, Lindsay Nicole, 1700 Harvard St., NW, Apt. 408, Washington, DC 20009
- Smith, Nicole Aimee, 8819 Rymer Way, Owings, MD 20736
- Smith, Nicole Renee, 10559 Joyceton Drive, Upper Marlboro, MD 20774
- Smith, Patrick Carey, 4604 Sunflower Drive, Rockville, MD 20853
- Smith, Rayna Monique, 8560 2nd Ave., Apt. 611, Silver Spring, MD 20910
- Smith, Sharnae Lashaun, 3600 Majestic Lane, Bowie, MD 20715
- Smith, Tehma Hallie Stanton, 810 N. Luzerne Avenue, Baltimore, MD 21205
- Smith, Todd Tyler, 235 Windy Ridge Drive, Hollister, MO 65672
- Sobol, Eliave, 3010 Fallstaff Road, Apt. D, Baltimore, MD 21209
- Sokolow, Nicholas Cabell, 622 Wilton Road, Towson, MD 21286
- Sokolower, Heather Gilhooly, 10211 Hatherleigh Drive, Bethesda, MD 20814
- Sokolowski, Anthony Raymond, 3215 Sherman Ave., NW, Washington, DC 20010
- Solomon, Barry Joel, 216 6th Street, S.E., Washington, DC 20003
- Soltis, Jason John, 1513 Massachusetts Ave., S.E., Washington, DC 20003
- Somers, Matthew Mitchell, 9821 Diversified Lane, Ellicott City, MD 21042
- Song, Matthew James, 8113 Bluebonnet Dr., Lorton, VA 22079
- Sorto, Fabricio Emmanuel, 9513 Dallas Ave., Silver Spring, MD 20901
- Sosnowski, David Elliott, 12204 Brittany Place, Laurel, MD 20708
- Spagnolo, Steven Nicholas, 113 W. Wayne St., Apartment 202, Fort Wayne, IN 46802
- Spero, Navah Chaya, 1499 Massachusetts Ave., N.W., Apt. 903, Washington, DC 20005
- Spigelman, Alexander Nicholas, 218 N. Charles Street, Apt. 1905, Baltimore, MD 21201
- Sprows, Leigh Nicole, 2504 12th Street North, Arlington, VA 22201
- Stahl, Melissa Renee, 1402 Ivy Ridge Rd., Apt. 33, Syracuse, NY, 13210
- Stark III, Wilfred Michael, 2135 Grayson Place, Falls Church, VA 22043
- Stefanski, Kimberly Beth, 20 E. Wheeling St., Unit #2, Baltimore, MD 21230
- Stege, Alexander Gerald, 2225 N Street, N.W., Apt. 327, Washington, DC 20037
- Stein, James David, 249 Florida Ave., N.W., #22, Washington, DC 20001
- Steinwedel, William Frederick, 1805 Stone Road, Westminster, MD 21158
- Stern, Uriel Moshe, 3505 Clarks Ln., Apt. C1, Baltimore, MD 21215
- Stewart, Jessica Lee, 3211 13th Street, N.W., Washington, DC 20010
- Stewart, Nicholas Charles, 2411 Stanwick Road, Phoenix, MD 21131
- Stifler, Scott William, 2141 I St., N.W., Apt. 813, Washington, DC 20037
- Stillman, Rona Barbara, 16717 Cavalry Drive, Rockville, MD 20853
- Stockhausen, Megan Bridget, 2425 Ontario Rd., N.W., #4, Washington, DC 20009
- Stoll, Jessica Marcus, 2153 California St., N.W., #504, Washington, DC 20008
- Storey, Alexis Pauline, 4570 Macarthur Blvd., N.W., #G-7, Washington, DC 20007
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- Stubbs, Delia Ann, 2014 Bank Street, Baltimore, MD 21231
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- Sus, Nikhel Suresh, 1545 Colonial Terrace, Apt. 401, Arlington, VA 22209
- Swain, Sarah Katherine, 4900 Laguna Rd., College Park, MD 20740
- Swan, Mack Julio-Berrios, 4850 Connecticut Avenue, N.W., Apt. 707, Washington, DC 20008
- Sweeney, Benjamin Ryan, 1411 Roundhouse Lane, Alexandria, VA 22314
- Sweeney, Christopher Moore, 7915 Eastern Avenue, No. 308, Silver Spring, MD 20910
- Sweeney, Meghan Mary, 2165 Yuma Ln., N, Plymouth, MN, 55447
- Szabo, Aaron Lloyd, 2776 Westminster Road, Ellicott City, MD 21043
- Taib, Rama Mwaffak, 628 Dover Street, Baltimore, MD 21230
- Tang, Amos Tinson, 6455 Greenfield Rd., Apt. 1106, Elkridge, MD 21075

- Taylor, Hilary Holbrook, 5300 Locust Avenue, Bethesda, MD 20814  
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 Taylor, Shannon Denise, 3902 Brookfield Drive, Champaign, IL 61822  
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 Thompson, Jessica Michele, 248 Sheepskin Drive, Westminster, MD 21157  
 Thornton, Charissa Elizabeth, 322 Tunbridge Road, Baltimore, MD 21212  
 Ticer, Amy Lee, 2701 Raynham Court, Baldwin, MD 21013  
 Tiffany, Talia Rossell, 3220 Harness Creek Road, Annapolis, MD 21403  
 Tittsworth, Jeffrey Kaida, 218 N. Charles Street, Apt. 2102, Baltimore, MD 21201  
 Tores, Kyle Bryant, 255 Dogwood Road, Millersville, MD 21108  
 Torgerson, Eric Benjamin, 6434 Kansas Lane, Apt. 1, Takoma Park, MD 20912  
 Tornabene-Velez, Wendy Lynn, 140 Hoile Lane, Huntingtown, MD 20639  
 Torres, Michael Tua, 1415 Rhode Island Ave., N.W., Apt. 519, Washington, DC 20005  
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 Toufanian, Yasha Mohammad, 6707 Bradley Blvd., Bethesda, MD 20817  
 Townsend, David John, 1811 Vernon Street, N.W., Apt. 104, Washington, DC 20009  
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 Trivette, Edward Paul, 933 S. Scott Dr., Alrlington, VA 22204  
 Troost, William Patrick, 5633 Sugarbush Lane, North Bethesda, MD 20852  
 Trusler, William Dale, 500 W. Fayette St., Apt. H-204-A, Baltimore, MD 21201  
 Tsotakos, Alexis Nicole, 2701 Calvert St., N.W., Apt. 516, Washington, DC 20008  
 Tully, Christopher John, 1430 Hull Street, Baltimore, MD 21230  
 Turnblacer Jr., Theodore Charles, 2901 Boston Street, Apt. 219, Baltimore, MD 21224  
 Turner, Matthew Joel, 2401 Arlington Blvd., Apt. 69, Charlottesville, VA 22903  
 Turner, Sabrina Johnson, 5053 Summer Day Lane, Columbia, MD 21044  
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 Utter, Bryan David, 5910 Snowdens Run Road, Eldersburg, MD 21784  
 Vaheesan, Sandeep, 14326 Cartwright Way, North Potomac, MD 20878  
 Vahey, Megan Suzanne, 610 E St., N.E., Apt. A, Washington, DC 20002  
 Vakoutis, Gia Nicole, 206 Kemble Road, Baltimore, MD 21218  
 Valley, Cory Michael, 5120 Portsmouth Rd., Fairfax, VA 22032  
 Van Buren, Richard Andrew, 1419 28th St. South, Apt. 8, Arlington, VA 22206  
 Van Buskirk, Kelly Marie, 441 12th Street, N.E., Washington, DC 20003  
 Van Eyken, Davin Michael, 5524 Lanier Avenue, Suitland, MD 20746  
 Van Rooyen, Wayne Marc, 10101 Grosvenor Place, Apt. 305, Rockville, MD 20852  
 Van Saanen, Marisa Bronwyn, The Kenwood, 5101 River Rd., #509, Bethesda, MD 20816  
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 Venturelli, Larry Francis, 2297 Howland Drive, Forest Hill, MD 21050  
 Vidal, Jr., Anthony, 4 Darney Ct., Kingsville, MD 21087  
 Videnieks, Lindsay Anne, 4121 Illinois Ave., N.W., Washington, DC 20011  
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 Vora, Reema Rajesb, 8106 Hallmark Place, Gaithersburg, MD 20879  
 Vuono, Anthony Vincent, 1401 Blair Mill Road, Apt. 1517, Silver Spring, MD 20910  
 Wade III, Curtis, 13593 S. 180th Avenue, Goodyear, AZ 85338  
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 Wagner, Carolyn Wade, 631 D Street, N.W., Apt. 236, Washington, DC 20004  
 Wagner, Michael Thomas, 714 Park Ave., Apt. 2R, Baltimore, MD 21201  
 Wagstaffe, Leslie Mills, 16216 Brook Trail Court, Upper Marlboro, MD 20772  
 Waicker, Elizabeth Louise, 8715 Belair Road, Baltimore, MD 21236  
 Waldrop, Sarah Rachel, 7707 Wisconsin Ave., Apt. 821, Bethesda, MD 20814  
 Wallace, Renee Odilia, 10864 Bucknell Drive, Wheaton, MD 20902  
 Walters, Dana Lee, 512 U St., N.W., Apt. 7, Washington, DC 20001  
 Wasser, Brian Adam, 13824 Appaloosa Court, Gaithersburg, MD 20878  
 Watkins, Barbara Patricia, 110 Bristol Common, Williamsburg, VA 23188  
 Watkins, Mary Elizabeth, 21 West Preston Street, Apt. 102, Baltimore, MD 21201  
 Wayne, Bryn Mayes, 18 Horizon Drive, Frederick, MD 21703  
 Weatherly, Whitney Zacchetti, 7222 Wedding Ring Way, Columbia, MD 21045  
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- Webster, Christopher Scott, 1111 Park Ave., Apt. 1605, Baltimore, MD 21201
- Webster, Elizabeth Murray, 1111 Park Ave., Apt. 1605, Baltimore, MD 21201
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- Weintraub, David Lawrence, 3802 Timber View Way, Reisterstown, MD 21136
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- Weiss, Darren Henry, 11215 Pear Tree Way, Apt. E, Columbia, MD 21044
- Weiss, Kristen Winterling, 5907 Charlesmead Avenue, Baltimore, MD 21212
- Welch, Heather Marie, 1803 South Hanover Street, Baltimore, MD 21230
- Wells, Shanelle Celeste, 1520 18th St., SE, #3, Washington, DC 20020
- West, Dondi Sanchez, 17 Triple Crown Court, Windsor Mill, MD 21244
- White, Alexander Bernard, 7539 Bettys Way, Windsor Mill, MD 21244
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- White, Elizabeth Genevieve, 7705 Ora Court, Greenbelt, MD 20770
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- Wiley, Shanna Alexandra, 1412 Clarkson St., Baltimore, MD 21230
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- Wilkinson, Sara Covington, 6 W Ostend Street, Baltimore, MD 21230
- Williams, Cody Lynn, 2600 Indian Drive, Apt. 3-D, Alexandria, VA 22303
- Williams, Jessica Jene, 6303 Grenfell Ct., Bowie, MD 20720
- Williams, Justin Alexander, 713 S. Streeper Street, Baltimore, MD 21224
- Williams, Zachary George, 1475 Euclid Street, N.W., Apt. 211, Washington, DC 20009
- Williamson, Tara Lynn, 14703 Arabian Lane, Bowie, MD 20715
- Williford, John Donaruma, 2701 Calvert Street, N.W., #516, Washington, DC 20008
- Wilson, Christine Lynn, 46045 Wilson Court, Lexington Park, MD 20653
- Winkles, Devon Elisabeth, 6340 Knollwood Drive, Frederick, MD 21701
- Wiseman, David Baer, 10621 Democracy Lane, Potomac, MD 20854
- Wiseman, Justin Jeweler, 10621 Democracy Lane, Potomac, MD 20854
- Witriol, Rachel Medwin, 6436 Pound Apple Court, Columbia, MD 21045
- Wittman, Erik Neal, 4530 Connecticut Avenue, N.W., #501, Washington, DC 20008
- Witwer, Michael Bruce, 2651 Conquest Pl., Herndon, VA 20171
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- Wright, Laura Ruth, 1214 N. Charles Street, Apt. 1222-B, Baltimore, MD 21201
- Wright, Zachary Leonard, 3609 38th St., NW, #107, Washington, DC 20016
- Wroten, Ashley Elizabeth, 678 Willowby Run, Pasadena, MD 21122
- Wyatt, Jeremy Christopher Burton, 306 East 32nd St., Apt. I, Baltimore, MD 21218
- Wylin, Bethany Ann, 565 Pennsylvania Ave., NW, Apt. 1206, Washington, DC 20001
- Wyman, Katherine Maeve, 1301 M Street NW, Apartment 1012, Washington, DC 20005
- Yager, Scott Jonathan, 8204 Harvest Bend Lane, Apt. 12, Laurel, MD 20707
- Yakubu, Beatrice Oluwayemisi, 100 1st Street, Apt. 306, Rockville, MD 20851
- Yanni, Matthew Thomas, 337 Dorsey Ave., Morgantown, WV 26501
- Yao, Ron-Wen, 14004 Red Ash Way, Rockville, MD 20850
- Yoo, In-Sung, 3722 Garand Road, Ellicott City, MD 21042
- Yoon, Connie Kanghee, 8 Beehive Place, Apt G, Cockeysville, MD 21030
- Young, Sean Walter, 4819 River Creek Ter., Beltsville, MD 20705
- Young, Tia Marshall, 4054 Cottontop Court, Waldorf, MD 20603
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- Zax, Sara Marie, 2432 Wentworth Drive, Crofton, MD 21114
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- Zepeda, Elizabeth Greenlees, 1219 Oronoco St., Apt. 103, Alexandria, VA 22314
- Zgoda, Elizabeth Ann, 460 L St., N.W., Unit 734, Washington, DC 20001
- Zhang, Sufen, 100 Country Lane, Timonium, MD 21093
- Zimmerman, Micah Elimelech, 8103 Eastern Ave., Apt. B-303, Silver Spring, MD 20910
- Zirpoli, Christopher Thomas, 39 West Lexington Street, Apt. 1206, Baltimore, MD 21201
- Zohorsky, Jennifer Eileen, 9027 Furrow Avenue, Ellicott City, MD 21042
- Zokle III, George Anthony, 4585 Aspen Drive, Youngstown, OH 44515
- Zygielbaum, Daniel Alon, 11354 Hollowstone Dr., Rockville, MD 20852

[10-24-44]

## COURT OF SPECIAL APPEALS

### SCHEDULE FOR DECEMBER 1, 2, 3, 6, 7, 8, 9, 10, 13, 14, 15, 2010

Wednesday, December 1, 2010

Courtroom No. 1

- No. 00569/09\*\* Edy Sanchez vs. Potomac Abatement, Inc. et al.  
 No. 00504/10\*\* Edy Sanchez vs. Potomac Abatement, Inc. et al.  
 No. 02088/09 Maryland Transit Administration vs. Etta Walker  
 No. 01695/09 Harford County, Maryland vs. GDL Investments, LLC  
 No. 00597/09\*\* David Antonio Santos vs. State of Maryland  
 No. 00848/09\*\* Carlos Vito vs. State of Maryland  
 No. 00868/09\*\* German Tomas Perez-Rivera vs. State of Maryland



No. 02306/09 Stavlas Brothers, Inc. vs. China 8, Inc.

\*\*Consolidated Cases

Courtroom No. 2

No. 01719/09 Sterling Harris vs. State of Maryland  
 No. 01501/09 Daniel Nicholson vs. State of Maryland  
 No. 01078/10\* In Re: Adoption/Guardianship of Evangeline B.  
 No. 02063/09 Steven Joseph Brown-Santos vs. State of Maryland  
 No. 01797/09 USA Cartage Leasing, LLC vs. Todd A. Baer et al.

\*8-207(a)

**Thursday, December 2, 2010**

Courtroom No. 1

No. 00481/10\* Shirzad Alexandros Rahimi vs. Sandra Jimenez Vazquez  
 No. 01854/09 Gragg & Associates Ventures, LLC vs. UrbanAmerica, L.P. et al.  
 No. 01852/09 Assadullah Sadat et al. vs. CDK, Inc. et al.  
 No. 01332/09 Jamal Michael Gaines vs. Park Garden Condominium Association et al.  
 No. 01615/09 Robert Legrand vs. State of Maryland

\*8-207(a)

Courtroom No. 2

No. 02062/09 Eric N. Ross et al. vs. Keith M. Korenchuk et al.  
 No. 01836/09 Howard N. Bierman et al., Substitute Trustees vs. Paul J. Jewell et ux.  
 No. 01820/09 In Re: Jeremy P.  
 No. 02474/09 Peter Mast vs. State of Maryland

**Friday, December 3, 2010**

Courtroom No. 1

No. 01296/09 Priority Trust, L.L.C. vs. The Aliceanna Group et al.  
 No. 01963/09\*\* Octavian Allen vs. State of Maryland  
 No. 01968/09\*\* Drew W. Smith vs. State of Maryland  
 No. 00363/10\* Amani Ginyard vs. Darryl Ginyard  
 No. 00275/09 Adrian McFadden vs. Anthony Miles vs. State of Maryland

No. 02160/09 Sharon Denise Haddock vs. Keith Andre Haddock

\*8-207(a)

Courtroom No. 2

No. 01839/09 Pro-Football, Inc. et al. vs. Thomas J. Tupa, Jr.  
 No. 01754/09 Vivian M. Hicks vs. Laboratory Corp. of America et al.  
 No. 01568/09 Linda Middleton et al. vs. Dwayne A. Ford et ux.  
 No. 02081/09 Adam M. O'Brien et al. vs. Washington County, Maryland, Board of License Commissioners  
 No. 00468/10\* Joanna Davis vs. Michael A. Petito, Jr.

\*8-207(a)

**Monday, December 6, 2010**

Courtroom No. 1

No. 01977/09 David E. Harrison et al. vs. Joseph A. DelVecchio  
 No. 01554/09 Sharon Gage vs. Rockville Associates, LLC  
 No. 02247/09 William Leslie Harrison vs. State of Maryland  
 No. 02072/09 Barbara J. Kogod vs. Barbara S. Kogod, Personal Representative of the Estate of Ira David Kogod  
 No. 01351/09 Derwand Jerome Shorter vs. State of Maryland

Courtroom No. 2

No. 02059/09 David J. Bonfiglio et al. vs. John J. Fitzgerald, Jr.  
 No. 02979/09 Jamal Lawson vs. State of Maryland  
 No. 00848/10\* In Re: Adoption/Guardianship of Damien D.  
 No. 02103/09 SB Belkin, LLC vs. HTPA Holding Company, LLC et al.

\*8-207(a)

**Tuesday, December 7, 2010**

Courtroom No. 1

No. 01948/09 Department of Human Resources, Prince George's County Office of Child Support Enforcement ex rel. vs. John Stewart, Jr.  
 No. 01595/09 Ruth Agnes Humphreys vs. Hess Development Associates, LLC et al.  
 No. 01560/09 Up at Night, LLC et al. vs. Darren Dorsey  
 No. 02544/06 Mark David Preston vs. State of Maryland  
 No. 00838/10\* Aimee Ellen Gillis vs. Mark Randall Leslie\*\*  
 No. 01168/10\* Aimee Ellen Gillis vs. Mark Randall Leslie\*\*  
 No. 01172/10\* Aimee Ellen Gillis vs. Mark Randall Leslie\*\*  
 No. 01959/09 Donzel M. Page vs. National Railroad Passenger Corporation et al.

\*8-207(a)

\*\*Consolidated Cases

Courtroom No. 2

No. 01776/09 Beynon Sports Surfaces, Inc. vs. The Maryland-National Capital Park and Planning Commission  
 No. 00964/10\* In Re: Adoption/Guardianship of Jahvonte C. a/k/a Javonte C.  
 No. 01074/09 Alicia Gomez vs. Jackson Hewitt, Inc. et al.  
 No. 01088/10\* In Re: Savanna S. and Kitiara S.  
 No. 00916/09 Aaron Feivelson et al. vs. Park Garden Condominium Association et al.

\*8-207(a)

**Wednesday, December 8, 2010**

Courtroom No. 1

No. 01937/09 Leondrus D. Higgins vs. State of Maryland  
 No. 02060/09 Supervisor of Assessments of Baltimore County vs. Greater Baltimore Medical Center, Inc.  
 No. 02764/08 Chesapeake Bay Golf Club L.P. vs. First Maryland Holding Company II, LLC et al.  
 No. 01921/09 Tayvron Mims vs. State of Maryland  
 No. 01364/09 Ronald Howard Brodt, Sr. vs. State of Maryland

Courtroom No. 2

No. 01596/09 Mitchell B. Peremel vs. Donna K. Peremel  
 No. 01767/09 Mark Kugler vs. Clinton Acres, LLC et al.  
 No. 00065/09 Rosemaria Brown vs. Transcare Ambulance Service et al.  
 No. 01845/09 Diane Wacheter, Individually, et al. vs. Gregory Allen Beatty

**Thursday, December 9, 2010**

Courtroom No. 1

No. 01227/09 Linda A. Senez vs. Bradford G. Y. Carney, Esq.  
 No. 02109/09 Heather Brown et vir. vs. The Embers Restaurant, Inc.  
 No. 02157/09 Louis Richard Distefano, IV vs. State of Maryland

## THE JUDICIARY

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No. 01672/09 Daymar Lydell Wimbish vs. State of Maryland  
 No. 01899/09 Terry Lynn McMahon Jensen vs. Bessie Cowling  
 McMahon Trust et al.

### Friday, December 10, 2010 Courtroom No. 1

No. 02056/09 Columbia Association, Inc. vs. Joseph L. Poteet  
 et ux.  
 No. 01163/10\*\*\* State of Maryland vs. Jerome A. Chase  
 No. 01816/09 Freda S. Acheampong et vir vs. Kenneth J.  
 MacFadyen et al.  
 No. 01855/09 A.H.H.N. Corporation vs. First Choice Investments  
 2004, LLC et al.  
 No. 00263/09 Nathaniel Hope vs. State of Maryland

\*\*120 DAY RULE

### Monday, December 13, 2010 All cases submitted on brief Courtroom No. 1

No. 02830/09 Jerry D. Tyree, Jr. vs. State of Maryland  
 No. 02208/09 Anthony Grandison vs. State of Maryland  
 No. 01786/09 Tolu Tolu vs. Paul Gbenoba  
 No. 01906/09 Fred Yoa Boadu vs. State of Maryland  
 No. 01904/09 In Re: Javonni D.  
 No. 02571/08 Leonard Haney vs. State of Maryland  
 No. 00839/09 Devon Harrod vs. Latonya Ware vs. State of  
 Maryland  
 No. 00576/09 Louis Pompey vs. State of Maryland

### Courtroom No. 2

No. 00423/09 Kirk Daniel Matelyan vs. Alejandra Michelle  
 Silvestre-Cordon f/k/a Alejandra Michelle  
 Matelyan et al.  
 No. 01593/09 Erika Humphreys vs. Joseph T. Balenger, Jr.  
 No. 02165/09 John Crisp et ux. vs. Gables Residential Services,  
 Inc.  
 No. 00618/10\* In Re: Isis Y., Malik Y. and Asia Y.  
 No. 02849/09 Craig Lyndell Griffin vs. State of Maryland  
 No. 01257/09 Luis Antonio Onton-Almidon vs. State of  
 Maryland  
 No. 01935/09 Troy Lee Chaney, Jr. vs. State of Maryland  
 No. 01878/09 Antonio Jerrod Foster vs. State of Maryland  
 No. 02222/09 Andre Mines vs. State of Maryland

\*8-207(b)

### Tuesday, December 14, 2010 All cases submitted on brief Courtroom No. 1

No. 01770/09 Tibebe Samuel vs. Law Office of Patricia  
 McCarthy  
 No. 02618/09 Ivan Maurice Lynch vs. Department of Public  
 Safety and Correctional Services, Division of  
 Correction  
 No. 01842/09 Burman York Mathis vs. Attorney Grievance  
 Commission of Maryland  
 No. 02700/08 Michael J. Moore vs. State of Maryland  
 No. 00319/09\*\* Derrick Hayes vs. State of Maryland  
 No. 01915/09\*\* Derrick Hayes vs. State of Maryland  
 No. 01168/09 James Clinton Cole vs. State of Maryland  
 No. 01366/09 Anthony Kevon Todd a/k/a Anthony T. Todd vs.  
 State of Maryland  
 No. 00869/09 Darnell Otis Ray vs. State of Maryland

No. 01967/09 Kenneth Bell vs. State of Maryland

\*\*Consolidated Cases

### Courtroom No. 2

No. 00671/09 Mateen Zar vs. Cloverland Farms Dairy, Inc. et al.  
 No. 01565/09 E. Scott Frison, Jr. vs. B.F. Saul et al.  
 No. 02245/09 Lional A. Bowser a/k/a Lionel A. Bowers vs. State  
 of Maryland  
 No. 02517/09 Eddie Lawrence Gaymon vs. State of Maryland  
 No. 01926/09 Willis Ofori vs. State of Maryland  
 No. 01925/09 Reco Rivers vs. State of Maryland  
 No. 01940/09 Shala Dorman vs. State of Maryland  
 No. 01623/09 Johnny Chatman vs. State of Maryland  
 No. 02396/09 In Re: Kyle Antony S.

### Wednesday, December 15, 2010

All cases submitted on brief

### Courtroom No. 1

No. 01158/09 Ricky A. Walker vs. Secretary, Department of  
 Public Safety and Correctional Services  
 No. 02954/09 Grason John-Allen Eckel vs. State of Maryland  
 No. 01678/09 Maurice Jerome Booth vs. State of Maryland  
 No. 00440/10\* In Re: Cross H.  
 No. 02000/09 Juan Maximo Perez vs. State of Maryland  
 No. 02282/09 Shakiem Williams vs. State of Maryland  
 No. 01476/09 James Earl Phillips vs. State of Maryland  
 No. 02250/09 William H. Lattimore vs. State of Maryland  
 \*8-207(a)

### Courtroom No. 2

No. 02972/09 Nathaniel Perry Whitlow vs. State of Maryland  
 No. 00955/09 Kebran Alexander vs. Maryland State Department  
 of Labor, Licensing and Regulation  
 No. 01848/09 Theodore Glick vs. Supervisor of Assessments of  
 Worcester County  
 No. 02692/07 Andrew C. Roberts vs. State of Maryland  
 No. 01717/09 Robin Smith vs. State of Maryland  
 No. 02946/07 Christopher A. Stephens vs. State of Maryland  
 No. 02251/09 Bernard Ballou, Jr. vs. State of Maryland  
 No. 01941/09 Eric Baker vs. State of Maryland

On the day of argument, counsel are instructed to register in the  
 Office of the Clerk **not later than 9 a.m.** The Court is located at 361  
 Rowe Boulevard, in the Robert C. Murphy Courts of Appeals  
 Building. After December, 2010, the Court will recess until January,  
 2011.

LESLIE D. GRADET  
 Clerk

### ADMINISTRATIVE ORDER

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

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

Chief Judge's signature appears on  
 original Administrative Order

Dated: October 25, 2010

[10-24-28]

# Final Action on Regulations

## Symbol Key

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

## Title 08

# DEPARTMENT OF NATURAL RESOURCES

## Subtitle 02 FISHERIES SERVICE

### 08.02.04 Oysters

Authority: Natural Resources Article, §§4-215, 4-2A-03, 4-1015.1 and 4-1013, Annotated Code of Maryland

#### Notice of Final Action

[10-233-F]

On November 3, 2010, the Secretary of Natural Resources adopted amendments to Regulations **.01**, **.08**, **.09** and **.12** under **COMAR 08.02.04 Oysters**. This action, which was proposed for adoption in 37:18 Md. R. 1222—1229 (August 27, 2010), has been adopted with the nonsubstantive changes shown below.

**Effective Date: November 29, 2010.**

#### Attorney General's Certification

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

Regulation .12D(1): The Department is removing the originally proposed Kent County power dredge study area based upon a request from the Kent County Oyster Committee to change the location of this power dredge study area. The Department plans to submit a new regulatory proposal to establish a power dredge study area in Kent County on Swan Point located outside the mouth of Chester River. This new area is just south and of equivalent size of the originally proposed area for Kent County and is therefore not more restrictive than the originally proposed site. The affected class could have reasonably anticipated this change based on public comment and discussions with the industry.

Regulation .12D(2): The Department is removing the proposed Dorchester County power dredge study area because the baseline monitoring data to support this study will not be collected before the effective date of the proposed regulation. Obtaining baseline data (physical characteristics of the oyster bar and biological and ecological data of the oyster reef community) is essential for determining whether or not power dredging will impact the oyster population in this study area, and the data needs to be obtained before the area is opened to power dredging. The Department plans to submit a new emergency and permanent regulatory package to establish the same power dredge study area with an effective date after baseline data is collected. Because the area will remain the same it is no more restrictive than originally proposed. The affected class could have reasonably anticipated this change based on discussions with the industry during the public comment period.

### .12 Power Dredging Areas and Permits.

A. (proposed text unchanged)

B. — C. (proposed text unchanged)

[[D. *Power Dredge Study Areas. An individual may catch oysters only by power dredge in the following areas:*

(1) *Kent County Power Dredge Study area. All of the waters of the Chesapeake Bay enclosed by a line beginning at a point defined by Lat. 39°8.458' N, Long. 76°17.454' W; then running 297° True to a point defined by Lat. 39°9.000' N, Long. 76°18.839' W; then running 38° True to a point defined by Lat. 39°9.723' N, Long. 76°18.124' W; then running 131° True to a point defined by Lat. 39°9.121' N, Long. 76°17.221' W; then running 195° True to the point of beginning.*

(2) *Dorchester Power Dredge Study Area. All of the waters of Holland Straits enclosed by a line beginning at a point defined by Lat. 38°7.505' N, Long. 76°4.686' W; then running 354° True to a point defined by Lat. 38°7.765' N, Long. 76°4.718' W; then running 19° True to a point defined by Lat. 38°7.947' N, Long. 76°4.638' W; then running 91° True to a point defined by Lat. 38°7.938' N, Long. 76°4.000' W; then running 180° True to a point defined by Lat. 38°7.504' N, Long. 76°4.000' W; then running 270° True to the point of beginning.]]*

JOHN R. GRIFFIN

Secretary of Natural Resources

## Subtitle 02 FISHERIES SERVICE

### 08.02.11 Fishing in Nontidal Waters

Authority: Natural Resources Article, §§4-402, 4-602 and 10-808, Annotated Code of Maryland

#### Notice of Final Action

[10-278-F]

On November 9, 2010, the Secretary of Natural Resources adopted amendments to Regulations **.01**, **.03**, and **.04** under **COMAR 08.02.11 Fishing in Nontidal Waters**. This action, which was proposed for adoption in 37:20 Md. R. 1407—1409 (September 24, 2010), has been adopted with the nonsubstantive changes shown below.

**Effective Date: January 1, 2011.**

#### Attorney General's Certification

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

Regulation .03K(2): The Department is removing the bracket and deletion of "Potomac River from Dam No. 2 (Seneca Breaks) upstream to the mouth of the Monocacy River;" in the Catch-and-Return Bass Areas in order to restore the original text. The data show that the size structure and abundance of bass has improved, but these changes cannot be attributed to the catch and release regulation since similar changes have occurred throughout the river. Surveys show

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that roughly 90% of bass anglers voluntarily practice catch and release. The existing catch and release regulation has not demonstrated a positive or negative impact to the bass fishery during the 15 years it has been in effect, but does restrict some recreational uses (tournaments, occasional harvest). The Department received many comments from people who want to keep the catch and return restrictions in place and only a couple from those who support the regulation change. Since either management option (status quo or the proposed change) is acceptable to the Department and the change is less restrictive than originally proposed, that portion of the proposal is being removed.

**.03 Special Fisheries Management Areas.**

A. — J. (proposed text unchanged)

K. Catch-and-Return Bass Areas.

(1) (proposed text unchanged)

(2) The areas subject to the provisions of this section are the:

[[[]]](a) Potomac River from Dam No. 2 (Seneca Breaks) upstream to the mouth of the Monocacy River;[[[]]]

[[[]]](b) [[(a)]] — [[[]]](e) [[(d)]] (proposed text unchanged)

L. (proposed text unchanged)

JOHN R. GRIFFIN

Secretary of Natural Resources

**Subtitle 02 FISHERIES SERVICE**

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

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

**Notice of Final Action**

[10-266-F]

On October 26, 2010, the Secretary of Natural Resources adopted amendments to Regulation **.03** under **COMAR 08.02.13 Fishing License — Point Assignment, License Revocation and Suspension Schedule and Criteria, and Hearing Procedure**. This action, which was proposed for adoption in 37:19 Md. R. 1288—1289 (September 10, 2010), has been adopted as proposed.

**Effective Date: November 29, 2010.**

JOHN R. GRIFFIN

Secretary of Natural Resources

**Title 09**

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

**Subtitle 12 DIVISION OF LABOR AND  
INDUSTRY**

**09.12.31 Maryland Occupational Safety and  
Health Act — Incorporation by Reference of  
Federal Standards**

Authority: Labor and Employment Article, §§2-106(b)(4) and 5-312(b),  
Annotated Code of Maryland

**Notice of Final Action**

[10-239-F]

On October 14, 2010, the Commissioner of Labor and Industry adopted through incorporation by reference under **COMAR 09.12.31 Maryland Occupational Safety and Health Act — Incorporation by Reference of Federal Standards**, revisions relating to the Acetylene Standard, 29 CFR Part 1910, published in 74 FR 40441—40447 (August 11, 2009), as amended. The direct final rule was originally published on August 11, 2009, and became effective on November 9, 2009. This action, which was proposed for adoption in 37:17 Md. R. 1191 (August 13, 2010), has been adopted as proposed.

**Effective Date: November 29, 2010.**

J. RONALD DEJULIIS

Commissioner of Labor and Industry

**Title 10**

**DEPARTMENT OF HEALTH  
AND MENTAL HYGIENE**

**Subtitle 10 LABORATORIES**

**10.10.05 Medical Laboratories — Proficiency  
Testing**

Authority: Health-General Article, §17-202, Annotated Code of Maryland

**Notice of Final Action**

[10-274-F]

On November 9, 2010, the Secretary of Health and Mental Hygiene adopted amendments to Regulations **.04** and **.05** under **COMAR 10.10.05 Medical Laboratories—Proficiency Testing**. This action, which was proposed for adoption in 37:20 Md. R. 1411—1412 (September 24, 2010), has been adopted as proposed.

**Effective Date: November 29, 2010.**

JOHN M. COLMERS

Secretary of Health and Mental Hygiene

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

## **Subtitle 04 SPECIFIC SUBJECTS**

### **13A.04.13 Program in Physical Education**

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

#### **Notice of Final Action**

[10-263-F]

On October 26, 2010, the Maryland State Board of Education adopted the repeal of existing Regulations .01 and .02 and new Regulations .01 and .02 under **COMAR 13A.04.13 Program in Physical Education**.

At this time, the Maryland State Board of Education is withdrawing the repeal of existing Regulations .01 and .02 and new Regulations .01 and .02 under **COMAR 13A.04.18 Program in Comprehensive Health Education**, which were printed as part of the Notice of Proposed Action.

This action, which was proposed for adoption in 37:19 Md. R. 1303—1305 (September 10, 2010), has been adopted as proposed.

**Effective Date: November 29, 2010.**

NANCY S. GRASMICK  
State Superintendent of Schools

## **Subtitle 06 SUPPORTING PROGRAMS**

### **13A.06.03 Interscholastic Athletics in the State**

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

#### **Notice of Final Action**

[10-261-F]

On October 26, 2010, the Maryland State Board of Education adopted amendments to Regulation .04 under **COMAR 13A.06.03 Interscholastic Athletics in the State**. This action, which was proposed for adoption in 37:19 Md. R. 1305—1306 (September 10, 2010), has been adopted as proposed.

**Effective Date: November 29, 2010.**

NANCY S. GRASMICK  
State Superintendent of Schools

## **Subtitle 07 SCHOOL PERSONNEL**

### **13A.07.02 Terms of Employment**

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

#### **Notice of Final Action**

[10-262-F]

On October 26, 2010, the Maryland State Board of Education adopted amendments to Regulation .01 under **COMAR 13A.07.02 Terms of Employment**. This action, which was proposed for

adoption in 37:19 Md. R. 1306—1307 (September 10, 2010), has been adopted as proposed.

**Effective Date: November 29, 2010.**

NANCY S. GRASMICK  
State Superintendent of Schools

## **Subtitle 14 CHILD AND FAMILY DAY CARE**

### **13A.14.06 Child Care Subsidy Program**

Authority: Family Law Article, §§5-550, 5-551, and 5-573, Annotated Code of Maryland;

Agency Note: Federal Regulatory Reference—45CFR 98, 99

#### **Notice of Final Action**

[10-277-F]

On November 9, 2010, the State Superintendent of Schools adopted amendments to Regulations .02, .05, .08, .09, and .11, the repeal of existing Regulation .12, and new Regulation .12 under **COMAR 13A.14.06 Child Care Subsidy Program**. This action, which was proposed for adoption in 37:20 Md. R. 1413—1416 (September 24, 2010), has been adopted as proposed.

**Effective Date: November 29, 2010.**

NANCY S. GRASMICK  
State Superintendent of Schools

# **Title 14 INDEPENDENT AGENCIES**

## **Subtitle 30 STATE HIGHER EDUCATION LABOR RELATIONS BOARD**

### **14.30.07 Unfair Labor Practices**

Authority: State Personnel and Pensions Article, §§3-2A-04, 3-2A-05, 3-2A-06, and 3-306, Annotated Code of Maryland

#### **Notice of Final Action**

[10-249-F]

On October 26, 2010, the State Higher Education Labor Relations Board adopted amendments to Regulation .04 under **COMAR 14.30.07 Unfair Labor Practices**. This action, which was proposed for adoption in 37:18 Md. R. 1240 (August 27, 2010), has been adopted as proposed.

**Effective Date: November 29, 2010.**

ERICA L. SNIPES  
Executive Director  
State Higher Education Labor Relations Board

# **Title 26**

## **DEPARTMENT OF THE ENVIRONMENT**

### **Subtitle 08 WATER POLLUTION**

#### **26.08.02 Water Quality**

Authority: Environment Article, §§9-303.1, 9-313—9-316, 9-319, 9-320—9-325, 9-327, and 9-328, Annotated Code of Maryland

##### **Notice of Final Action**

[10-259-F-I]

On November 3, 2010, the Secretary of the Environment adopted amendments to Regulations **.03-2**, **.03-3**, **.04-1**, **.05-1**, and **.08** under **COMAR 26.08.02 Water Quality**. This action, which was proposed for adoption in 37:19 Md. R. 1309—1324 (September 10, 2010), has been adopted as proposed.

**Effective Date: November 29, 2010.**

SHARI T. WILSON  
Secretary of the Environment

# **Title 31**

## **MARYLAND INSURANCE ADMINISTRATION**

### **Subtitle 10 HEALTH INSURANCE — GENERAL**

#### **31.10.06 Standards for Medicare Supplement Policies**

Authority: Insurance Article, §§2-109 and 8-403(b), Title 15, Subtitle 9, and Title 27; Health-General Article, §§19-705 and 19-706; Annotated Code of Maryland

##### **Notice of Final Action**

[10-260-F]

On October 26, 2010, the Acting Insurance Commissioner adopted amendments to Regulations **.13**, **.28**, and **.30** and the repeal of existing Regulation **.29** under **COMAR 31.10.06 Standards for Medicare Supplement Policies**. This action, which was proposed for adoption in 37:19 Md. R. 1324—1328 (September 10, 2010), has been adopted as proposed.

**Effective Date: November 29, 2010.**

ELIZABETH SAMMIS  
Acting Insurance Commissioner

# Withdrawal of Regulations

## Title 08

### DEPARTMENT OF NATURAL RESOURCES

#### Subtitle 02 FISHERIES SERVICE

#### 08.02.04 Oysters

Authority: Natural Resources Article, §§4-215 and 4-1013, Annotated Code  
of Maryland

#### Notice of Withdrawal

[10-234-W]

The Secretary of Natural Resources withdraws the proposal to adopt new Regulation .18 under **COMAR 08.02.04 Oysters**, as published in 37:17 Md. R. 1190—1191 (August 13, 2010)

JOHN R. GRIFFIN  
Secretary of Natural Resources

# Proposed Action on Regulations

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

## Symbol Key

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

## Promulgation of Regulations

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

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

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

## Title 05

# DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

## Subtitle 04 SPECIAL LOAN PROGRAMS

### 05.04.09 Group Home Financing Program

Authority: Housing and Community Development Article, §4-606, Annotated Code of Maryland; Executive Order 01.01.1992.27C

#### Notice of Proposed Action

[10-324-P]

The Secretary of Housing and Community Development proposes to amend Regulations .02—, .09, .11—, .13, and .16—, .18 under COMAR 05.04.09 Group Home Financing Program.

#### Statement of Purpose

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

#### Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

#### Estimate of Economic Impact

The proposed action has no economic impact.

#### Economic Impact on Small Businesses

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

#### Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

#### Opportunity for Public Comment

Comments may be sent to Tonna Phelps, Director of Single Family Housing, Department of Housing and Community

Development, 100 Community Place, Crownsville, MD 21032, or call 410-514-7509, or email to [phelps@mdhousing.org](mailto:phelps@mdhousing.org), or fax to 410-987-8763. Comments will be accepted through December 20, 2010. A public hearing has not been scheduled.

#### .02 Objective.

The objective of the Program is to provide loans to sponsors to finance *or refinance* the costs of acquiring, constructing, and modifying buildings which will provide group homes for low income, elderly, handicapped, disabled, and other citizens of the State with special housing needs.

#### .03 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) “Annual income” means [gross income from all sources, including wages, investment income, social security, retirement, disability and unemployment insurance, less the following:

(a) Unusual or temporary income items as determined by the Program; and

(b) Abnormal expenses of a long-term unusual nature, such as medical, rehabilitation, or special education expenses] *annual income as defined by the United States Department of Housing and Urban Development in 24 CFR §5.609.*

(3) “Applicable codes and standards” means the applicable construction, health, safety, fire, occupancy, and other codes and standards in force in the political subdivision in which the project is located. If these codes and standards do not exist or are determined by the Secretary to be insufficient to promote the purposes of the Act, then the codes and standards prescribed in COMAR 05.02.01 or 05.04.02, as applicable, [are in force] *shall apply.*

(4) — (8) (text unchanged)

(9) “Deputy Director” *means the Deputy Director of the Division of Development Finance.*

[(9)] (10) (text unchanged)

(11) *Group Home.*

(a) “Group home” *means a housing facility that offers:*

(i) *Supportive services or supervisory personnel to individuals with special housing needs who are not related to the group home sponsor; and*



(ii) *Common, shared, or independent living, dining, kitchen, sanitary, and sleeping facilities.*

(b) “Group home” need not include all of the facilities listed §B(11)(a) of this regulation if it provides emergency and temporary housing for homeless individuals.

[(10)] (12) “Group home project” or “project” means the acquisition, construction, [or] modification, or refinancing of a building which will provide a group home.

[(11)] (13) (text unchanged)

(14) “Housing Finance Review Committee” or “HFRC” means the Housing Finance Review Committee established under Housing and Community Development Article, §4-208, Annotated Code of Maryland, as amended.

[(12)] (15) — [(13)] (16) (text unchanged)

[(14)] (17) “Nonprofit organization” means a corporation, foundation, *limited liability company*, or other legal entity, no part of the net earnings of which inures to the benefit of any private shareholder, member, or other individual holding an interest in the entity.

[(15)] (18) “Person of lower income” means an individual or family whose total annual income does not exceed the upper income limits established by the Secretary *from time to time*. Two or more unrelated individuals residing in a group home do not constitute a family.

[(16)] (19) (text unchanged)

[(17)] (20) “Program” or “GHFP” means the Group Home Financing Program established pursuant to Housing and Community Development Article, §4-602, Annotated Code of Maryland, as amended.

[(18)] (21) “Program Director” means the Director of [Special Loan Programs] *Single Family Housing* in the Division of Development Finance of the Department.

[(19)] (22) “Qualified limited partnership” means a limited partnership qualified to do business in Maryland, [and when either] *wherein*:

(a) Each of the general partners of the limited partnership qualifies as a nonprofit organization *or is a wholly owned subsidiary of a nonprofit organization*; [or] *and*

(b) The limited partnership:

[(i) Is a corporation or other legal entity wholly owned as a subsidiary of a nonprofit organization,]

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

[(20)] (23) — [(22)] (25) (text unchanged)

(26) “Work write-up” means the scope of work or other description of group home construction or modification to an existing building.

#### .04 Eligible Sponsors.

Group home sponsors shall meet the following minimum requirements to receive a loan:

A. — D. (text unchanged)

E. Demonstrate the capacity to:

(1) — (2) (text unchanged)

(3) Provide necessary services to the group home residents as defined in Regulation .03B[(13)] (16) of this chapter;

F. Provide [a description of any] *supervisory personnel or supportive services [being offered as an alternative to supervisory personnel] acceptable to the Department*;

G. — J. (text unchanged)

#### .05 Eligible Projects.

A. Buildings or properties to be acquired, constructed, [or] modified, *or refinanced* with proceeds of a loan for the purpose of providing group homes shall meet the following requirements:

(1) — (4) (text unchanged)

(5) Be in good repair and in compliance with applicable codes and standards, or be able to be made so with the proceeds of the loan or through other sources of funds, which may be a *senior or a subordinate loan* with terms and conditions acceptable to the Department; and

(6) (text unchanged)

B. (text unchanged)

#### .06 Eligible Uses.

[A.] The proceeds of a mortgage loan may be used to finance:

[(1)] A. (text unchanged)

[(2)] B. Permanent long-term mortgage financing, *including refinancing*;

[(3)] C. (text unchanged)

[(4)] D. Modifications [which include improvements] to a building purchased with a loan *if the modification improves, repairs, renovates, or rehabilitates the building to*[:];

(1) *Make it suitable as a group home*; or

(2) *Eliminate housing, building, fire, safety, health, or other code violations*;

[(5)] E. Closing costs associated with site acquisition, [or] purchase, *or refinance* of a group home;

[(6)] F. Engineering, legal, title, survey, or architectural fees associated with [financing] the rehabilitation, purchase, or modification of a group home;

[(7)] G. Costs associated with site preparation and evaluation including soil borings, environmental review reports, and testing for environmental hazards; [and]

H. *A refinance of an existing group home*;

I. *Construction costs for a new building to be used as a group home*; or

[(8)] J. (text unchanged)

[B.] The proceeds of a loan may not be used to:

(1) Construct a new building or acquire land for new construction; or

(2) Refinance any existing financing of a property, except when short-term bridge financing was obtained after a loan application was filed with the Department.]

#### .07 Loan Terms — General.

A. Maximum Loan Amount. A [group home financing] *program loan when aggregated with any other debt secured by the group home* may not exceed the lesser of:

(1) [The amount which when added to any prior secured debt does not exceed the lesser of] *Either*:

(a) [The] *100 percent of the appraised value of the property after modification, for program loans secured by a first mortgage or subordinate to another loan made or insured by the Department or one of its units*[:]; or

(b) 95 percent of the appraised value of the property after modification, for *program* loans secured by a mortgage which is subordinate to [other] debt *not made or insured by the Department or one of its units*[:];

[(c)] 100 percent of the appraised value of the property after modification for loans secured by a mortgage subordinate to a mortgage made or insured by the Department or one of its agencies,]

[(d)] (2) The sum of the purchase price of the property, the closing costs, and the costs of any modification[:]; or];

[(e)] (3) The sum of the land acquisition, the costs of construction, and any closing costs; or

[(2)] (4) A maximum house price set [annually] *periodically* by the [Program] *program* for the region where the property is located, unless the Department’s Housing Finance Review Committee approves an exception on the following basis:

(a) (text unchanged)

(b) The property is larger than the usual group home financed by the [Program] *program* and will serve more than three individuals with special housing needs[; or].

[(3) \$300,000 unless the Program determines there are no other housing loan programs for which funding is available or for which the project is eligible.]

B. Interest Rate.

(1) The interest rate to be charged on a loan shall [be at a] *not exceed an annual* rate of 7 percent [or less] except as provided in §B(4) of this regulation.

(2) (text unchanged)

(3) The interest rate for each loan shall be established by the Department, after taking into consideration the:

(a) [Income] *Annual income* of the individuals or families expected to reside in the group home; and

(b) (text unchanged)

(4) If the *annual* income of the individuals or families occupying the group home changes so that the borrower no longer would qualify for the interest rate, the Department may increase the interest rate on the loan to a rate [as] *that* would be permitted given the *annual* income of the individuals up to the prevailing conventional interest rate.

C. (text unchanged)

D. Periodic Payment. Except for deferred payment loans, periodic payments shall be charged and applied *first* to escrows, when applicable, *second* to interest, and *third* to principal [in that order].

E. (text unchanged)

F. Security for Loans.

(1) [Except as provided in §F(2) of this regulation.] *Program* loans shall be secured by a [first lien] mortgage or deed of trust, in the form required by the Department, which shall be recorded in the land records [of the county in which] *applicable to* the property [is located]. *Except as provided in §F(2) of this regulation, the Department shall have a first position lien on the project property.*

(2) A *program* loan may be secured by a subordinate lien mortgage or deed of trust if the borrower *complies with Regulation .09 of this chapter* and either:

(a) Obtains:

(i) Private financing for a portion of the [acquisition] *project costs*[,]; and

(ii) (text unchanged)

(b) Receives a loan under:

(i) A federal program, *other than the federal Section 202 Program*, which requires a first mortgage or deed of trust[,]; or

(ii) (text unchanged)

(3) (text unchanged)

(4) Liens subordinate to the loan may be placed on the property provided that the Department and [the mortgagee of] any superior [mortgage] *mortgagee* give any required consents.

G. (text unchanged)

H. Change of Ownership. If at any time during the term of the loan the borrower sells, ceases to own, assigns, transfers, or otherwise disposes of all or any part of the group home or the borrower's interest in the group home *without the Department's prior written consent*, [except as may be permitted by federal law,] the Department, in accordance with the terms of the loan documents between the Department and the borrower, may accelerate the payment of the entire principal and interest due under the loan.

I. Escrow Account. [Unless paid to a superior mortgagee or with the written consent of the Department, the] *The* borrower shall make periodic escrow payments to the Department or its agent to ensure payment when due of *any* annual real estate taxes, ground rent, property insurance premiums, and, when appropriate, other items for which payments are required by the Department. Interest [may] *need*

not be paid to borrowers on escrowed monies. *The Department may waive this requirement under any of the following circumstances:*

(1) *Such amounts are paid in escrow to a superior mortgagee;*

(2) *With respect to insurance premiums, the Department has adequate evidence that the borrower and the project are sufficiently covered under a blanket policy then in effect held by the borrower; or*

(3) *The Department has consented in writing to waive this requirement.*

**.08 Loan Conditions — General.**

A. Environmental Review.

(1) A Project financed by a *program* loan shall comply with applicable local, State, and federal environmental laws and regulations.

(2) — (3) (text unchanged)

B. (text unchanged)

C. Property, Liability, and Other Insurance.

(1) (text unchanged)

(2) All insurance required under §C(1) of this regulation shall meet the following requirements:

(a) Be written by a company [registered with] *that has a currently issued certificate of authority or other evidence of appropriate registration or licensure from the Maryland Insurance Administration;*

(b) — (d) (text unchanged)

(3) (text unchanged)

(4) In addition to the requirements of §C(2) of this regulation, contractor's liability and contractor's builder's risk insurance, *if applicable*, shall:

(a) — (b) (text unchanged)

(5) In addition to the requirements of §C(2) of this regulation, owner's property or hazard insurance shall:

(a) Name the Department as [an additional insured,] *a loss* payee[,], and mortgagee; and

(b) (text unchanged)

**.09 Subordinate Loans.**

In addition to the requirements of Regulations .07 and .08 of this chapter, for *program* loans secured by a subordinate mortgage or deed of trust, the borrower shall obtain from each superior mortgagee a written agreement, in the form acceptable to the Department *and the Office of the Attorney General*, as follows:

A. — C. (text unchanged)

**.11 Limited Return on Equity.**

A. (text unchanged)

B. Equity Participation.

(1) Except as provided in §B(2) of this regulation, the borrower shall remit to the Department, an amount of money at least equal to 25 percent of the *difference between:*

(a) [Difference between the:

(i) Greater] *The greater* of:

(i) [the] *The gross sales proceeds from a resale of the group home, if any*[,]; or

(ii) [Appraised] *The appraised* value of the group home;

and

(b) [Sum] *The sum* of:

(i) — (iii) (text unchanged)

(iv) The documented cost of capital expenditures which directly [benefitted] *benefited* the group home.

(2) If the [original loan represented] *Department provides* less than ½ of the total financing for the project, the [amount determined] *percentage to be applied* under the provisions of §B(1) of this regulation shall be [multiplied by] the percentage of the [initial] *total* financing provided by the Department.

(3) Except as provided in §B(4) and (5) of this regulation, the borrower is obligated to remit the equity participation at the earliest to occur of:

(a) — (c) (text unchanged)

(d) Sale or other transfer of the group home or transfer without the Department's consent of a controlling interest in the borrower.

(4) *Equity Proceeds.*

(a) *The Department, in its discretion, may agree to defer receiving its share of equity proceeds in the following situations:*

(i) *The borrower is maintaining the project as a group home after the loan has been prepaid or matured; or*

(ii) *The borrower has sold the project to a buyer that has agreed to continue the project as a group home, assume the program loan and the equity participation obligation, and comply with all applicable program requirements.*

(b) *If the Department defers its receipt of equity proceeds, the borrower or the subsequent buyer, as applicable, shall remit the deferred amount of the equity proceeds upon the occurrence of any of the following events:*

(i) *The current owner fails to operate the project as group home in accordance with the program requirements;*

(ii) *The sale or other transfer of the group home or a transfer, without the Department's consent, of a controlling interest in the owner of the group home; or*

(iii) *In the case of an assumed loan, any of the events listed in §B(3) of this regulation.*

[(4)] (5) The Department, in its discretion, may agree to defer receiving its share of equity proceeds for a project that the borrower is selling under the following conditions:

(a) — (h) (text unchanged)

[(5)] (6) The Department may, in its discretion, require the borrower to remit *all or a portion of* the equity participation upon:

(a) — (b) (text unchanged)

C. *Deferred Interest.*

(1) The Department may require the borrower to pay *deferred interest* at an interest rate which is *up to* 4 percent over the interest rate at which the loan amortizes.

(2) (text unchanged)

(3) The deferred interest shall [be calculated] *accrue* annually on the anniversary date of the loan based on simple interest on the outstanding principal balance of the loan.

(4) (text unchanged)

D. (text unchanged)

## **.12 Loan Applications.**

A. — C. (text unchanged)

D. *Documentation.* Applicants shall submit any documentation the Department requires including:

(1) (text unchanged)

(2) For nonprofit organizations and qualified limited partnerships, executed and [recorded] *certified* copies of organizational documents;

(3) For a nonprofit organization or qualified limited partnership, [certification from the Internal Revenue Service] *evidence acceptable to the Department* of the nonprofit status of the entity, *the members*, or the general partners of the entity, *as applicable*;

(4) — (5) (text unchanged)

(6) For nonprofit organizations, a resolution from the [board of directors or general partners, as applicable] *appropriate governing body of the borrower*, authorizing the loan application and signatories;

(7) [Evidence] *For projects providing housing for four or more individuals, evidence of zoning compliance or submission of an application for zoning approval;*

(8) — (15) (text unchanged)

(16) A list of credit references [for noncorporate entities] *if requested by the Department*; and

(17) (text unchanged)

## **.13 Loan Processing.**

A. *Eligibility Determination.*

(1) (text unchanged)

(2) If an applicant is eligible, appropriate verification forms shall be distributed, credit reports shall be obtained, and the applicant shall be provided with a letter acknowledging receipt of the application. If the applicant is ineligible for a *program* loan, the applicant shall be informed in writing of the determination and the reasons for it under §H of this regulation.

B. *Building and Site Evaluation.* Each building or site shall be inspected by the [Program] *Department* to determine if the:

(1) — (2) (text unchanged)

(3) Site is suitable for construction, *if applicable.*

C. — E. (text unchanged)

F. *Loan Approval.* [Approval to commit a loan is as follows:]

(1) [The] *Program loans must be approved by the Secretary or the Director and, if so required by the Housing Finance Review Committee policies then in effect, receive a recommendation of approval from the Housing Finance Review Committee. If authorized by the Secretary or the Director, the Deputy Director may approve a loan in lieu of the Secretary or the Director.*[, or the Deputy Director if so authorized by the Secretary, shall approve, disapprove, or modify loans in amounts of \$100,000 or less;

(2) Except in the case of an emergency when urgent action is required, all loans in amounts greater than \$100,000 shall be submitted to the Housing Finance Review Committee established under Housing and Community Development Article, §4-208, Annotated Code of Maryland, for review and recommendation to the Secretary;

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

(4) For loans in amounts over \$250,000, the Secretary shall approve, disapprove, or modify the terms of the loan after receipt of the recommendation of the Housing Finance Review Committee;]

[(5)] (2) In an emergency when urgent action is required, *program loans which would otherwise require Housing Finance Review Committee review may be approved by the Secretary* [may approve loans] *or the Director* without the recommendation of the Housing Finance Review Committee.

G. *Loan Commitment.*

(1) Upon approval of a *program* loan, the Department shall issue a commitment letter setting forth the interest rate on the loan, the repayment provisions, and any other terms and conditions that the Department considers appropriate for the loan or the project.

(2) (text unchanged)

H. *Loan Rejection.* If a loan application is rejected, the Department shall notify the applicant in a letter which states the reason the loan is rejected. [The Program Director shall provide the Housing Finance Review Committee with a report listing all group home sponsor loan applications rejected by the Program during the month preceding each Housing Finance Review Committee meeting.]

I. — K. (text unchanged)

L. *Loan Closing.*

(1) *Time and Place.* The loan closing shall be scheduled at a time and place acceptable to the borrower, [and] the Department, *and the Office of the Attorney General.* [through a closing officer] *Closing shall be conducted by a title company* acceptable to the Department.

(2) — (3) (text unchanged)

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# **.16 Loan Payments.**

A. — E. (text unchanged)

F. Retainage.

(1) The Program shall retain until [full] *final* payment 10 percent of the [contract proposal] *construction* costs for all projects for which the borrower is responsible for project inspections.

(2) The Program, at its discretion, may elect to retain until final payment 10 percent of the [contract proposal] *construction* costs for any other project, taking into consideration:

(a) — (c) (text unchanged)

(3) (text unchanged)

G. (text unchanged)

# **.17 Certification of Income.**

A. The group home sponsor shall obtain, before initial occupancy and every [other] year after that, a completed income certification form from all persons of lower income who will occupy the group home. Initial certification and periodic certification of income shall contain such information as may be required by the Department. Certificates are subject to review by the Department at any time.

B. — C. (text unchanged)

# **.18 Nondiscrimination and Compliance with Law.**

A. (text unchanged)

B. A borrower or contractor shall comply with all applicable federal, State, and local laws and Departmental policies and programs regarding discrimination and equal opportunity in employment, housing, and credit practices, and drug and alcohol-free work places, including:

(1) — (2) (text unchanged)

[(3) The Governor's Code of Fair Practices, as amended;]

[(4)] (3) — [(6)] (5) (text unchanged)

C. (text unchanged)

RAYMOND A. SKINNER

Secretary of Housing and Community Development

## **Subtitle 04 SPECIAL LOAN PROGRAMS**

### **05.04.11 Special Housing Opportunities Program**

Authority: Housing and Community Development Article, Title 4, Subtitle 2, Annotated Code of Maryland; Executive Order 01.01.1992.27C

#### **Notice of Proposed Action**

[10-325-P]

The Secretary of Housing and Community Development proposes to amend Regulations .04 and .09 under **COMAR 05.04.11 Special Housing Opportunities Program**.

#### **Statement of Purpose**

The purpose of this action is to (i) permit, without the need for a Secretarial determination, SHOP projects not involving new construction to be located in areas that are not priority funding areas; and (ii) clarify the Department's requirements with respect to insurance coverage on Program Projects.

#### **Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

#### **Estimate of Economic Impact**

The proposed action has no economic impact.

#### **Economic Impact on Small Businesses**

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

## **Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

## **Opportunity for Public Comment**

Comments may be sent to Tonna Phelps, Director of Single Family Housing, Department of Housing and Community Development, 100 Community Place, Crownsville, MD 21032, or call 410-514-7509, or email to phelps@mdhousing.org, or fax to 410-987-8763. Comments will be accepted through December 20, 2010. A public hearing has not been scheduled.

## **.04 Eligible Projects.**

A. — I. (text unchanged)

J. [The] *For projects involving new construction or the acquisition of a newly constructed building, the project shall be located within a priority funding area identified under State Finance and Procurement Article, §5-7B-02, Annotated Code of Maryland*[, unless, for existing construction, the Secretary determines in the Secretary's sole discretion that the loan is necessary to:

(1) Protect public safety or health;

(2) Alleviate personal economic hardship in an emergency situation;

(3) Promote economically integrated housing;

(4) Avoid a conflict with federal law; or

(5) Relieve an inequity or carry out the purposes of the Program, consistent with the purposes of State Finance and Procurement Article, Title 5, Subtitle 7B, Annotated Code of Maryland].

## **.09 Loan Conditions.**

A. — D. (text unchanged)

E. Property, Liability, and Other Insurance.

(1) (text unchanged)

(2) All insurance required under §E(1) of this regulation shall meet the following requirements:

(a) Be written by a company [registered with] *that has a currently issued certificate of authority or other evidence of appropriate registration or licensure from the Maryland Insurance Administration.*

(b) — (d) (text unchanged)

(3) — (5) (text unchanged)

RAYMOND A. SKINNER

Secretary of Housing and Community Development

## **Title 08**

## **DEPARTMENT OF NATURAL RESOURCES**

### **Subtitle 02 FISHERIES SERVICE**

#### **08.02.21 Yellow Perch**

Authority: Natural Resources Article, §§4-215 and 4-215.2, Annotated Code of Maryland

#### **Notice of Proposed Action**

[10-321-P]

The Secretary of Natural Resources proposes to amend Regulations .03 and .04 under **COMAR 08.02.21 Yellow Perch**.

#### **Statement of Purpose**

The purpose of this action is to amend yellow perch regulations for better management of the fishery. Specifically, the proposed action increases the commercial harvest from 100 to 150 pounds per

day in the Patuxent River in order to provide greater opportunity to harvest the allocated amount of commercial yellow perch. There are three areas managed for commercial fishing with different harvest targets. The proposed action separates the fishing areas out into the specific management areas for better clarity. The proposed action also changes the public notice provision for changing commercial seasons from 48 hours notice to 24 hours notice in order to improve the Department's ability to prevent the harvest from exceeding the annual harvest target.

#### Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

#### Estimate of Economic Impact

**I. Summary of Economic Impact.** The proposed action may have a positive economic impact to commercial harvesters in the Patuxent River.

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

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

D. Increasing the commercial harvest limit from 100 to 150 pounds in the Patuxent River may positively impact harvesters in that area because they will have a better opportunity to harvest their quota. The amount is indeterminable because the quota is not changing, and it cannot be determined whether the harvesters will reach the target in 2011.

#### 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 2011 Yellow Perch Regulations, Regulatory Staff, 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 December 20, 2010. A public hearing has not been scheduled.

#### .03 Commercial.

A.— B. (text unchanged)

C. Daily Catch Limits.

(1) (text unchanged)

(2) Gear Other than Hook and Line.

(a) A commercial tidal fish licensee permitted in accordance with §E of this regulation to harvest yellow perch commercially may harvest up to [100] 150 pounds of yellow perch per day from the Patuxent River fishing area defined in [§D(2)] §D(3) of this regulation.

(b) There is no daily catch limit for the fishing area defined in §D(1) or (2) of this regulation.

(c) (text unchanged)

D. Fishing Areas. A person may fish for yellow perch for commercial purposes only in the following areas:

(1) Chesapeake Bay and its tidal tributaries, excluding the Magothy River and the Chester River, upstream of the William Preston Lane Jr. Memorial Bridge northern span; [and]

(2) Chester River upstream of a line beginning at a point at or near Love Point, defined by Lat. 39°02.40'N and Long. 76°18.16'W; then running approximately 83° True to a point at or near the northwest point of Eastern Neck Island, defined by Lat. 39°02.77'N and Long. 76°14.05'W; and

[(2)] (3) (text unchanged)

E.—K. (text unchanged)

#### .04 General Requirements.

A. (text unchanged)

B. Public Notice.

(1) The Secretary may:

(a) [modify] Modify catch limits, target harvests, registration process, or reporting requirements[, or open, close, or modify a season] by publishing notice in a daily newspaper of general circulation at least 48 hours in advance, stating the effective hour and date[.]; or

(b) Open, close, or modify a commercial season in order to manage the quota by publishing notice in a daily newspaper of general circulation at least 24 hours in advance, stating the effective hour and date.

(2) (text unchanged)

C. (text unchanged)

JOHN R. GRIFFIN  
Secretary of Natural Resources

## Subtitle 19 FOREST CONSERVATION

### 08.19.02 State Review and Approval of a Local Program

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

#### Notice of Proposed Action

[10-322-P]

The Department of Natural Resources proposes to amend Regulation .02 under COMAR 08.19.02 State Review and Approval of a Local Program to reflect changes to the statute during the 2010 legislative session.

#### Statement of Purpose

The purpose of this action is to adopt amendments to regulations that reflect the recent statutory changes adopted during the 2010 legislative session. This amendment would remove the requirement that unused local authority fee-in-lieu funds be returned to the applicant.

**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 Marian Honecny, Supervisor, Urban & Community Forestry, MD Forest Service, 580 Taylor Ave E-1, Annapolis, MD 21401, or call 410-260-8511, or email to mhonecny@dnr.state.md.us, or fax to 410-260-8595. Comments will be accepted through December 20, 2010. A public hearing has not been scheduled.

**.02 Criteria for Evaluating Local Programs.**

A.—H. (text unchanged)

I. Local Forest Conservation Fund.

(1)—(3) (text unchanged)

[(4) If money deposited in a local forest conservation fund under §I(1)(a) of this regulation remains in the fund longer than 2 years or 3 growing seasons, the applicant may file a request on a form, provided by the Department, for the return of the unspent monies if the applicant demonstrates to the satisfaction of the Department that the returned monies will be spent on plantings that:

(a) Will occur within the same county or watershed as the applicant's project; and

(b) Are not being planted to comply with:

(i) Reforestation or afforestation requirements of State or local Forest Conservation Act programs, or

(ii) Requirements of any other federal, State, or local statute, ordinance, or regulation.]

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

J.—R. (text unchanged)

JOHN R. GRIFFIN  
Secretary of Natural Resources

**Subtitle 19 FOREST CONSERVATION**

**08.19.03 Model Forest Conservation Ordinance**

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

**Notice of Proposed Action**

[10-323-P]

The Department of Natural Resources proposes to amend Regulation .01 under COMAR 08.19.03 Model Forest Conservation Ordinance to reflect changes to the statute during the 2010 legislative session.

**Statement of Purpose**

The purpose of this action is to adopt amendments to regulations that reflect the recent statutory changes adopted during the 2010 legislative session. These amendments remove the requirement that unused local authority fee-in-lieu funds be returned to the applicant and changes the method by which fee-in-lieu is calculated to take into account the project's proximity to a priority funding area.

**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 Marian Honecny, Supervisor, Urban & Community Forestry, MD Forest Service, 580 Taylor Ave., E-1, Annapolis, MD 21401, or call 410-260-8511, or email to mhonecny@dnr.state.md.us, or fax to 410-260-8595. Comments will be accepted through December 20, 2010. A public hearing has not been scheduled.

**.01 Ordinance for Local Program.**

Introductory Paragraphs (text unchanged)

**Article I — Article IX** (text unchanged)

**Article X Payment Instead of Afforestation and Reforestation.**

10.1 Forest Conservation Fund.

A. (text unchanged)

B. If a person subject to this Ordinance demonstrates to the satisfaction of the Department that requirements for reforestation or afforestation onsite or offsite cannot be reasonably accomplished, the person shall contribute money into the county forest conservation fund [at a rate:

(1) Of 30 cents per square foot of the area of required planting until September 30, 2014; and

(2) Adjusted for inflation as determined by the Department annually by regulations after September 30, 2014.];

(1) *For a project inside a priority funding area, as defined in Natural Resources Article, §5-1610, Annotated Code of Maryland, at a rate of 30 cents per square foot of the area of required planting until September 30, 2014, when the amount shall be adjusted for inflation as determined by the Department annually by regulation; and*

(2) *For a project outside a priority funding area, at a rate of 36 cents per square foot of the area of required planting until September 30, 2014, when the amount shall be 20 percent higher than the rate established for a project inside a priority funding area.*

C. — D. (text unchanged)

[E. Money contributed under this article shall remain in the account for a period of 2 years or three growing seasons, whichever is a greater time period. At the end of that time, any part that has not been used to meet the afforestation or reforestation requirements shall be returned to the person who provided the money. ]

[F.] E. — [H.] G. (text unchanged)

**Article X-1 — Article XVIII** (text unchanged)

JOHN R. GRIFFIN  
Secretary of Natural Resources

# Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

## Subtitle 09 MEDICAL CARE PROGRAMS

### 10.09.10 Nursing Facility Services

Authority: Health-General Article, §19-14B-01, Annotated Code of Maryland

#### Notice of Proposed Action

[10-320-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .01 and adopt new Regulations .11-1—.11-6 under COMAR 10.09.10 Nursing Facility Services.

At this time, the Secretary of Health and Mental Hygiene is also withdrawing the amendments to Regulations .01, .03, and .15 under COMAR 10.09.10 Nursing Facility Services as proposed in the 37:21 Md. R. 1444—1445 (October 8, 2010).

#### Statement of Purpose

The purpose of this action is to implement a pay-for-performance program for nursing facilities in accordance with the provisions of Health-General Article, §19-14B-01, Annotated Code of Maryland.

#### Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

#### Estimate of Economic Impact

**I. Summary of Economic Impact.** During Fiscal Year 2011, \$2,560,000 shall be distributed to nursing facilities in a pay-for-performance program.

| II. Types of Economic Impact. | Revenue (R+/R-)         | Magnitude   |
|-------------------------------|-------------------------|-------------|
|                               | Expenditure (E+/E-)     |             |
| A. On issuing agency:         | (E+)                    | \$2,560,000 |
| B. On other State agencies:   | NONE                    |             |
| C. On local governments:      | NONE                    |             |
|                               | Benefit (+)<br>Cost (-) | Magnitude   |

|   |      |             |
|---|------|-------------|
| D. On regulated industries or trade groups: |      |             |
| Medicaid nursing home providers             | (+)  | \$2,560,000 |
| E. On other industries or trade groups:     | NONE |             |
| F. Direct and indirect effects on public:   | NONE |             |

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

A. and D. The Program's allocation for nursing facility services totals \$1.047 billion in Fiscal Year 2011. In the proposed regulations, Special Funds and federal matching funds equaling .2445 percent of this amount are to be distributed based on performance criteria.

#### 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:

Individuals with disabilities who reside in nursing facilities may benefit from improved quality of care due to provider efforts to qualify for performance incentives, or from physical or programmatic improvements that may be implemented with payments to providers.

#### Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, Maryland 21201, or call 410-767-6499, or email to regs@dnhm.state.md.us, or fax to 410-767-6483. Comments will be accepted through December 20, 2010. A public hearing has not been scheduled.

#### .01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(22) (text unchanged)

(22-1) "Maryland Health Care Commission" means the agency established by Health-General Article, Title 19, Subtitle 1, Annotated Code of Maryland.

(23) (text unchanged)

(23-1) "Medicaid" means Medical Assistance provided under the State Plan approved under Title XIX of the Social Security Act.

(24)—(40) (text unchanged)

(40-1) "Quality measure" means a specific performance criterion, as described in Regulation .11-3 of this chapter, used to assess a facility's performance level.

[(40-1)] (40-2) (text unchanged)

(41)—(46) (text unchanged)

(46-1) "Special focus facility" means a facility identified by the Centers for Medicare and Medicaid Services as having:

(a) More problems than other nursing homes;

(b) More serious problems than other nursing homes; and

(c) A pattern of serious problems that has persisted over a long period of time.

(47)—(49) (text unchanged)

(49-1) "Substandard quality of care" means that one or more requirements under 42 CFR §483.13, 42 CFR §483.15, or 42 CFR §483.25 were not met, to a degree constituting immediate jeopardy to resident health or safety, and a pattern of actual harm, widespread actual harm, or a widespread potential for more than minimal harm.

(50)—(56) (text unchanged)

#### .11-1 Pay-for-Performance — Eligibility.

In order to be eligible to receive funds through the pay-for-performance program under the provisions of Regulations .11-2—.11-6 of this chapter:

A. The provider shall:

(1) Be subject to quality assessment under COMAR 10.01.20; and

(2) Have at least 40 percent of days of care during their most recent fiscal cost reporting period paid by Medicaid; and

B. During the 1 year period ending March 31 of the prior State fiscal year, the provider may not have been:

(1) Identified by the federal Centers for Medicare and Medicaid Services as a special focus facility;

(2) Denied payment for new admissions by the Department; or

(3) Identified by the Department as delivering substandard quality of care.

**.11-2 Pay-for-Performance — Quality Measures.**

A. Providers shall receive a composite score based on the following:

(1) Staffing levels and staff stability, as described in §§B and C of this regulation, shall comprise 40 percent of each facility's score;

(2) Maryland Health Care Commission Nursing Facility Family Survey, as described in §D of this regulation, shall comprise 40 percent of each facility's score;

(3) Minimum Data Set Clinical Quality Indicators, as described in §E of this regulation, shall comprise 16 percent of each facility's score;

(4) Employment of an infection control coordinator, as described in §F of this regulation, shall comprise 2 percent of each facility's score; and

(5) Staff immunization survey, as described in §G of this regulation, shall comprise 2 percent of each facility's score.

**B. Staffing Levels.**

(1) A facility's average staffing level shall be determined from its most recent data reported in accordance with Regulation .11G(1) of this chapter. Total staff hours shall be divided by average daily census during the survey period in order to establish the facility's average daily staffing.

(2) A facility's average acuity shall be determined from claims for services provided by the facility during the 1-year period ending September 30 of the most recent prior State fiscal year. To establish expected staffing hours, each day of care and procedure is multiplied by the daily hours required under Regulation .25B of this chapter and divided by the total days of care during the same period.

(3) The result from §B(2) of this regulation shall be multiplied by 1.26555 in order to establish the facility's staffing goal.

(4) The facility's staffing level from §B(1) of this regulation shall be divided by the facility's staffing goal from §B(3) of this regulation in order to determine a score based on its percentage of the goal. A facility staffing exceeding its goal shall be scored at 100 percent.

(5) Providers shall receive 0—20 points based upon the scoring methodology described under Regulation .11-3 of this chapter.

**C. Staff Stability.**

(1) Staff stability is based upon dates of employment for nursing staff reported on the facility's most recent salary and hours survey in accordance with Regulation .11G(1) of this chapter.

(2) Staff stability shall be determined by the percentage of hours provided by staff employed by the facility for 2 years or longer at the time of the survey.

(3) Providers shall receive 0—20 points based upon the scoring methodology described under Regulation .11-3 of this chapter.

**D. Family Satisfaction.**

(1) Family satisfaction shall be determined based on results from the facility's most recent Nursing Facility Family Survey administered by the Maryland Health Care Commission.

(2) Providers shall receive 0—40 points based upon the scoring methodology described under Regulation .11-3 of this chapter, as follows:

(a) 0—20 points shall be based upon questions regarding general satisfaction; and

(b) 0—20 points shall be based on several categories of questions regarding specific aspects of care and environment in the nursing facility.

**E. Minimum Data Set Clinical Quality Indicators.**

(1) Providers shall receive scores for the 3-month period ending December 31 of the most recent prior State fiscal year based on the following quality indicators for long-stay residents from the Minimum Data Set published by the federal Centers for Medicare and Medicaid Services:

(a) Percent of High-Risk Residents Who Have Pressure Sores;

(b) Percent of Residents Who Were Physically Restrained;

(c) Percent of Residents Who Have/Had a Catheter Inserted and Left in Their Bladder;

(d) Percent of Residents with a Urinary Tract Infection;

(e) Percent of Long-Stay Residents Given Influenza Vaccination During the Flu Season; and

(f) Percent of Long-Stay Residents Who Were Assessed and Given Pneumococcal Vaccination.

(2) Providers shall receive 0—2.67 points for each quality indicator based on the scoring methodology described under Regulation .11-3 of this chapter.

**F. Employment of Infection Control Coordinator.**

(1) In accordance with State licensing regulations under COMAR 10.07.02.21, all Maryland nursing facilities are required to employ an infection control coordinator who has attended training as required in COMAR 10.07.02.21C. Scoring, based on compliance with COMAR 10.07.02.21, shall be as follows:

(a) A facility not in compliance with COMAR 10.07.02.21 shall receive no points;

(b) A facility meeting the minimum requirement of COMAR 10.07.02.21 shall receive 1 point; or

(c) A facility shall receive 2 points if:

(i) In a facility with 200 or more beds, an infection control coordinator is dedicated 35 hours or more per week to infection control responsibilities; or

(ii) In a facility with fewer than 200 beds, an infection control coordinator is dedicated to infection control responsibilities 15 hours or more per week.

(2) Providers shall receive 0—2 points for this quality measure. Data will be collected by the Department in April of each year.

**G. Staff Immunizations.**

(1) Providers shall receive a score based on the percentage of nursing facility staff, which includes all staff classifications, that have been vaccinated against seasonal influenza.

(2) Providers shall receive 0 or 2 points for this quality measure. Facilities shall submit data to the Department regarding all individuals employed or contracted by the facility during the period September through April 15.

**(3) Benchmark.**

(a) The benchmark for staff vaccinations is 80 percent.

(b) Nursing facilities that meet or exceed the benchmark of 80 percent for seasonal flu shall receive 2 points.

(c) Facilities with less than 80 percent may not receive points for this quality measure.

**.11-3 Pay-for-Performance — Scoring Methodology.**

A. Facilities that are eligible for pay-for-performance under Regulation .11-1 of this chapter shall receive a score for each quality measure described in Regulation .11-2 of this chapter.

B. For the quality measures described in Regulation .11-2B—E of this chapter, a facility is ranked and awarded points as follows:

(1) The highest ranked facility receives 100 percent of the points available;

(2) The median score, weighted by total days of care, receives 50 percent of the points available;

(3) Zero points would be received by any facility whose raw score is below the median by an amount equal to or greater than the difference between the highest score and the median score; and

(4) All other facilities will receive points proportionate to where the score falls within the range between the highest and zero.

C. Points for each quality measure are summed.



**.11-4 Pay-for-Performance — Payment for Improvement.**

A. In order to be eligible for improvement payment, a facility:

(1) Shall meet the eligibility criteria specified in Regulation .11-1 of this chapter;

(2) Shall be eligible and receive a composite score during the current fiscal year and the prior fiscal year; and

(3) May not be receiving a payment based upon its score as described in Regulation .11-6C of this chapter.

B. Facilities shall be ranked according to the greatest point increase compared with the prior fiscal year.

**.11-5 Pay-for-Performance — Scoring Data Review.**

A. The Department shall report scores for pay-for-performance quality measures in Regulation .11-2 of this chapter, on or about July 1 of each year, based on data compiled during the prior fiscal year.

B. A facility shall have 30 days from the date of the report to review and comment on performance data.

C. If the Department determines that there are any errors in transcription of the data provided to the Department, or calculation of scores, ranks, or payment amounts, all facilities shall be rescored and revised scores shall be distributed. A final 30-day review period shall be allowed if the rescoring results in significant modifications.

**.11-6 Pay-for-Performance — Payment Distribution.**

A. During State fiscal year 2011, 0.2445 percent of the budget allocation for nursing facility services shall be distributed based on pay-for-performance scores.

B. Beginning State fiscal year 2012, and each year thereafter, 0.5 percent of the budget allocation for nursing facility services shall be distributed based on pay-for-performance scores.

C. Eighty-five percent of the amount identified in §A or B of this regulation shall be distributed to the highest scoring facilities, representing 35 percent of the eligible days of care, in accordance with the methodology described in Regulation .11-3 of this chapter.

D. Funds shall be distributed among the facilities identified in §C of this regulation, based on the facility's relative score, such that the highest-scoring facility shall receive twice the amount per day as the lowest-scoring facility receiving payment.

E. Fifteen percent of the amount identified in §A or B of this regulation shall be distributed to the facilities that qualify for payment for improvement in accordance with Regulation .11-4 of this chapter.

F. Funds shall be distributed among the facilities included in §E of this regulation, based on a facility's relative point increase from the prior fiscal year, such that the facility with the greatest point increase shall receive twice the amount per day as the facility with the smallest point increase.

G. A facility shall receive a lump-sum payment based on the per diem amount determined in accordance with §D or F of this regulation, multiplied by the facility's Medicaid days of care in the facility's most recent cost report, not to exceed 1 year.

JOHN M. COLMERS  
Secretary of Health and Mental Hygiene

## Subtitle 46 BOARD OF OCCUPATIONAL THERAPY PRACTICE

### 10.46.04 Continuing Competency Requirement

Authority: Health Occupations Article, §§10-205 and 10-311, Annotated Code of Maryland

#### Notice of Proposed Action

[10-330-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .02 and .04—.06 under **COMAR 10.46.04 Continuing Competency Requirement**. This action was considered by the Board of Occupational Therapy Practice at a public meeting held on August 20, 2010, notice of which was given by publication in 37:15 Md. R. 1040 (July 16, 2010) pursuant to State Government Article, §10-506(c)(1), Annotated Code of Maryland.

#### Statement of Purpose

The purpose of this proposal is to align the number of contact hours required for biennial renewal with the number of hours required for an annual renewal cycle from 24 hours biennially to 12 contact hours annually.

#### 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 Phinnney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 512, Baltimore, Maryland 21201, or call 410-767-6499, or email to regs@dhmh.state.md.us, or fax to 410-767-6483. Comments will be accepted through December 20, 2010. A public hearing has not been scheduled.

#### .02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(8) (text unchanged)

(9) Occupational Therapy Role-Related Activities.

(a) (text unchanged)

(b) "Occupational therapy role-related activities" may include inservices, course work, or workshops relative to:

(i)—(ii) (text unchanged)

(iii) Billing and regulatory issues; [or]

(iv) Health care computer programs that provide information to benefit clients or client education; or

(v) Cultural competency.

(c) (text unchanged)

(10) (text unchanged)

**.04 Licensure and Contact Hour Requirements.**

**A. Time Frame.**

(1) Licensure Time Frame. A license to practice occupational therapy or limited occupational therapy is valid for [up to a 2-year period] 1 year extending from July 1 [of an even-numbered year] to June 30 of the next [even-numbered] year.

(2) Continuing Competency Time Frame. The period for completing continuing competency requirements for licensure renewal extends from January 1 [of the initial even year] to December 31 of the [next odd-numbered] year before renewal.

(3) (text unchanged)

**B. Requirements Regarding Contact Hours.**

(1) The occupational therapist or occupational therapy assistant shall certify a minimum of [24] 12 contact hours of competency activities obtained within the [2-year] 1-year period preceding the application for licensure, [renewal,] reactivation, or reinstatement.

(2) The [24] 12 contact hours referred to in §B(1) of this regulation shall consist of:

(a) A minimum of [16] 8 contact hours related to occupational therapy principles and procedures; and

(b) A maximum of [8] 4 contact hours through occupational therapy role-related activities.

(3) (text unchanged)

**C. Exceptions.**

(1) Licensed Less Than 1 Year. An occupational therapist or an occupational therapy assistant who becomes licensed between July 1 [of an odd-numbered year] and June 30 [of an even-numbered year], that is, has had a license less than 1 year before renewal, is exempt from continuing competency requirements for the first renewal period.

[(2) Licensed More Than 1 Year but Less Than 2 Years. An occupational therapist or an occupational therapy assistant who becomes licensed between July 1 of an even-numbered year and June 30 of an odd-numbered year, that is, has been licensed for more than 1 year but less than 2 years before renewal, shall submit only one-half the required contact hours for the first renewal period.]

[(3)] (2) Requesting Licensure with 3 or More Years Lapse in [Licensure] Practice.

(a) When an applicant applies for licensure, renewal, reactivation, or reinstatement, and meets all requirements for licensure, renewal, reactivation, or reinstatement, but has not [been actively licensed] graduated from an accredited occupational therapy program or practiced occupational therapy within the past 3 years or more, the Board [may request] shall require verification of the applicant's efforts toward maintaining and updating occupational therapy clinical competency.

[(b) The Board may decide whether additional actions relative to clinical competency verification are required of the licensee before granting the applicant a license.]

(b) If an individual has been out of practice for between 3 and 8 years, the individual shall:

(i) Complete a Board-approved self-assessment;

(ii) Complete a Board-approved professional development plan;

(iii) Attend a minimum of 24 contact hours related to occupational therapy principles and procedures within the 24 months preceding application for licensure, renewal, reactivation, or reinstatement;

(iv) Provide verification of a minimum of 30 hours of observation of service delivery, receipt of mentoring, or a combination of both with an actively licensed occupational therapist within the 24 months preceding application for licensure, renewal, reactivation, or reinstatement; and

(v) Document completion of established goals and activities in occupational therapy with an actively licensed

occupational therapist within the 24 months preceding application for licensure renewal, reactivation, or reinstatement.

(c) If an individual has been out of practice for longer than 8 years, the individual shall:

(i) Complete the requirements in §C(2)(b) of this regulation; and

(ii) Provide verification of 6 additional contact hours related to occupational therapy principles and procedures.

[(4)] (3) Before the deadline to complete continuing competency, [for example, December 31 of odd-numbered years,] a licensee may request an extension to the specified time frame for completing continuing competency requirements by submitting:

(a)—(c) (text unchanged)

**.05 Approval of Contact Hour Programs.**

A. The Board preapproves contact hours provided by [the]:

(1) The American Occupational Therapy Association [and the] (AOTA);

(2) The Maryland Occupational Therapy Association (MOTA); and

(3) AOTA-approved providers.

B. Provider Procedures for Board Approval. A provider offering a program related to occupational therapy principles and procedures who wishes to obtain Board [approval] review of contact hours being offered to participants in the provider's programs shall submit to the Board at least 60 days in advance of the program:

(1)—(6) (text unchanged)

C.—D. (text unchanged)

E. Licensee Procedures for Board Approval. A licensee participating in a program related to occupational therapy principles and procedures who wishes to obtain Board approval of contact hours not previously [approved] reviewed shall submit to the Board the following materials:

(1)—(5) (text unchanged)

F. (text unchanged)

G. The Board may not review occupational therapy role-related activities for pre-approval.

**.06 Continuing Competency Activities.**

A. (text unchanged)

B. A minimum of [16] 8 hours is required to be earned through continuing competencies related to occupational therapy principles and procedures.

C. A maximum of [8] 4 hours may be earned through occupational therapy role-related activities.

D. (text unchanged)

E. Continuing Competency Activities—Specific Requirements.

(1) Workshops, Seminars, Conferences.

(a) (text unchanged)

(b) Every [2-year cycle] year, a licensee may apply a maximum of:

(i) [24] 12 hours toward the continuing competency requirement related to occupational therapy principles and procedures; and

(ii) [8] 4 hours toward the continuing competency option for role-related activities.

(c)—(d) (text unchanged)

(2) University, College, Adult Education Courses.

(a) (text unchanged)

(b) Every [2-year cycle] year, a licensee may apply a maximum of:

(i) [24] 12 hours toward the continuing competency requirement related to occupational therapy principles and procedures; and

(ii) [8] 4 hours toward the continuing competency option for role-related activities.

(c) (text unchanged)

(3) Fellowship Training.

(a) A licensee may attend fellowship training in a specific area and receive [24] 12 contact hours (a minimum of [12] 6 full-time weeks).

(b) Every [2-year cycle] *year*, a licensee may apply a maximum of:

(i) [24] 12 hours toward the continuing competency requirement related to occupational therapy principles and procedures; and

(ii) [8] 4 hours toward the continuing competency option for role-related activities.

(c) (text unchanged)

(4) Specialty Certification.

(a) A licensee may attain a specialty certification (for example, certified hand therapist) and receive 1 contact hour per 1 hour of education.

(b) Every [2-year cycle] *year*, a licensee may apply a maximum of:

(i) [20] 10 hours toward the continuing competency requirement related to occupational therapy principles and procedures; and

(ii) [8] 4 hours toward the continuing competency option for role-related activities.

(c) (text unchanged)

(5) Physical Agent Modalities (PAMS).

(a) A licensee may participate by following the requirements for applying PAMS as set forth in COMAR 10.46.06. [and receive 15 contact hours of continuing education for each specific modality and five patient treatments per modality under direct supervision.]

(b) Every [2-year cycle] *year*, a licensee may apply a maximum of:

(i) [24] 12 hours toward the continuing competency requirement related to occupational therapy principles and procedures; and

(ii) [8] 4 hours toward the continuing competency option for role-related activities.

(c) (text unchanged)

(6) Auditing.

(a) (text unchanged)

(b) Every [2-year cycle] *year*, a licensee may apply a maximum of:

(i) [12] 6 hours toward the continuing competency requirement related to occupational therapy principles and procedures; and

(ii) [8] 4 hours toward the continuing competency option for role-related activities.

(c) (text unchanged)

(7) Internet Learning.

(a) (text unchanged)

(b) Every [2-year cycle] *year*, a licensee may apply a maximum of:

(i) [16] 8 hours toward the continuing competency requirement related to occupational therapy principles and procedures; and

(ii) [8] 4 hours toward the continuing competency option for role-related activities.

(c) (text unchanged)

(8) Informal Self-Study.

(a) (text unchanged)

(b) Every [2-year cycle] *year*, a licensee may apply a maximum of:

(i) [12] 6 hours toward the continuing competency requirement related to occupational therapy principles and procedures; and

(ii) [8] 4 hours toward the continuing competency option for role-related activities.

(c) (text unchanged)

(9) In-Service Training.

(a) (text unchanged)

(b) Every [2-year cycle] *year*, a licensee may apply a maximum of:

(i) [12] 6 hours toward the continuing competency requirement related to occupational therapy principles and procedures; and

(ii) [8] 4 hours toward the continuing competency option for role-related activities.

(c) (text unchanged)

(10) Mentoring.

(a) (text unchanged)

(b) Every [2-year cycle] *year*, a licensee may apply a maximum of:

(i) [8] 4 hours toward the continuing competency requirement related to occupational therapy principles and procedures; and

(ii) [8] 4 hours toward the continuing competency option for role-related activities.

(c) (text unchanged)

(11) Presentations by Licensee of Occupational Therapy Education Programs, Workshops, Seminars, and In-Services.

(a)—(b) (text unchanged)

(c) Every [2-year cycle] *year*, a licensee may apply a maximum of:

(i) [16] 8 hours toward the continuing competency requirement related to occupational therapy principles and procedures; and

(ii) [8] 4 hours toward the continuing competency option for role-related activities.

(d)—(e) (text unchanged)

(12) Development of Instructional Materials.

(a) (text unchanged)

(b) Every [2-year cycle] *year*, a licensee may apply a maximum of:

(i) [12] 6 hours toward the continuing competency requirement related to occupational therapy principles and procedures; and

(ii) [8] 4 hours toward the continuing competency option for role-related activities.

(c) (text unchanged)

(13) Poster Presentations.

(a) (text unchanged)

(b) Every [2-year cycle] *year*, a licensee may apply a maximum of:

(i) [12] 6 hours toward the continuing competency requirement related to occupational therapy principles and procedures; and

(ii) [8] 4 hours toward the continuing competency option for role-related activities.

(c)—(d) (text unchanged)

(14) Academic Guest Lecturer.

(a) (text unchanged)

(b) Every [2-year cycle] *year*, a licensee may apply a maximum of:

(i) [16] 8 hours toward the continuing competency requirement related to occupational therapy principles and procedures; and

(ii) [8] 4 hours toward the continuing competency option for role-related activities.

(c)—(d) (text unchanged)

(15) Fieldwork Supervision.

(a) (text unchanged)

(b) Every [2-year cycle] *year*, a licensee may apply a maximum of:

(i) [16] 8 hours toward the continuing competency requirement related to occupational therapy principles and procedures; and

(ii) [8] 4 hours toward the continuing competency option for role-related activities.

(c) (text unchanged)

(16) Text Book or Articles Published or Accepted for Publication.

(a) (text unchanged)

(b) Every [2-year cycle] *year*, a licensee may apply a maximum of:

(i) [20] 10 contact hours from authorship, editorship, coauthorship, coeditorship, or all of these, of a book for occupational therapists or relating to occupational therapy;

(ii) [10] 5 contact hours for authorship or editorship of a chapter of a publication;

(iii) [8] 4 contact hours for authorship or editorship of an occupational therapy article or abstract in a peer-reviewed publication; or

(iv) 2 [5] contact hours for authorship or editorship of an occupational therapy-related article or abstract in a nonpeer-reviewed publication.

(c) (text unchanged)

(17) Research Projects.

(a) (text unchanged)

(b) Every [2-year cycle] *year*, a licensee may apply a maximum of:

(i) [10] 5 contact hours per research project as approved by the Board toward the continuing competency requirement related to occupational therapy principles and procedures; and

(ii) [8] 4 hours toward the continuing competency option for role-related activities.

(c) (text unchanged)

(18) Evaluator.

(a) (text unchanged)

(b) Every [2-year cycle] *year*, a licensee may apply a maximum of:

(i) [5] 2 contact hours per study for quality assurance or program evaluation studies completed and published toward the continuing competency requirement related to occupational therapy principles and procedures; and

(ii) [8] 4 hours toward the continuing competency option for role-related activities.

(c) (text unchanged)

(19) Reviewer/Editor.

(a) (text unchanged)

(b) Every [2-year cycle] *year*, a licensee may apply a maximum of:

(i) [16] 8 contact hours toward the continuing competency requirement related to occupational therapy principles and procedures; and

(ii) [8] 4 hours toward the continuing competency option for role-related activities.

(c) (text unchanged)

(20) Professional Study Group.

(a) (text unchanged)

(b) Every [2-year cycle] *year*, a licensee may apply a maximum of:

(i) [12] 6 contact hours toward the continuing competency requirement related to occupational therapy principles and procedures; and

(ii) [8] 4 hours toward the continuing competency option for role-related activities.

(c) (text unchanged)

(21) Jurisprudence Examination.

(a) A licensee may participate by successfully completing the Board's Jurisprudence Examination and receive [2] 1 contact hours.

(b) Every [2-year cycle] *year*, a licensee may apply a maximum of [2] 1 contact hours toward the continuing competency requirement related to occupational therapy principles and procedures.

(c) (text unchanged)

(22) Volunteer Services.

(a) (text unchanged)

(b) Every [2-year cycle] *year*, a licensee may apply a maximum of:

(i) [8] 4 contact hours toward the continuing competency requirement related to occupational therapy principles and procedures; and

(ii) [8] 4 hours toward the continuing competency option for role-related activities.

(c) (text unchanged)

(23) Formal Self-Study.

(a) (text unchanged)

(b) Every [2-year cycle] *year*, a licensee may apply a maximum of:

(i) [16] 8 contact hours toward the continuing competency requirement related to occupational therapy principles and procedures; and

(ii) [8] 4 hours toward the continuing competency option for role-related activities.

(c) (text unchanged)

JOHN M. COLMERS

Secretary of Health and Mental Hygiene

## Title 12 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

### Subtitle 02 DIVISION OF CORRECTION

#### *12.02.28 Death Penalty Procedures*

*Authority: Correctional Services Article, §§2-109, 3-205, and 3-901 — 3-909, Annotated Code of Maryland*

#### Notice of Proposed Action

[10-326-P]

The Secretary of Public Safety and Correctional Services, in cooperation with the Commissioner of Correction, proposes to adopt

new Regulations .01 — .23 under new COMAR 12.02.28 **Death Penalty Procedures**.

#### **Statement of Purpose**

The purpose of this action is to promulgate new regulations codifying current procedures followed by the Division of Correction to complete a Warrant of Execution.

#### **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 Randy Watson, Assistant Commissioner, Division of Correction, 6776 Reisterstown Road, Suite 310 Baltimore, MD 21215, or call 410 585 3300. Comments will be accepted through December 20, 2010. A public hearing has not been scheduled.

#### **.01 Purpose.**

A. *These regulations do not convey or create enforceable rights, interests, or benefits for a Division of Correction inmate.*

B. *Except for failure to comply with due process, the execution of an inmate is not affected by the failure of the Division to meet procedural or time requirements under this chapter.*

C. *The Commissioner may establish, document, and maintain internal administrative and operational procedures consistent with federal and State statutes as necessary for performing responsibilities required under this chapter for the:*

(1) *Death penalty process; and*

(2) *The orderly operation of a facility where the death penalty process is conducted.*

#### **.02 Definitions.**

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

B. *Terms Defined.*

(1) *“Access control officer” means an individual responsible for control of individuals and equipment entering and exiting the Command Center and Execution Area.*

(2) *“Command Center” means the physical location established for the purpose of centralized control over activities associated with the execution process.*

(3) *“Command Center Commander” means the individual assigned oversight of all Command Center operations.*

(4) *“Commissioner” means the Commissioner of Correction.*

(5) *“Department” means the Department of Public Safety and Correctional Services established under Correctional Services Article, §2-101, Annotated Code of Maryland.*

(6) *“Division of Correction (DOC)” means the Division of Correction established under Correctional Services Article, §3-201, Annotated Code of Maryland.*

(7) *“Execution” means activities directly related to actually completing a sentence of death.*

(8) *Execution Area.*

(a) *“Execution Area” means a location established to conduct death penalty procedures.*

(b) *“Execution Area” includes the:*

(i) *Special Security Unit;*

(ii) *Execution Room;*

(iii) *Lethal Injection Room; and*

(iv) *Witness Area.*

(9) *“Execution Commander” means the individual responsible for oversight of the execution process.*

(10) *“Execution Team Commander” means the individual responsible for operational activities of the execution process.*

(11) *“Execution Team Communications Officer-In-Charge” means the individual responsible for telephone calls in the Lethal Injection Room.*

(12) *“Execution Room” means the part of the Execution Area where the sentence of death is conducted.*

(13) *“Lethal injection” has the meaning stated in Correctional Services Article, §3-905, Annotated Code of Maryland.*

(14) *“Lethal Injection Team” means individuals assigned the responsibility for performing the execution.*

(15) *“Lethal Injection Team Officer-In-Charge” means the individual with direct supervisory authority for activities of the Lethal Injection Team.*

(16) *“Maintenance Team” means the individuals assigned responsibility for electric, plumbing, and audio-visual equipment in the Execution Area.*

(17) *“Special Security Unit” means the part of the Execution Area where the inmate is housed immediately before execution.*

(18) *“Special Security Unit Team” means individuals assigned responsibility for custody, security, safety, and welfare of an inmate housed in the Special Security Area.*

(19) *“Witness area” means the part of the Execution Area designated for witnesses to view the execution.*

#### **.03 Death Penalty Process Responsibilities.**

A. *The Commissioner is responsible for:*

(1) *Determining the date and time of the execution within the period established in the Warrant of Execution;*

(2) *Designating the Execution Commander;*

(3) *Establishing a contingent of Execution Team members based on criteria established under Regulation .04 of this chapter and designating the:*

(a) *Execution Team Commander;*

(b) *Alternate Execution Team Commander;*

(c) *Execution Team Communications Officer-In-Charge;*

(d) *Command Center Commander; and*

(e) *Alternate Command Center Commander;*

(4) *Personally:*

(a) *Delivering a copy of the Warrant of Execution to the Execution Commander; and*

(b) *Notifying the Execution Team Commander of receipt of the Warrant of Execution; and*

(5) *Conducting an initial planning meeting with Department, Division, and other individuals involved with the operational and administrative activities related to the pending execution.*

B. *The Execution Commander is responsible for:*

(1) *Oversight of the death penalty process for a pending execution;*

(2) *Consulting with the Office of the Attorney General regarding the issuance of a warrant of execution;*

(3) *Obtaining authorized pharmaceuticals for a pending execution;*

(4) Scheduling and conducting training related to the death penalty process;

(5) Personally advising the inmate of receipt of a Warrant of Execution;

(6) Ensuring personnel are assigned and equipment acquired and that both are prepared for the pending execution; and

(7) Ordering the transfer of the inmate to the Special Security Unit.

C. The Execution Team Commander is responsible for:

(1) Establishing and maintaining a log of activities related to a pending execution;

(2) Preparing a letter to the Office of the Governor acknowledging receipt of a Warrant of Execution;

(3) Assisting the Execution Commander; and

(4) Other duties and responsibilities assigned by the Execution Commander.

D. The Alternate Execution Team Commander is responsible for liaison between the Execution Area and the Command Center during an execution.

E. The Execution Team Communications Officer-In-Charge is responsible for:

(1) Telephone communication in the Lethal Injection Room;

(2) During an execution:

(a) Receiving telephone calls in the Lethal Injection Room for a potential stay of execution; and

(b) If a telephone call is received properly authorizing a stay of execution, halting the execution; and

(3) Other duties assigned by the Execution Team Commander.

F. The Chief of Security of the facility where the execution is conducted, or a designee, is responsible for:

(1) Operational oversight of the Special Security Unit;

(2) Supervising the Special Security Unit Team;

(3) Personal safety and security of the inmate while in the Special Security Unit; and

(4) Other duties assigned by the Execution Commander.

G. The Execution Team is responsible for the following related to the Execution Area:

(1) Equipment;

(2) Security;

(3) Maintenance; and

(4) Sanitation.

H. The Lethal Injection Team is responsible for:

(1) Preparing the authorized pharmaceuticals used to perform the execution;

(2) Attaching electrocardiography (EKG) monitor leads to the inmate;

(3) Inserting an intravenous catheter in each arm or alternate site of the inmate; and

(4) Introducing the authorized pharmaceuticals into an intravenous catheter until the inmate is pronounced dead.

#### **.04 Execution Team — Membership and Selection Criteria.**

A. An Execution Team consists of a:

(1) Lethal Injection Team;

(2) Special Security Unit Team;

(3) Maintenance Team; and

(4) Communications Officer-In-Charge.

B. The Commissioner shall select an individual as a member of the Execution Team from Department employees or individuals not employed by the Department based on:

(1) The individuals' ability to maintain confidentiality;

(2) The individual's good moral character;

(3) The individual's professional appearance;

(4) The individual's ability to work with others; and

(5) One of the following:

(a) If a Department employee, the employee's:

(i) Good attendance record; and

(ii) Acceptable score on a standardized psychological assessment tool; or

(b) If not a Department employee, the individual's:

(i) Professional credentials establishing that the individual has the training and skills necessary to perform assigned Execution Team responsibilities;

(ii) Ability to maintain confidentiality;

(iii) Good moral character;

(iv) Professional appearance; and

(v) Ability to work with others.

C. The Commissioner shall:

(1) Assign individuals to the Lethal Injection Team according to applicable attributes identified under §B of this regulation; and

(2) Ensure that the assigned individual is, if required, trained and certified to:

(a) Be the Lethal Injection Team Officer-In-Charge;

(b) Be the Lethal Injection Team recorder who is responsible for documenting, record keeping, and key control related to the Execution Room and Lethal Injection Room;

(c) Assist with preparing the Lethal Injection Room;

(d) Insert the intravenous catheters into the inmate;

(e) Attach the electrocardiography (EKG) monitor leads to the inmate; and

(f) Administer the authorized pharmaceuticals used to cause death of the inmate.

D. The Commissioner, or a designee, shall assign sufficient correctional officers to the Special Security Unit Team to ensure the safety and security of the inmate:

(1) While the inmate is housed in the Special Security Unit; and

(2) When the inmate is being escorted to the Execution Room.

E. The Commissioner, or a designee, shall assign sufficient correctional maintenance officers to the Maintenance Team to ensure that the facility is prepared to conduct execution-related activities.

#### **.05 Execution Area.**

A. The Execution Commander shall ensure that an Execution Area is established at the facility where the execution is conducted.

B. An Execution Area shall have:

(1) A Special Security Unit that includes:

(a) A cell that, at a minimum, includes a:

(i) Bed;

(ii) Toilet; and

(iii) Sink with hot and cold water;

(b) A correctional officer station; and

(c) A shower with hot and cold water;

(2) A Lethal Injection Room that includes a:

(a) Storage area; and

(b) Room to administer the pharmaceuticals used to cause death of the inmate;

(3) An Execution Room that contains the execution table and restraints; and

(4) A Witness Area with draped windows that when undraped provide visual access to the Execution Room for:

(a) Media and others selected as witnesses; and

(b) Representatives of the victim of the crime for which the inmate received the death sentence that, if practical, prevent visual access by the media and others selected as witnesses to a representative of the victim.

C. Special Security Unit — Inmate Privileges.

(1) Mail.

(a) Except for legal documents, facility staff shall:

(i) Open the inmate's mail;

(ii) Photocopy the contents;

(iii) Give the photocopy to the inmate; and  
(iv) Forward the original mail for placement in the inmate's base file.

(b) Legal documents:

(i) Shall be opened and inspected for contraband by a member of the Special Security Unit Team in the presence of the inmate;

(ii) May not be photocopied; and

(iii) Except for contraband, shall be given to the inmate.

(2) Visitation.

(a) An inmate may have visitors in accordance with §C(2)(b) — (g) of this regulation up to 3 hours before the time of the execution.

(b) Except for the attorney of record and authorized clergy, visiting hours for the Special Security Unit are between 1 and 7 p.m. Eastern Time.

(c) Excluding the attorney of record and authorized clergy, an inmate may have a maximum of three 1-hour visits during a calendar day.

(d) Only two individuals may visit the inmate at a time.

(e) Physical contact between a visitor and the inmate is prohibited.

(f) The attorney of record, to the extent possible, shall:

(i) Limit visits to visiting hours established under §C(2)(b) of this regulation; and

(ii) When possible, especially if a visit is outside established visiting hours, provide the facility with advance notice of the visit.

(g) The inmate may have a maximum of ten individuals on the inmate's approved visitors list, unless an exception is authorized by the warden of the facility where the execution is conducted.

(3) Telephone Calls.

(a) The inmate may not take an incoming telephone call.

(b) The warden of the facility where the execution is conducted may authorize, consistent with established telephone procedures for the facility, a list of ten telephone numbers, excluding the attorney of record, for individuals the inmate may call.

(c) The inmate may make a telephone call to the authorized numbers between 10 a.m. and 9 p.m. Eastern Time.

(4) Exercise. The inmate may exercise in the Special Security Unit cell only.

(5) Property.

(a) At a minimum, an inmate shall have the following State-issued items while in the Special Security Unit:

(i) One bed mattress;

(ii) One bed pillow case;

(iii) Two bed sheets;

(iv) One tee shirt;

(v) One pair of socks;

(vi) One pair of shoes;

(vii) One bar of soap;

(viii) One bed pillow;

(ix) Two bed blankets;

(x) One jumpsuit;

(xi) One undergarment;

(xii) One pair of shower shoes;

(xiii) One wash cloth;

(xiv) One bath towel;

(xv) Tooth paste;

(xvi) One tooth brush; and

(xvii) Toilet paper.

(b) The following items may be issued to the inmate if requested by the inmate:

(i) One cordless electric razor;

(ii) One hair comb;

(iii) One deck of playing cards;

(iv) Reading material, including religious material;

(v) Stationery; and

(vi) A writing implement.

(c) The inmate may have an AM-FM frequency radio and television that may not be in the cell.

(d) The inmate:

(i) May purchase snack food items from the facility commissary for consumption in the cell; but

(ii) Except for an item actually being consumed, may not keep purchased snack food items in the cell.

(e) The warden of the facility where the execution is conducted may, if requested by the inmate, approve the inmate to have an item not listed under §C(5)(a) — (d) of this regulation.

(6) Meals.

(a) Dietary staff shall deliver the inmate's meals to the Special Security Unit.

(b) Meals shall be prepared and provided according to procedures and established dietary standards for the facility where the execution is conducted.

(c) A Special Security Unit Team member shall present the meal to the inmate.

**.06 Command Center.**

**A. The Command Center Commander:**

(1) Is responsible for establishing, staffing, and operating the Command Center;

(2) Shall coordinate witness notification and transportation activities on the date of the execution;

(3) Shall arrange security escort to the Lethal Injection Room for the:

(a) Licensed physician; and

(b) Lethal Injection Team; and

(4) In cooperation with the Alternate Execution Team Commander, shall ensure that appropriate Command Center staff complete assigned duties related to the execution.

**B. The Execution Team Communications Officer-in-Charge:**

(1) Is responsible for setting up appropriate communications equipment for the Command Center;

(2) Shall distribute Command Center telephone and radio contact information to appropriate personnel;

(3) Shall maintain a current list of individuals authorized access to the Command Center and Execution Area;

(4) Shall ensure a log is maintained to record incoming and outgoing communications; and

(5) Shall maintain communications with appropriate facility security posts.

**C. The Executive Director of the Department Communications Office shall:**

(1) Prepare news release information related to the execution;

(2) Coordinate execution activities with Department Public Information Officers; and

(3) Conduct a media briefing following the execution.

**D. A Correctional Maintenance Officer shall:**

(1) Ensure that the Command Center's closed circuit television camera and monitors used only to monitor the Execution Room during the execution are in place and functional;

(2) Ensure that communication equipment is set up and in proper working order;

(3) When advised by the Command Center Commander, activate the equipment under §D(1) of this regulation; and

(4) Following the execution, turn off, disconnect, and store the equipment under §D(1) of this regulation.

**E. The Historian shall establish and maintain an accurate record documenting events occurring in the Command Center during the execution process.**

*F. An individual assigned as an Access Control Officer:*

- (1) *Is responsible for security of the Command Center and entrance to the Special Security Unit;*
- (2) *Shall be assigned by the Command Center Commander to staff a specific security post;*
- (3) *Shall limit access to the Command Center, Execution Area, and other secure locations based on an identification system established and approved by the Commissioner; and*
- (4) *Shall perform other responsibilities assigned by the Command Center Commander.*

*G. The representative of the Attorney General shall:*

- (1) *Monitor for potential legal issues that may arise during the execution process; and*
- (2) *Immediately notify the Command Center Commander in event of a stay of execution or withdrawal of the Warrant of Execution.*

**.07 Pre-Execution Procedures — Preliminary Activities.**

*A. If an administrative or operational procedure issue arises related to an execution, the Execution Commander, with the approval of the Commissioner, may adjust, within statutory and regulatory requirements, the Death Penalty Process internal administrative or operational procedures to legally complete the Pre-Execution portion of the Death Penalty Process.*

*B. The Execution Commander shall coordinate with the Office of the Attorney General in order to identify cases that, in the Attorney General's opinion, may result in a Warrant of Execution or in the likelihood that a Warrant of Execution will proceed to completion without a stay.*

*C. If the Attorney General has reason to believe a Warrant of Execution is pending, the Execution Commander shall ensure that the Lethal Injection Team and the Special Security Unit Team continue sufficient execution process training to demonstrate to the Execution Commander that assigned execution-related responsibilities are properly performed.*

*D. When the Commissioner receives an original or copy of a properly authorized Warrant of Execution, the Commissioner shall personally:*

- (1) *Deliver the original or copy of the Warrant of Execution to the Execution Commander;*
- (2) *Forward a copy of the Warrant of Execution to the Execution Team Commander; and*
- (3) *Conduct a meeting to plan the pending execution with representatives from the Department and allied agencies affected by the Death Penalty Process.*

*E. Upon notification of receipt of a Warrant of Execution, the Execution Team Commander shall initiate a log of events to record action and activity related to the Death Penalty Process for the pending execution, beginning with the Commissioner receiving and transmitting the Warrant of Execution.*

*F. If there is no stay of execution in effect, the Execution Commander with the Execution Team Commander, or a designee, as a witness, as soon as possible after the Execution Commander receives the Warrant of Execution shall arrange a private meeting with the inmate and:*

- (1) *Read the Warrant of Execution to the inmate;*
- (2) *Provide the inmate with a copy of the Warrant of Execution;*
- (3) *Request the inmate to sign a form, approved by the Commissioner, acknowledging notification and receipt of the Warrant of Execution;*
- (4) *If the inmate refuses to sign acknowledging notification and receipt of the Warrant of Execution, record the inmate's refusal on the form and, along with the witness, sign the form;*

*(5) Advise the inmate that media interviews may only be conducted during the 14 calendar days immediately following delivery of the Warrant of Execution to the inmate; and*

*(6) Arrange an examination of the inmate's veins to ensure that appropriate intravenous (IV) locations are available on the inmate to administer the pharmaceuticals at the time of execution.*

*G. If, after conducting an examination under §F(6) of this regulation, the Execution Commander concludes that appropriate IV locations are not available on the inmate, Division of Correction staff shall arrange for an appropriate alternative medical procedure, which shall be performed by an appropriately certified individual in order to administer the pharmaceuticals at the time of execution. Division of Correction staff may not perform what the medical profession commonly refers to as a "cut down" in order to administer the pharmaceuticals at the time of execution.*

*H. After notifying the inmate of the Warrant of Execution, the warden of the facility where the execution is conducted shall:*

*(1) Designate a staff member of the facility where the execution is conducted to personally deliver the Warrant of Execution and form acknowledging receipt by the inmate to the Records Department supervisor at the inmate's correctional facility for filing in the inmate's base file and commitment record;*

*(2) Prepare a letter, in a format approved by the Commissioner, to the Office of the Governor acknowledging receipt of the Warrant of Execution;*

*(3) Provide a copy of the letter under §H(2) of this regulation to the:*

- (a) Secretary;*
- (b) Attorney General's Office — Criminal Appeals Division;*
- (c) Commissioner;*
- (d) Inmate's attorney of record;*
- (e) Inmate's commitment folder;*
- (f) Execution Commander's file;*
- (g) Executive Director of the Department Communications Office; and*
- (h) Inmate's base file.*

*I. The Executive Director of the Department Communications Office shall prepare a press release absent the date and time of the execution announcing the pending execution.*

*J. The Commissioner, consistent with provisions of the Warrant of Execution, shall determine the date and time for executing the sentence of death.*

*K. The Commissioner may disclose the date and time under §J of this regulation on a need-to-know basis to public officials involved in the execution of the inmate.*

*L. In addition to the date and time under §J of this regulation, the Commissioner shall determine an alternate date and time for executing the sentence of death if circumstances develop that prevent the execution from taking place as originally scheduled.*

**.08 Pre-Execution Procedures — 14 Days Before the Week of Execution.**

*A. The procedures in this regulation shall take place 14 days before the week of execution.*

*B. The Commissioner shall designate, from Execution Team members, the individuals to actually participate as the Lethal Injection Team for the pending execution.*

*C. The Execution Commander and the Execution Team Commander shall:*

- (1) Personally inspect the Execution Area;*
- (2) Ensure that the following are available and prepared for the execution:*
  - (a) Personnel;*
  - (b) Equipment; and*
  - (c) Internal administrative and operational execution procedures;*



(3) Order the authorized pharmaceuticals; and

(4) As needed, coordinate with the local law enforcement for traffic control during the transfer of the inmate to the Special Security Unit.

D. The Execution Commander, or a designee, shall arrange for a licensed physician to be present at the time of the execution to determine when death has occurred.

E. The Command Center Commander shall:

(1) Develop a plan, for approval by the Commissioner, to activate and staff the Command Center; and

(2) Arrange for personnel to staff positions at the Command Center.

F. The warden of the facility where the inmate is held before transfer to the Special Security Unit shall:

(1) Ensure that a log is established and maintained to record observations of the inmate until transferred to the Special Security Unit; and

(2) Establish visitation procedures for the inmate awaiting transfer to the Special Security Unit that, at a minimum:

(a) Prohibit physical contact between the inmate and a visitor;

(b) Limit the number of visitors to two at one time;

(c) At the discretion of the Commissioner, reduce the 1 hour visit to ½ hour; and

(d) Only permit visitation between 9 a.m. and 8 p.m. Eastern Time; and

(3) Establish a schedule for the following personnel to observe and maintain the inmate's personal welfare:

(a) Medical staff;

(b) Psychological staff; and

(c) Supervisors.

G. The Chief of Security at the facility where the execution is conducted shall ensure that the Special Security Unit Team is available to staff the Special Security Unit once the inmate is transferred.

**.09 Pre-Execution Procedures — 5 Days Before the Week of Execution.**

A. The procedures in this regulation shall take place 5 days before the week of execution.

B. The Commissioner, or a designee, shall identify a minimum of six, but not more than 12 individuals to witness the execution.

C. A witness may be:

(1) The attorney who prosecuted the inmate or the attorney's representative;

(2) The Chief Law Enforcement Official, or a designee, of the jurisdiction where the inmate's crime occurred;

(3) A county executive or city government official representing the jurisdiction where the inmate's crime occurred;

(4) The inmate's victim's family or a victim representative;

(5) Upon recommendation of the Executive Director of the Department Communications Office, appropriate news media; and

(6) Other individuals considered appropriate by the Commissioner.

D. The Commissioner shall require a witness to:

(1) Be 18 years old or older;

(2) At the discretion of the Commissioner, submit to and, in the opinion of the Commissioner, pass a State and national criminal history records check conducted by the Department's Criminal Justice Information System Central Repository;

(3) At the time of the execution, comply with the Division's visitor dress code; and

(4) Complete and sign a witness agreement approved by the Commissioner.

E. Witness by Attorney of Record.

(1) If the inmate requests, the Commissioner shall arrange for the inmate's attorney of record to witness the execution.

(2) If an inmate has more than one attorney of record, only one attorney may witness the execution.

(3) If an inmate has more than one attorney of record, the inmate shall designate which attorney of record shall witness the execution.

F. Witness by Religious Representative. If the inmate requests a religious representative to witness the execution and the warden of the facility recommends a religious representative, the Commissioner shall arrange for a religious representative to witness the execution.

G. The Execution Commander shall:

(1) Inspect the location designated as the Command Center;

(2) Inspect the Execution Area;

(3) Request necessary medical support staff to assist with execution activities; and

(4) Inform individuals actually involved in conducting the execution of the date and time of the execution.

H. The warden of the facility where the execution is conducted:

(1) Shall conduct a general briefing on the execution with Shift Commanders and Department Heads; and

(2) May not communicate the date and time of the execution.

I. The warden of the facility housing the inmate awaiting transfer to the Special Security Unit shall arrange to have a request for legal counsel and authorized clergy completed and signed in a format approved by the Commissioner.

J. The Maintenance Team shall:

(1) Test, at a minimum, the following:

(a) The emergency generator;

(b) The telephones in the:

(i) Special Security Unit;

(ii) Lethal Injection Room; and

(iii) Command Center;

(c) Internal audio and video communications;

(d) The plumbing in the Special Security Unit; and

(e) Other facility equipment related to the Execution Area;

(2) Repair or replace defective items so as not to delay the pending execution; and

(3) Advise the Execution Commander of the results of actions under §J(1) and (2) of this regulation.

**.10 Pre-Execution Procedures — 4 Days Before the Week of Execution.**

A. The procedures in this regulation shall take place 4 days before the week of execution.

B. The Execution Commander shall:

(1) Conduct a briefing with individuals assigned specific duties related to the pending execution to update the status of the Death Penalty Process;

(2) As required, coordinate with local law enforcement to develop crowd control procedures;

(3) Inspect the Command Center and the Execution Area to determine readiness; and

(4) Verify that the authorized pharmaceuticals have been obtained and properly stored pending preparation for the execution.

C. The Execution Team Communications Officer-In-Charge shall:

(1) Personally test each telephone in the Lethal Injection Room to ensure proper operation;

(2) If found defective, ensure repairs are made so as not to delay the execution;

(3) Notify the Execution Commander of the results of the telephone testing; and

(4) Prepare a list, in a format approved by the Commissioner, for use by an Access Control Officer to identify individuals permitted access to:

(a) The Command Center;

- (b) *The Execution Area; and*
- (c) *Designated parking areas, including the following information for parking authorization:*
  - (i) *Name;*
  - (ii) *Vehicle description (make and model); and*
  - (iii) *Vehicle registration tag number.*

*D. The Division Chaplain assigned to participate in the Death Penalty Process shall:*

- (1) *Work with the inmate to prepare written instructions for the inmate's funeral arrangements;*
- (2) *Ensure the inmate signs and dates the funeral arrangement instructions;*
- (3) *Request that the inmate make five preferred meal selections that, at the discretion of the Commissioner, may be served to the inmate at the established dinner hour each day during the week of execution; and*
- (4) *Present the inmate's dated and signed instructions for funeral arrangements to the warden of the facility where the execution is conducted.*

*E. The Execution Team shall demonstrate to the Execution Commander the Execution Team's state of readiness for the pending execution.*

**.11 Pre-Execution Procedures — 3 Days Before the Week of Execution.**

*Three days before the week of execution, the Execution Commander shall:*

*A. Designate confidential telephone numbers and passwords and deliver the numbers and passwords under security procedures established by the Execution Commander to the designated representatives of the Office of the Governor and the Attorney General to use to communicate a stay of execution;*

*B. Inspect the Execution Area to ensure readiness for the pending execution and report the status to the Commissioner;*

*C. Coordinate with authorized witnesses to:*

- (1) *Establish a direct method of communication with each authorized witness; and*
- (2) *Instruct each witness that not more than 3 hours before the time of the execution the witness shall:*
  - (a) *Receive notification as arranged under §C(1) of this regulation; and*
  - (b) *Be provided specific instructions on where and when to report for transport to the facility;*

*D. Coordinate with the licensed physician who will be at the execution to determine death of the inmate to:*

- (1) *Ensure availability; and*
- (2) *Set up transportation; and*

*E. Order the warden of the facility housing the inmate, the warden of the facility where the execution is conducted, and the Chief of Security of the facility where the execution is conducted to develop and implement a confidential written security plan for transferring the inmate to the Special Security Unit, including provisions for:*

- (1) *Interaction with local law enforcement;*
- (2) *Personnel;*
- (3) *Equipment;*
- (4) *Personal property permitted in the Special Security Unit;*
- (5) *Inventory and disposition of personal property not permitted in the Special Security Unit according to Division procedures for handling and disposition of inmate personal property;*
- (6) *Clothing worn by the inmate; and*
- (7) *Inmate legal materials.*

**.12 Pre-Execution Procedures — 2 Days Before the Week of Execution.**

*A. The procedures in this regulation shall take place 2 days before the week of execution.*

*B. The Execution Commander shall:*

- (1) *Inspect the Execution Area and ensure readiness for the pending execution; and*
- (2) *Report the result of the inspection under §B(1) of this regulation to the Commissioner.*

*C. The Execution Team Communications Officer-In-Charge shall:*

- (1) *Test each telephone in the Lethal Injection Room and ensure proper operation; and*
- (2) *Report the result of the test under §C(1) of this regulation to the Execution Commander.*

*D. The Execution Team shall demonstrate to the Execution Commander the Execution Team's and related equipment's state of readiness for the pending execution including:*

- (1) *The lethal injection process; and*
- (2) *Recording the time taken to complete the demonstration.*

**.13 Pre-Execution Procedures — 1 Day Before the Week of Execution.**

*A. The procedures in this regulation shall take place 1 day before the week of execution.*

*B. The Execution Commander shall:*

- (1) *Designate staging areas for witnesses at the facility where the execution is conducted;*
- (2) *Conduct necessary security briefings with:*
  - (a) *Execution-related staff; and*
  - (b) *Other individuals considered appropriate by the Execution Commander;*
- (3) *Inspect the Execution Area to determine the state of readiness and report the result to the Commissioner; and*
- (4) *Repeat the inspection under §B(3) of this regulation daily including the day of the execution.*

*C. The Execution Team Commander shall:*

- (1) *Initiate daily inspections, including the day of the execution, of the telephones in the Command Center and Lethal Injection Room to ensure operational readiness for the pending execution; and*
- (2) *Notify the Execution Commander of the status of the telephones.*

*D. The Execution Team Communications Officer-In-Charge shall:*

- (1) *Confirm the Chaplain has received a statement signed and dated by the inmate providing instructions for final disposition of the inmate's body;*
- (2) *Confirm that the telephone numbers for use by the Governor and Office of the Attorney General to communicate with the Lethal Injection Room are working properly;*
- (3) *Ensure that waiting areas for the witnesses at the facility where the execution is conducted have been arranged; and*
- (4) *Notify the Execution Commander of the status of §D(1) — (3) of this regulation.*

*E. The Lethal Injection Team shall:*

- (1) *Initiate daily inspections, including on the day of the execution, of medical and safety equipment and authorized pharmaceuticals in the Execution Room and Lethal Injection Room;*
- (2) *Ensure operational readiness for the pending execution; and*
- (3) *Report the result of the inspections to the Execution Commander.*

*F. The warden of the facility where the execution is conducted shall relocate the regular occupants of the area designated as the Command Center.*

**.14 Pre-Execution Procedures — 4 Hours Before the Time of Execution.**

*A. The procedures in this regulation shall take place 4 hours before the time of execution.*

B. The Execution Commander shall:

(1) Inspect the Execution Area and ensure readiness for the pending execution; and

(2) Report the result of the inspection under §B(1) of this regulation to the Commissioner.

C. The Command Center Commander shall activate the Command Center ensuring that the Command Center is sufficiently equipped with equipment and supplies necessary for personnel at the Command Center to complete assigned administrative and operational tasks related to the execution.

**.15 Pre-Execution Procedures — 3 Hours Before the Time of Execution.**

A. The procedures in this regulation shall take place 3 hours before the time of execution.

B. The Command Center Commander shall:

(1) Contact witnesses and advise the witnesses:

(a) To depart for the designated staging area for transport to the facility where the execution is conducted; and

(b) Of a contact person at the staging area;

(2) Dispatch the Witness Escort Teams to the assigned staging areas to transport witnesses to the facility;

(3) Advise the contact person at the staging area that witnesses have been advised to report; and

(4) Ensure that waiting areas are prepared at the facility where the execution is conducted pending witness arrival.

C. A Command Center designee shall arrange for a representative of the Chief Medical Examiner to report to the Command Center after being notified that the inmate has been pronounced dead.

D. Except for the attorney of record and authorized clergy, inmate visitations shall end.

**.16 Pre-Execution Procedures — 2 Hours Before the Time of Execution.**

A. The procedures in this regulation shall take place 2 hours before the time of execution.

B. The Execution Team shall report to assigned posts, as follows:

(1) Special Security Unit Team members not presently assigned a post in the Special Security Unit shall report to the Command Center;

(2) The following personnel shall report to the Lethal Injection Room and begin procedures according to the Lethal Injection Checklist under Regulation .22 of this chapter:

(a) Execution Commander;

(b) Execution Team Commander;

(c) Alternate Execution Team Commander;

(d) Execution Team Communications Officer-In-Charge;

(e) Lethal Injection Team Officer-In-Charge;

(f) Injection Team member assigned to prepare the injection; and

(g) Lethal Injection Team Recorder; and

(3) Lethal Injection Team members, other than those under §B(2) of this regulation shall report to the Command Center.

C. The inmate's visitation with the attorney of record shall be discontinued and if the attorney has been approved to witness the execution, the attorney may:

(1) Be escorted to the designated witness waiting area; or

(2) Leave the facility and return to the designated witness waiting area at least 30 minutes before the time of the execution.

D. The inmate's telephone privileges shall end.

E. The Execution Team Communications Officer-In-Charge shall:

(1) Continuously monitor the telephones in the Lethal Injection Room; and

(2) Ensure that the clock in the Execution Room is synchronized with clocks used by the:

(a) Governor, or a designee; and

(b) Attorney General, or a designee.

**.17 Pre-Execution Procedures — 1 Hour Before the Time of Execution.**

A. The procedures in this regulation shall take place 1 hour before the time of execution.

B. Remaining members of the Lethal Injection Team shall:

(1) Report to the Lethal Injection Room; and

(2) Begin set up procedures.

C. Special Security Unit members in the Command Center shall report to the Special Security Unit.

**.18 Pre-Execution Procedures — 20 Minutes Before the Time of Execution.**

A. The procedures in this regulation shall take place 20 minutes before the time of execution.

B. Using security measures and restraints approved by the Commissioner, the Execution Team Commander, the Chief of Security of the facility where the execution is conducted, and members of the Special Security Unit Team shall:

(1) Apply restraints and prepare the inmate for escort from the Special Security Unit to the Execution Room;

(2) Remove the inmate from the cell in the Special Security Unit and escort the inmate to the Execution Room; and

(3) Place the inmate on the table in the Execution Room and restrain the inmate on the table according to security procedures and using restraints approved by the Commissioner.

C. The Division-approved clergy:

(1) May not be in the area of the cell as the inmate is prepared for escort to the Execution Room; and

(2) If requested by the inmate and approved by the Execution Commander, shall be escorted to the Execution Room.

D. The licensed physician attending to determine death of the inmate and members of the Lethal Injection Team shall be escorted to the Lethal Injection Room by a special security unit team member.

E. The Execution Commander shall order witnesses to be moved according to security procedures approved by the Commissioner, from the assigned waiting areas to the witness rooms.

F. Personnel assigned to escort witnesses shall ensure, to the degree possible, that the media and other witnesses do not see or otherwise come in contact with a victim representative.

G. After all witnesses are in the respective witness rooms and seated, an Escort Team Member shall reduce the lighting in the witness rooms.

**.19 Pre-Execution Procedures — Stay of Execution.**

A. The execution process shall stop immediately upon official receipt of information that:

(1) A stay of execution has been issued;

(2) The Warrant of Execution has been recalled; or

(3) A court order stopping the execution has been issued.

B. If the drapes in the Witness Rooms are open the drapes shall be closed and witnesses escorted to the respective waiting areas pending notification from the Execution Commander.

C. The Execution Commander shall:

(1) Confirm the existence of the action stopping the execution;

(2) If a pharmaceutical has been administered:

(a) Ensure that a paramedic trained Execution Team member or if a paramedic trained Execution Team member is not present during the execution, a contracted paramedic on standby immediately outside the execution area takes appropriate action to resuscitate the inmate; and

(b) Request the Command Center Commander to notify inmate health services of the need for medical assistance for the inmate;

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(3) Advise:

(a) The Commissioner; and

(b) The Command Center Commander; and

(4) Meet with the witnesses to explain the circumstances.

D. The Commissioner shall advise the Secretary of the execution being stopped.

E. The Executive Director of the Department Communications Office shall prepare the appropriate press release communicating the circumstances stopping the execution.

## .20 Execution Procedures — Documenting.

A. The Execution Commander shall ensure that the execution process is documented using a Lethal Injection Checklist approved by the Commissioner.

B. The Commissioner shall ensure that the Lethal Injection Checklist, at a minimum, records:

(1) The pharmaceuticals and quantity of each used as an element of the lethal injection component of the death penalty process;

(2) The date of the execution;

(3) Compliance and time of compliance with each item indicated on the Lethal Injection Checklist; and

(4) The individual completing the form.

## .21 Execution Procedures — Pharmaceuticals.

A. The Lethal Injection Team shall use pharmaceuticals and equipment approved by the Commissioner during the lethal injection component of the execution.

B. The member of the Lethal Injection Team designated to prepare syringes used to carry out the death penalty shall prepare the syringes with approved pharmaceuticals prepared for use according to instructions on the pharmaceutical package.

C. The pharmaceuticals used to conduct an execution shall be lethal doses of sodium pentothal, pancuronium bromide, and potassium chloride pushed in intravenous (IV) fluid at an approximate rate of 1 cc per second.

D. When directed by the Execution Commander, the Lethal Injection Team shall administer the pharmaceuticals using syringes prepared under §B of this regulation into the intravenous catheter already inserted in the inmate's vein.

## .22 Lethal Injection Checklist.

A. The elements for conducting an execution are identified on a Lethal Injection Checklist approved by the Commissioner.

B. The following establishes the minimum content of the Lethal Injection Checklist.

(1) Date for the Execution;

(2) Elements of the death penalty process contained in the table in §C of this regulation;

(3) Printed name and title of the individual completing the Lethal Injection Checklist during the execution;

(4) Signature of the individual completing the checklist; and

(5) Date the individual completed the checklist that shall be the date of the execution.

## C. Elements of the Death Penalty Process.

| <b>Death Penalty Procedure</b>   | <b>Completed<br/>"Y"</b> | <b>Time<br/>Completed</b> |
|--|--------------------------|---------------------------|
| <b>Required Staff:</b>   |                          |                           |
| Execution Commander  |                          |                           |
| Execution Team Commander   |                          |                           |
| Alternate Execution Team Commander   |                          |                           |
| Lethal Injection Team – Officer-In-Charge                                      |                          |                           |
| Lethal Injection Team Members  |                          |                           |
| Set-up   |                          |                           |
| IV Hook-up (#1)  |                          |                           |
| IV Hook-up (#2)  |                          |                           |
| Pharmaceutical Administrator   |                          |                           |
| Lethal Injection Team Recorder   |                          |                           |
| Execution Team Communications Officer-In-Charge                                |                          |                           |
| Special Security Unit Team Commander   |                          |                           |
| Special Security Officer Number 1  |                          |                           |
| Special Security Officer Number 2  |                          |                           |
| Special Security Officer Number 3  |                          |                           |
| Special Security Officer Number 4  |                          |                           |
| Special Security Officer Number 5  |                          |                           |
| Special Security Officer Number 6  |                          |                           |
| Special Security Officer Number 7 — Video Camera Operator                      |                          |                           |
| Licensed Physician   |                          |                           |
| Maintenance Team   |                          |                           |
| Maintenance Officer Number 1   |                          |                           |
| Maintenance Officer Number 2   |                          |                           |
| Medical Provider & Crash Cart for staff and witness needs                      |                          |                           |
| <b>Preparations for Operation of the Lethal Injection Room</b>                 |                          |                           |
| Execution Commander inspects execution area 96 hours or less before execution. |                          |                           |

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| Pharmaceuticals obtained 24 or more hours before execution.  |  |  |
| <b>Day of Execution Procedures</b>   |  |  |
| At two hours before the time of execution, the Lethal Injection Team Officer-In-Charge and set up team member transfers pharmaceuticals from storage to the lethal injection drug box. |  |  |
| The lethal injection drug box is locked and sealed.  |  |  |
| The Lethal Injection Team Officer-In-Charge maintains personal control of the lethal injection drug box key.   |  |  |
| Lethal Injection Team Officer-In-Charge and set up team member shall re-inventory all necessary materials.   |  |  |
| The Lethal Injection Team Officer-In-Charge ensures that the drapes for the gas chamber and witness rooms are closed and at least one bed sheet is on the execution table.             |  |  |
| Execution Team Commander has the Certification of Execution completed except for the time of death and signatures.   |  |  |
| <b>IV Setup Procedures</b>   |  |  |
| 60 minutes before execution, Lethal Injection Team members assemble in Lethal Injection Room.  |  |  |
| Alternate Execution Team Commander reports to Lethal Injection Room and is equipped with communication headset to communicate with Command Center.                                     |  |  |
| Lethal Injection Team Officer-In-Charge prepares equipment and completes pre-execution inventory and equipment check.  |  |  |
| <b>Prep Table</b>  |  |  |
| 7 — 60 cc syringes   |  |  |
| 3 — IV bags  |  |  |
| 2 — Administration sets  |  |  |
| 2 — Luer Locks   |  |  |
| 6 — Extensions   |  |  |
| 7 — 18 gauge 1½ inch straight needles  |  |  |
| <b>Instrument Stand Number 1</b>   |  |  |
| 4 — Alcohol prep pads  |  |  |
| 2 — Angiocath 22 gauge   |  |  |
| 2 — Angiocath 20 gauge   |  |  |
| 2 — Angiocath 18 gauge   |  |  |
| 2 — Angiocath 16 gauge   |  |  |
| 1 — Constricting band  |  |  |
| 1 — Roll of medical adhesive tape  |  |  |
| 2 — 4 x 4 gauze pads   |  |  |
| 2 — Sterile absorbent pads   |  |  |
| 6 — EKG monitor electrodes   |  |  |
| 2 — Packets of EKG electrode adhesive  |  |  |
| 1 — Razor  |  |  |
| 1 — Bed sheet  |  |  |
| <b>Instrument Stand Number 2</b>   |  |  |
| 3 — Pair surgical gloves   |  |  |
| 3 — Pair eye protection  |  |  |
| 3 — Surgical masks   |  |  |
| 1 — Needle box   |  |  |
| Lethal Injection Team Officer-In-Charge notifies Execution Team Commander that equipment is prepared.  |  |  |
| Execution Commander approves equipment set-up.   |  |  |
| Execution Team Commander instructs Lethal Injection Team Officer-In-Charge to begin set-up process.  |  |  |
| <b>First Line</b>  |  |  |
| IV bag is opened and inspected.  |  |  |
| Administration set is opened and the flow control valve is closed.   |  |  |
| Attach two extensions.   |  |  |
| Attach Luer lock to end of extensions.   |  |  |
| Spike the IV bag, secure with a twist and fill drip chamber ½ full.  |  |  |
| Start IV flow of fluid until air is purged.  |  |  |
| <b>Second Line</b>   |  |  |
| IV bag is opened and inspected.  |  |  |
| Administration set is opened and the flow control valve is closed.   |  |  |

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| Attach three extensions.   |  |  |
| Attach Luer lock to end of extensions.   |  |  |
| Spike the IV bag, secure with a twist and fill drip chamber ½ full.  |  |  |
| Start IV flow of fluid until air is purged.  |  |  |
| Execution Team Commander instructs Execution Team Officer-In-Charge to prepare pharmaceuticals.  |  |  |
| <b>Pharmaceutical Preparation</b>  |  |  |
| Prepare 3 syringes each <b>color-coded red and labeled #1</b> containing 60 cc sodium pentothal prepared according to instructions on pharmaceutical package label.  |  |  |
| Prepare 2 syringes each <b>color-coded green and labeled #2</b> containing 50 cc pancuronium bromide prepared according to instructions on pharmaceutical package label.   |  |  |
| Prepare 2 syringes each <b>color-coded blue and labeled #3</b> containing 50 cc potassium chloride prepared according to instructions on pharmaceutical package label.   |  |  |
| Lethal Injection Team Officer-In-Charge notifies Execution Commander pharmaceutical syringes are prepared.   |  |  |
| Execution Commander in Execution Room and Execution Team Commander in Lethal Injection Room test red and green lights and turn both off.   |  |  |
| <b>Placement of Inmate in Execution Room (20 Minutes Before Time of Execution)</b>   |  |  |
| Execution Commander directs Execution Team Commander to have inmate escorted from Special Security Unit to Execution Room and placed on execution table with a member of the Special Security Unit Team video recording the escort from when inmate is removed from cell until strapped on the execution table.    |  |  |
| Execution Team Commander directs Special Security Unit Team to prepare inmate for execution.   |  |  |
| Special Security Unit Team places inmate on execution table, straps the inmate to the execution table and inspects to ensure straps are not acting as tourniquets.   |  |  |
| Licensed physician and designated Lethal Injection Team members assemble in the Lethal Injection Room.   |  |  |
| Special Security Unit Team Commander remains in Execution Room while other Special Security Unit Team members leave the Execution Room and return to Special Security Unit.  |  |  |
| Execution Team Commander directs designated Lethal Injection Team members to enter Execution Room to prepare the inmate for injection.   |  |  |
| <b>Injection Preparation — Site 1</b>  |  |  |
| Lethal Injection Team member palpates the inmate's left arm to attain the largest vein possible <b>(If a vein cannot be palpated in the arm, an appropriate alternate site may be palpated and used for the venipuncture to be performed. Additional extensions will be added to the IV line as appropriate.)</b>  |  |  |
| Place sterile pad on the floor below the IV site.  |  |  |
| Insert IV according to generally accepted medical procedures.  |  |  |
| Attach the IV tube and start flow of fluid.  |  |  |
| Remove the constricting band if used.  |  |  |
| Observe intravenous site for swelling or discoloration and confirm flow of IV fluid.   |  |  |
| Secure the IV with medical tape.   |  |  |
| Slow the flow of the IV fluid to keep vein open (KVO).   |  |  |
| Check arm straps to ensure they are not acting as a tourniquet.  |  |  |
| <b>Injection Preparation — Site 2</b>  |  |  |
| Lethal Injection Team member palpates the inmate's right arm to attain the largest vein possible <b>(If a vein cannot be palpated in the arm, an appropriate alternate site may be palpated and used for the venipuncture to be performed. Additional extensions will be added to the IV line as appropriate.)</b> |  |  |
| Place sterile pad on the floor below the IV site.  |  |  |
| Insert IV according to generally accepted medical procedures.  |  |  |
| Attach the IV tube and start flow of fluid.  |  |  |
| Remove the constricting band if used.  |  |  |
| Observe intravenous site for swelling or discoloration and confirm flow of IV fluid.   |  |  |
| Secure the IV with medical tape.   |  |  |
| Slow the flow of the IV fluid to keep vein open (KVO).   |  |  |
| Check arm straps to ensure they are not acting as a tourniquet.  |  |  |
| Remove sterile pads from floor under each IV site.   |  |  |
| EKG monitor leads passed through the portal from Lethal Injection Room and connected to the inmate by designated members of the Lethal Injection Team.   |  |  |
| If possible, cover inmate with bed sheet chest high – Do not cover IV sites  |  |  |
| Rotate execution table to face the witness rooms at about a 45 degree angle  |  |  |
| Both IV bags passed through port to Lethal Injection Room and placed on stands   |  |  |
| Lethal Injection Team Officer-In-Charge verifies that the execution process is ready to begin and notifies the Execution Commander   |  |  |

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| Execution Commander and designated Lethal Injection Team members remain in Execution Room while remaining Lethal Injection Team Members go to Lethal Injection Room  |  |  |
| <b>Escort of Witnesses to Witness Rooms</b>  |  |  |
| Alternate Execution Team Commander directs Command Center to have witnesses escorted to the assigned witness rooms (Victim Representatives first then media and other approved witnesses).   |  |  |
| Witness escort reduces lighting in the Witness Rooms   |  |  |
| Lethal Injection Team members in Execution Room verify that IVs are operating properly and return to the Lethal Injection Room   |  |  |
| Alternate Execution Team Commander directs Command Center to have Maintenance Team turn on closed circuit TV camera in Execution Room.   |  |  |
| Special Security Unit Team Commander opens drapes between the Execution Room and Witness Rooms.  |  |  |
| Execution Commander offers authorized clergy opportunity to speak with the inmate.   |  |  |
| Execution Commander turns on green light in Lethal Injection Room.   |  |  |
| <b>Execution Procedure</b>   |  |  |
| <b>Note:</b> If at any time, the Execution Commander, Execution Team Commander, or Lethal Injection Officer-in-Charge finds it necessary to <b>pause the execution process, the individual pausing the execution process shall turn on the red light and turn off the green light. In the event a notice of a stay or revocation of the Warrant of Execution is received, the Execution Team Communications Officer-In-Charge shall inform the Execution Team Commander, and the execution process shall immediately cease. If open, the Witness Room drapes shall be immediately closed until the cause is determined. After witness room drapes are closed, witness escorts shall immediately escort witnesses to designated waiting areas. The Alternate Execution Team Commander shall direct the Command Center to notify the witness escorts of a delay. If the execution is to resume, the Alternate Execution Team Commander shall direct the Command Center to have the witnesses escorted to the Witness Room in a manner identical to the original procedure.</b> |  |  |
| The Execution Team Commander shall turn on the green light in the Execution Room indicating the Sodium Pentothal coded #1 (color coded RED) is being administered.   |  |  |
| 60 cc syringe of sodium pentothal coded #1 (color coded RED) is inserted and locked into Y Port, flow clamp opened and the medication administered at the rate of approximately 1 cc per second. Syringe is removed.   |  |  |
| Second 60 cc syringe of sodium pentothal coded #1 (color coded RED) is locked into the Y Port and administered at the rate of approximately 1 cc per second. Syringe is removed.   |  |  |
| Run the IV wide open for 10 seconds before starting pancuronium bromide. Keep IV running wide open for at least 10 seconds after the 3 <sup>rd</sup> pharmaceutical is administered.   |  |  |
| Execution Team Commander shall turn off the green light in the Execution Room indicating the sodium pentothal #1 (color coded RED) has been administered.  |  |  |
| The Execution Team Commander shall turn on the green light in the Execution Room indicating the pancuronium bromide coded #2 (color coded GREEN) is being administered.  |  |  |
| 50 cc syringe of pancuronium bromide coded #2 (color coded GREEN) is inserted and locked into the Y Port and the medication administered at the rate of approximately 1 cc per second. Syringe is removed.   |  |  |
| Run the IV wide open for 10 seconds before starting potassium chloride. Keep IV running wide open for at least 10 seconds after the 3 <sup>rd</sup> pharmaceutical is administered.  |  |  |
| Execution Team Commander shall turn off the green light in the Execution Room indicating the pancuronium bromide #2 (color coded GREEN) has been administered.   |  |  |
| The Execution Team Commander shall turn on the green light in the Execution Room indicating the potassium chloride coded #3 (color coded BLUE) is being administered.  |  |  |
| 50 cc syringe of potassium chloride coded #3 (color coded BLUE) is inserted and locked into the Y Port and the medication administered at the rate of approximately 1 cc per second. Syringe is removed.   |  |  |
| Wait at least 10 seconds with IV running wide open and reduce the flow to Keep Vein Open (KVO).  |  |  |
| Execution Team Commander shall turn off the green light in the Execution Room indicating the potassium chloride #3 (color coded BLUE) has been administered.   |  |  |
| When the EKG monitor indicates that no heart activity is occurring, the licensed physician observing the EKG monitor in the Lethal Injection Room shall advise the Execution Team Commander.   |  |  |
| The Execution Team Commander shall continuously turn the green light on and off in a blinking manner until the Special Security Team Commander begins to close the drapes to the Witness Rooms.  |  |  |
| After the drapes to the Witness Rooms are closed, the Execution Commander shall:<br>Turn off the green light in the Lethal Injection Room.<br>Have the Witnesses escorted to assigned waiting areas. (Ensure Witness Room door is closed and locked.)  |  |  |
| Alternate Execution Team Commander directs Command Center to have Maintenance Team member turn off closed circuit TV camera in the Execution Room.   |  |  |
| The licensed physician shall pronounce the inmate dead.  |  |  |
| Shut off IV.   |  |  |

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| <b>Post Execution</b>  |  |  |
| <i>The Execution Commander shall enter the time of death on the <b>Certification of Execution</b>.</i>   |  |  |
| <i>The Execution Commander shall have <b>Certification of Execution</b> taken for signature by the Citizen and Media witnesses.</i>  |  |  |
| <i>The Execution Commander shall ensure that a victim representative is offered the opportunity to sign the <b>Certification of Execution</b>.</i>   |  |  |
| <i>The Alternate Execution Team Commander shall notify the Command Center of the time of death and direct the Command Center to make appropriate notifications.</i>  |  |  |
| <i>Lethal Injection Team members shall remove IV and EKG monitor leads and pass them through the port into the Lethal Injection Room.</i>  |  |  |
| <i>Lethal Injection Team Officer-in-Charge collects all equipment.</i>   |  |  |
| <i>Unused Sodium Pentothal (vials that had been opened for the execution) is turned over to the representative of the Medical Examiner's Office and a receipt is obtained. Other unused drugs are secured, placed in the Lethal Injection Drug Box and held for approximately 10 days.</i> |  |  |
| <i>Body is photographed by the Special Security Unit Team.</i>   |  |  |
| <i>The Special Security Unit Team removes clothing from the body and places the body in a body bag.</i>  |  |  |
| <i>Body is disposed of per predetermined arrangements.</i>   |  |  |
| <i>Execution Commander collects completed and signed <b>Lethal Injection Checklist</b> from the recorder.</i>  |  |  |
| <i>Execution Commander verifies that the time of death is noted and all signatures are in place on the <b>Certification of Execution</b>.</i>  |  |  |
| <i>The Execution Commander shall conduct a debriefing and critique of the execution process in the Command Center.</i>   |  |  |
| <b>Disposal of Pharmaceuticals (Approximately 10 days after execution)</b>   |  |  |
| <i>Execution Team Commander, upon notification from Execution Commander, designates staff member to dispose of pharmaceuticals.</i>  |  |  |
| <i>Disposal of the Sodium Pentothal is coordinated with the Office of the Chief Medical Examiner, if not done immediately following the execution.</i>   |  |  |
| <i>Disposal of the pancuronium bromide and potassium chloride is done via facility sanitation disposal procedures.</i>   |  |  |

**.23 Post Execution Procedures.**

**A. Witnesses.**

(1) Upon notice that the inmate has been pronounced dead, the drapes for the witness rooms shall be closed.

(2) The Witness Escort Team personnel shall escort the witnesses to the designated waiting areas so as not to permit media or other witnesses to see or contact a victim representative.

(3) The Execution Commander's designee shall:

(a) Have each media and other official witness sign the Certification of Execution approved by the Commissioner; and

(b) Offer the Certification of Execution for signature (not required) by a victim representative.

(4) The Witness Escort Team shall transport the witnesses from the facility to the designated staging areas unless the witness arranges other transportation.

(5) A victim representative may attend the media briefing under §E of this regulation.

(6) A victim representative attending the media briefing shall be escorted back to the designated staging area after the media briefing by the designated escort officer unless the victim representative arranges other transportation.

**B. Upon notification by the Command Center that the inmate has been pronounced dead, the representative of the Chief Medical Examiner shall report to the Special Security Unit to complete and sign the official certificate of death.**

**C. Funeral or Other Final Arrangements.**

(1) If the inmate previously made funeral or other final arrangements, the Chief of Security of the facility where the execution was conducted shall initiate action to comply with the requested disposition.

(2) If the inmate did not make funeral or other final arrangements, the Chief of Security of the facility conducting the

execution shall comply with Division procedures for final disposition of a deceased inmate.

D. If a victim representative did not witness the execution and if the victim representative requested notification, the Commissioner shall ensure the victim representative is immediately notified of the inmate's death.

E. The Executive Director of the Department Communications Office, or a designee, shall conduct a media briefing concerning the execution.

F. The Execution Commander shall collect forms signed by participants in the execution.

G. As soon as possible after the execution, either during or after the media briefing under §E of this regulation, the Execution Commander shall have officials involved in the execution process report to the Command Center for a post execution critique and debriefing.

H. Within 24 hours of the execution the warden of the facility where the execution was conducted shall submit the following to the Execution Commander:

(1) An incident report completed according to Division procedures;

(2) Except for the names of the Execution Team members and the licensed physician determining death that shall be sealed in an envelope that may only be opened by court order, a list of Division personnel participating in the execution process and the activity performed;

(3) A list of official witnesses;

(4) A list of individuals from allied agencies participating and the activity performed;

(5) The completed original or copy of the Lethal Injection Checklist completed by the recorder;

(6) The completed original or copy of the Certification of Execution signed by the witnesses; and



(7) *Other official documents required by the Governor, Secretary, or Commissioner.*

*I. Upon receipt of the information under §H of this regulation, the Execution Commander shall prepare and deliver a summary of the execution to the Commissioner.*

*J. Within 10 days of the execution, the Commissioner shall file the Certificate of Execution with the clerk of the court with jurisdiction where the executed inmate was indicted.*

GARY D. MAYNARD

Secretary of Public Safety and Correctional Services

## 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 Proposed Action

[10-317-P]

The Maryland State Lottery Agency proposes to amend Regulation .13 under **COMAR 14.01.10 Video Lottery Terminals**. This action was considered at the Maryland State Lottery Commission open meetings held on July 22, August 26, and September 16, 2010, notice of which was given pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

#### Statement of Purpose

The purpose of this action is to update regulations to incorporate provisions required for the implementation and operation of the State's new Video Lottery Terminal program and for the VLT Facilities which began opening in September 2010.

#### Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

#### Estimate of Economic Impact

The proposed action has no economic impact.

#### Economic Impact on Small Businesses

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

#### Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

#### Opportunity for Public Comment

Comments may be sent to Robert W. Howells, Regulations Coordinator, Maryland State Lottery Agency, 1800 Washington Boulevard, Suite 330, Baltimore, MD 21230, or call 410-230-8789, or email to [rhowells@msla.state.md.us](mailto:rhowells@msla.state.md.us), or fax to 410-230-8727. Comments will be accepted through December 20, 2010. A public hearing has not been scheduled.

#### .13 Video Lottery Employee Licenses.

A.—B. (text unchanged)

C. Gaming Employee License. The Commission may issue a gaming employee license to an individual who has:

(1) (text unchanged)

(2) *Paid a license fee of \$200;*

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

[(7)] (8) Received at least a conditional offer of employment from a licensed facility operator, manufacturer, or contractor; [and]

[(8)] (9) Provided the Commission with sufficient information to establish that the individual has otherwise qualified for a gaming employee license[.]; and

(10) *Demonstrated that within the 365 days before the application is submitted, the applicant has not served as a Commission member or been employed by the Agency.*

D. Non-Gaming License. The Commission may issue a non-gaming employee license to an individual who has:

(1) (text unchanged)

(2) *Paid a license fee of \$100;*

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

[(5)] (6) Received at least a conditional offer of employment from a licensed facility operator, manufacturer, or contractor; [and]

[(6)] (7) Provided the Commission with sufficient information to establish that the individual has otherwise qualified for a gaming employee license[.]; and

(8) *Demonstrated that within the 365 days before the application is submitted, the applicant has not served as a Commission member or been employed by the Agency.*

E. (text unchanged)

[F.] (proposed for repeal)

F. *A video lottery employee may not play a video lottery terminal at, or receive a jackpot or complimentary service from, a facility:*

(1) *Where the individual is employed; or*

(2) *That is operated by the individual's employer.*

G. (text unchanged)

H. Term; Renewal.

(1) (text unchanged)

(2) The Commission may renew the license if, before the term of the license expires, the licensee:

(a) —(d) (text unchanged)

(e) Pays a nonrefundable application fee of:

(i) [\$50] \$200 for gaming employees; or

(ii) [\$25] \$100 for non-gaming employees.

I. (text unchanged)

STEPHEN L. MARTINO

Director

State Lottery Agency

## Subtitle 03 COMMISSION ON HUMAN RELATIONS

### 14.03.02 Anti-Discrimination Relating to Persons with Disabilities

Authority: State Government Article, §§10-111, 10-111.1(b), 10-205, [and] 2-506, and 20-207, [Article 49B, §3;] Annotated Code of Maryland; 62 Opinions of the Attorney General 36 (1977)

#### Notice of Proposed Action

[10-316-P]

The Maryland Commission on Human Relations proposes to amend and recodify Regulations .01, .02, .07, .09, and .14 under **COMAR 14.03.02 Anti-Discrimination Relating to Persons with Disabilities**.

#### Statement of Purpose

The purpose of this action is to correct internal citations as a result of the Article 49B code revision to Title 20 of the State Government Article, Annotated Code of Maryland.

#### Comparison to Federal Standards

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

### **Estimate of Economic Impact**

The proposed action has no economic impact.

### **Economic Impact on Small Businesses**

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

### **Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

### **Opportunity for Public Comment**

Comments may be sent to Glendora C. Hughes, General Counsel, Maryland Commission on Human Relations, 6 St. Paul Street, 9th Floor, Baltimore, MD 21202, or call 410-767-8572, or email to ghughes@mail.mchr.state.md.us, or fax to 410-333-1841. Comments will be accepted through December 20, 2010. A public hearing has not been scheduled.

### **Open Meeting**

Final action on the proposal will be considered by the Maryland Commission on Human Relations during a public meeting to be held on January 11, 2011, at 10 a.m., at 6 St. Paul Street, 9th Floor, Baltimore, MD 21202.

### **.01 Statement of General Purpose.**

These regulations were adopted to contribute to the implementation of nondiscriminatory policies in employment and public accommodations with respect to persons with disabilities as required by [Article 49B] *State Government Article, Title 20*, Annotated Code of Maryland.

### **.02 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) "Covered entity" means a person or entity subject to the jurisdiction of the Commission under [Article 49B, §4, 5, 7, 12A, 15, 16, or 17] *State Government Article, §§20-301—20-305, 20-601, 20-606—20-607, 20-609, 20-801, 20-901—20-904, or 20-1017*, Annotated Code of Maryland.

(3) — (7) (text unchanged)

(8) "Place of public accommodation" has the meaning stated in [Article 49B, §5(c)] *State Government Article, §20-301*, Annotated Code of Maryland.

(9) — (10) (text unchanged)

(11) "Qualified historic building or facility" means a building or facility that is:

(a) (text unchanged)

(b) Listed in or eligible for listing in the Maryland Register of Historic Properties under [Article 83B, §5-615] *State Finance and Procurement Article, §5A-323*, Annotated Code of Maryland; or

(c) (text unchanged)

(12) — (15) (text unchanged)

### **.07 Preemployment Inquiries.**

A. — C. (text unchanged)

D. Information obtained in accordance with this section as to the condition or history of the employee or applicant shall be collected and maintained on separate forms in separate files that are accorded confidentiality as medical records, except that:

(1) — (2) (text unchanged)

(3) The staff of the Commission investigating compliance with [Article 49B, §16] *State Government Article, §20-606*, Annotated Code of Maryland, shall be provided medical information upon request.

### **.09 Public Accommodations Practices.**

A. (text unchanged)

B. Unlawful Practices in Public Accommodations Specifically.

(1) — (6) (text unchanged)

(7) Surcharge. An owner, operator, manager, or lessor of a place of public accommodation[,] may not impose a surcharge on an individual with a disability to cover the costs of complying with [Article 49B, §5] *State Government Article, §§20-301—20-305*, Annotated Code of Maryland.

### **.14 Affirmative Action to Inform.**

A person engaged in a business which falls within the areas covered by [Article 49B] *State Government Article, Title 20*, Annotated Code of Maryland, shall take affirmative action to inform individuals with disabilities, as well as the public in general, of nondiscriminatory policies with respect to individuals with disabilities.

GLENDORA C. HUGHES

General Counsel

## **Subtitle 03 COMMISSION ON HUMAN RELATIONS**

### **14.03.04 Fair Housing Regulations**

Authority: State Government Article, §§10-204, 20-710(d)(1), and 20-1034, [Article 49B, §§32(d)(3) and 35;] Annotated Code of Maryland

#### **Notice of Proposed Action**

[10-318-P]

The Maryland Commission on Human Relations proposes to amend Regulations .03, .04, and .06—.14, adopt new Regulation .15, and amend and recodify existing Regulations .15—.18 to become Regulations .16—.19 under COMAR 14.03.04 Fair Housing Regulations.

#### **Statement of Purpose**

The purpose of this action is to correct internal citations as a result of the Article 49B code revision to Title 20 of the State Government Article, Annotated Code of Maryland. The proposed action also serves to clarify procedures as it relates to the election of a civil action and subpoena enforcement powers of the Commission.

#### **Comparison to Federal Standards**

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

#### **Estimate of Economic Impact**

The proposed action has no economic impact.

#### **Economic Impact on Small Businesses**

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

#### **Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

#### **Opportunity for Public Comment**

Comments may be sent to Glendora C. Hughes, General Counsel, Maryland Commission on Human Relations, 6 St. Paul Street, 9th Floor, Baltimore, MD 21202, or call 410-767-8572, or email to ghughes@mail.mchr.state.md.us, or fax to 410-333-1841. Comments will be accepted through December 20, 2010. A public hearing has not been scheduled.

#### **Open Meeting**

Final action on the proposal will be considered by the Maryland Commission on Human Relations during a public meeting to be held on January 11, 2011, at 10 a.m., at 6 St. Paul Street, 9th Floor, Baltimore, MD 21202.

**.03 Definitions.**

- A. (text unchanged)
- B. Terms Defined.
  - (1) — (3) (text unchanged)
  - (4) “Aggrieved person” has the meaning stated in [Article 49B, §20(b)] *State Government Article*, §20-1020(b), Annotated Code of Maryland.
  - (5) — (7) (text unchanged)
  - (8) “Complainant” has the meaning stated in [Article 49B, §20(c)] *State Government Article*, §20-101(c), Annotated Code of Maryland.
  - (9) “Conciliation” has the meaning stated in [Article 49B, §20(d)] *State Government Article*, §20-1020(c), Annotated Code of Maryland.
  - (10) “Conciliation agreement” has the meaning stated in [Article 49B, §20(e)] *State Government Article*, §20-1020(d), Annotated Code of Maryland.
  - (11) “Charge” means a written statement prepared by the Commission’s general counsel and issued under [Article 49B, §30(a)(2)(ii)] *State Government Article*, §20-1025(b)(2), Annotated Code of Maryland, which contains a factual allegation or allegations of an unlawful discriminatory housing practice or practices.
  - (12) “Covered multifamily dwelling” has the meaning stated in [Article 49B, §20(f)] *State Government Article*, §20-706(a), Annotated Code of Maryland.
  - (13) Disability.
    - (a) “Disability” has the meaning stated in [Article 49B, §20] *State Government Article*, §20-701(b), Annotated Code of Maryland.
    - (b) (text unchanged)
  - (14) “Discriminatory housing practice” has the meaning stated in [Article 49B, §20(g)] *State Government Article*, §20-701(c), Annotated Code of Maryland.
  - (15) “Dwelling” has the meaning stated in [Article 49B, §20(h)] *State Government Article*, §20-701(d), Annotated Code of Maryland.
  - (16) — (17) (text unchanged)
  - (18) “Familial status” has the meaning stated in [Article 49B, §20(i)] *State Government Article*, §20-701(e), Annotated Code of Maryland.
  - (19) “Family” has the meaning stated in [Article 49B, §20(j)] *State Government Article*, §20-701(f), Annotated Code of Maryland.
  - (20) “Housing for older persons” has the meaning stated in [Article 49B, §20(l)] *State Government Article*, §20-704(c)(1), Annotated Code of Maryland.
  - (21) (text unchanged)
  - (22) “In the business of selling or renting a dwelling” has the meaning stated in [Article 49B, §20(m)] *State Government Article*, §20-701(g), Annotated Code of Maryland.
  - (23) — (24) (text unchanged)
  - (25) “Marital status” has the meaning stated in [Article 49B, §20(n)] *State Government Article*, §20-701(h), Annotated Code of Maryland.
  - (26) — (28) (text unchanged)
  - (29) “Person” has the meaning stated in [Article 49B, §20(o)] *State Government Article*, §1-101, Annotated Code of Maryland.
  - (30) “Prevailing party” has the meaning stated in [Article 49B, §20(p)] *State Government Article*, §20-1020(f), Annotated Code of Maryland.
  - (31) — (32) (text unchanged)
  - (33) “Residential real estate related transaction” has the meaning stated in [Article 49B, §20(r)] *State Government Article*, §20-707(a), Annotated Code of Maryland.
  - (34) “Respondent” has the meaning stated in [Article 49B, §20(s)] *State Government Article*, §20-101(e), Annotated Code of Maryland.

[(35) “Restrictive covenants” has the meaning stated in Article 49B, §20(t), Annotated Code of Maryland.]

[(36)] (35) — [(37)] (36) (text unchanged)

[(38)] (37) “To rent” has the meaning stated in [Article 49B, §20(q)] *State Government Article*, §20-701(i), Annotated Code of Maryland.

**.04 Unlawful Practices Generally.**

A. Real Estate Practices Prohibited. In accordance with the Commission’s interpretation of discriminatory housing practices, under [Article 49B, §22] *State Government Article*, §§20-705 and 20-707—20-708, Annotated Code of Maryland, it shall be unlawful for a person to:

(1) — (6) (text unchanged)

(7) Intimidate or interfere with or attempt to intimidate or interfere with a person intentionally because of race, color, religion, sex, disability, familial status, marital status, national origin, or sexual orientation whether acting under color of law, by force or threat of force:

(a) (text unchanged)

(b) Because a person has made a complaint, testified, assisted, or participated in any manner in a proceeding under [Article 49B] *State Government Article*, Title 20, Annotated Code of Maryland.

B. — F. (text unchanged)

**.06 Discrimination in Real Estate Related Transactions.**

A. Discriminatory Practices in Residential Real Estate Related Transactions.

(1) This regulation provides the Commission’s interpretation of the conduct that is unlawful housing discrimination under [Article 49B, §23] *State Government Article*, §20-707, Annotated Code of Maryland.

(2) (text unchanged)

B. — E. (text unchanged)

**.07 Prohibition Against Discrimination Because of Disability.**

A. This regulation provides the Commission’s interpretation of the conduct that is unlawful housing discrimination against an individual who has a disability under *State Government Article*, §20-706, *Annotated Code of Maryland*.

B. — F. (text unchanged)

**.08 Housing for Older Persons.**

A. Purpose. The purpose of this regulation is to effectuate the exemption in [Article 49B, §20(l)(1)] *State Government Article*, §20-704(c), Annotated Code of Maryland, that relates to housing for older persons.

B. — F. (text unchanged)

**.09 Prohibited Interference, Coercion, Intimidation, or Retaliation.**

A. It shall be unlawful housing discrimination to coerce, intimidate, threaten, or interfere with a person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged another person in the exercise or enjoyment of, a right granted or protected by [Article 49B] *State Government Article*, Title 20, Annotated Code of Maryland.

B. Unlawful conduct under this regulation includes, but is not limited to:

(1) — (4) (text unchanged)

(5) Retaliating against a person because that person has made a complaint, testified, assisted, or participated in any manner in a proceeding under [Article 49B] *State Government Article*, Title 20, Annotated Code of Maryland.

# **.10 Fair Housing Complaint.**

## **A. Who May File.**

(1) Any person who claims to have been aggrieved by an act or acts of unlawful housing discrimination prohibited by [Article 49B] *State Government Article, Title 20*, Annotated Code of Maryland, may file a complaint with the Commission.

(2) (text unchanged)

(3) Commission-Initiated Complaints. In accordance with Article [Article 49B, §9A(b)] *State Government Article, §20-1004(d)*, Annotated Code of Maryland, the Commission may initiate a complaint in its own name if the Commission:

(a) — (c) (text unchanged)

## **B. — D. (text unchanged)**

## **E. Form and Content of Complaint.**

(1) — (7) (text unchanged)

(8) Notwithstanding the requirement for using a prescribed form, the Commission may accept a written statement which substantially sets forth the allegations of a discriminatory housing practice under [Article 49B] *State Government Article, Title 20*, Annotated Code of Maryland.

(9) (text unchanged)

## **F. Amendment of Complaint.**

(1) (text unchanged)

(2) The amendments may include but are not limited to:

(a) — (c) (text unchanged)

(d) Amendments to allege additional acts which constitute discriminatory housing practices under [Article 49B] *State Government Article, Title 20*, Annotated Code of Maryland, which relate back to or grow out of the subject matter of the original complaint.

(3) (text unchanged)

# **.11 Complaint Processing.**

## **A. (text unchanged)**

## **B. Notification of Aggrieved Person.**

(1) (text unchanged)

(2) The notice shall:

(a) — (c) (text unchanged)

(d) Advise the aggrieved person of the right to commence a civil action under [Article 49B, §33] *State Government Article, §20-1035*, Annotated Code of Maryland, in an appropriate State court, not later than 2 years after the occurrence or termination of the alleged discriminatory housing practice, noting that:

(i) (text unchanged)

(ii) The time period includes the time during which an action arising from a breach of conciliation agreement under Regulation .13 of this chapter, and [Article 49B, §28] *State Government Article, §20-1024*, Annotated Code of Maryland, is pending; and

(e) Advise the aggrieved person that retaliation against a person because the person made a complaint, testified, assisted, or participated in an investigation or conciliation under these regulations is a discriminatory housing practice that is prohibited by [Article 49B] *State Government Article, Title 20*, Annotated Code of Maryland.

## **C. Notification of Respondent; Joinder of Additional or Substitute Respondents.**

(1) — (2) (text unchanged)

(3) At a minimum, the notice shall:

(a) — (b) (text unchanged)

(c) Advise the respondent of the time limits applicable to complaint processing under this chapter and of the procedural rights and obligations of the respondent under [Article 49B, §§19—37] *State Government Article, §§20-701—20-710 and 20-1020—20-1037*, Annotated Code of Maryland, including the opportunity to

submit an answer to the complaint within 10 days of the receipt of the notice;

(d) Advise the respondent of the aggrieved person's right to commence a civil action in an appropriate State court, not later than 2 years after the occurrence or termination of the alleged discriminatory housing practice and state:

(i) (text unchanged)

(ii) The time period includes the time during which an action arising from a breach of a conciliation agreement under [Article 49B, §28] *State Government Article, §20-1024*, Annotated Code of Maryland, is pending;

(e) (text unchanged)

(f) Advise the respondent that retaliation against a person because the person made a complaint, testified, assisted, or participated in an investigation or conciliation is a discriminatory housing practice that is prohibited under [Article 49B] *State Government Article, Title 20*, Annotated Code of Maryland, and these regulations; and

(g) (text unchanged)

D. — F. (text unchanged)

# **.12 Investigative Process.**

## **A. Investigations.**

(1) — (2) (text unchanged)

(3) The investigative process involves:

(a) — (b) (text unchanged)

(c) Developing factual data necessary for a determination whether probable cause exists to believe that a discriminatory housing practice has occurred or is about to occur and to take other actions provided under this chapter and [Article 49B] *State Government Article, Title 20*, Annotated Code of Maryland; and

(d) (text unchanged)

## **B. Systemic Processing.**

(1) — (2) (text unchanged)

(3) Systemic investigations may focus not only on documenting facts involved in the alleged discriminatory housing practice that is the subject of the complaint, but also on review of other policies and procedures related to matters under investigation, to make sure they also comply with the nondiscrimination requirements of [Article 49B] *State Government Article, Title 20*, Annotated Code of Maryland.

## **C. Conduct of Investigation.**

(1) — (4) (text unchanged)

(5) Investigatory Subpoena. [An investigator may issue a subpoena upon written authorization of the Executive Director or designee in accordance with COMAR 14.03.01.05C(4).]

(a) *In accordance with COMAR 14.03.01.05C(4), the Commission may, upon written authorization of the Executive Director or designee, issue a subpoena to compel the attendance and testimony of witnesses or to compel the production of books, papers, and documents relevant or necessary to an investigation or hearing.*

(b) *The Commission may bring an action to enforce the subpoena in the circuit court for the county in which the person to whom the subpoena is addressed resides, was served, or transacts business.*

D. — F. (text unchanged)

G. Dismissal of Proceedings. The Executive Director or designee may dismiss cases which have not been certified for public hearing, at any stage of the proceedings in accordance with COMAR [14.03.01.04E] *14.03.01.04F*.

# **.13 Conciliation Process.**

## **A. (text unchanged)**

## **B. Conciliation Agreement.**

(1) — (3) (text unchanged)

(4) The provisions that may be sought for the vindication of the public interest are described in Regulation [.14D(2)] .17B(3) of this chapter.

(5) — (7) (text unchanged)

**C. Relief Sought for Aggrieved Persons.**

(1) Administrative Relief. In conciliation, the Commission may seek any relief in accordance with Regulation [.14D] .17B of this chapter.

(2) (text unchanged)

D. — F. (text unchanged)

**G. Prohibitions and Requirements—Disclosure of Information Obtained During Conciliation.**

(1) Except as provided in §G(2) of this regulation, nothing that is said or done in the course of conciliation under this regulation may be made public or used as evidence in a subsequent administrative hearing or civil action under [Article 49B] *State Government Article, Title 20*, Annotated Code of Maryland, without the written consent of the persons concerned.

(2) — (3) (text unchanged)

H. — I. (text unchanged)

**.14 Certification for Hearing Processing.**

[A. Certification of File.]

[(1)] A. — [(3)] C. (text unchanged)

[(4)] D. The General Counsel, on review of a certified file, may remand the case to the Executive Director or designee for:

[(a)] (1) — [(b)] (2) (text unchanged)

[(5)] E. The General Counsel, on review of a certified file, shall determine whether the matter involves the legality of local zoning or land use laws or ordinances and shall do the following:

[(a)] (1) Immediately refer the investigative materials to the Attorney General for appropriate action in accordance with [Article 49B, §30(b)(2)] *State Government Article, §20-1025(c)(1)*, Annotated Code of Maryland; and

[(b)] (2) (text unchanged)

[(6)] F. Not less than 60 days after the General Counsel refers the matter to the Attorney General under [§A(5)] §E of this regulation, the Commission may issue a charge or take other appropriate action in the matter.

[(7)] G. If a federal or State civil action is commenced prior to the filing of the statement of charges alleging unlawful housing discrimination under the same facts, the Commission shall dismiss the case prior to the filing of the statement of charges pursuant to COMAR [14.03.01.04E] *14.03.01.04F*.

[B.] (proposed for repeal)

**.15 Election of Civil Action or Provision of Administrative Proceeding.**

**A. Election Process.**

(1) When a complaint is certified for further processing pursuant to *State Government Article, §20-1025(a)*, Annotated Code of Maryland, a complainant, respondent, or aggrieved person on whose behalf the complaint was filed may elect to have the claims asserted in the complaint decided in a civil action under *State Government Article, §20-1032*, Annotated Code of Maryland, instead of by an administrative hearing under *State Government Article, §20-1027*, Annotated Code of Maryland.

(2) The election authorized under *State Government Article, §20-1026*, Annotated Code of Maryland, shall be made not later than:

(a) 20 days after the complainant, respondent, or aggrieved person on whose behalf the complaint was filed receives service under *State Government Article, §20-1025(e)*, Annotated Code of Maryland; or

(b) In the case of the Commission, 20 days after service is made to all other parties under *State Government Article, §20-1025(e)*, Annotated Code of Maryland.

(3) A person who makes an election under *State Government Article, §20-1026*, Annotated Code of Maryland, shall give notice of the election to the Commission and to all other complainants, respondents, and aggrieved persons on whose behalf the complaint was filed or to whom the complaint relates.

**B. Civil Action by the Commission.**

**(1) Action Brought on Behalf of Aggrieved Person.**

(a) Commencement. In accordance with *State Government Article, §20-1032*, Annotated Code of Maryland, if an election is made to pursue judicial action under *State Government Article, §20-1026*, Annotated Code of Maryland, the Commission's General Counsel shall commence and maintain, not later than 60 days after the election is made, a civil action seeking relief under *State Government Article, §20-1026*, Annotated Code of Maryland, on behalf of the aggrieved person in the circuit court for the county where the dwelling that is the subject of the alleged discrimination is located.

(b) A hearing under Regulation .16 of this chapter and *State Government Article, §20-1027*, Annotated Code of Maryland, may not continue regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved person under federal law or State law seeking relief with respect to that discriminatory housing practice.

(c) Relief. Relief and civil penalties shall be awarded in accordance with *State Government Article, §20-1032(b)*, Annotated Code of Maryland.

(d) Intervention. Any aggrieved person with respect to the issues to be determined in a civil action under *State Government Article, §20-1032* may intervene as of right.

**(2) Commission-Initiated Civil Action.**

(a) Commencement. Pursuant to *State Government Article, §20-1036(a)*, Annotated Code of Maryland, the Commission may commence a civil action in the appropriate circuit court if the Commission has probable cause to believe that:

(i) A person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by *State Government Article, Title 20, Subtitle 7 and Subtitle 10, Part II*, Annotated Code of Maryland, or any group of persons has been denied any of the rights granted by *State Government Article, Title 20, Subtitles 7 and Subtitle 10, Part II*, Annotated Code of Maryland; and

(ii) The resistance and denial raises an issue of general public importance.

(b) A hearing under Regulation .16 of this chapter and *State Government Article, §20-1027*, Annotated Code of Maryland, may not continue regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the Commission under federal law or State law seeking relief with respect to that discriminatory housing practice.

(c) Relief and attorney's fees shall be awarded in accordance with *State Government Article, §20-1036(c)*, Annotated Code of Maryland.

**(d) Intervention.**

(i) On timely application, a person may intervene in a civil action commenced by the Commission under §B(2)(a)—(b) of this regulation if the action involves an alleged discriminatory housing practice to which the person is an aggrieved person or a conciliation agreement to which the person is a party.

(ii) A court may grant relief to an intervening party in accordance with *State Government Article, §20-1036(d)(2)*, Annotated Code of Maryland.

*C. Civil Action by Aggrieved Person; Private Right of Action.*

(1) Pursuant to State Government Article, §20-1035, Annotated Code of Maryland, an aggrieved person may file a civil action against the respondent in the appropriate State court to obtain relief for an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under State Government Article, Title 20, Subtitle 7, Annotated Code of Maryland.

(2) Filing Period.

(a) The action shall be filed within 2 years after the occurrence or termination of the alleged discriminatory housing practice, or the breach of a conciliation agreement, whichever is later.

(b) The 2-year period does not include any time during which an administrative proceeding was pending for a complaint based on the alleged discriminatory housing practice under State Government Article, Title 20, Subtitle 7, Annotated Code of Maryland.

(3) Exceptions.

(a) Except for the purposes of enforcing a conciliation agreement, an aggrieved person may not commence a civil action for the alleged discriminatory housing practice that forms the basis of the complaint if the Commission or a State or local unit has obtained a conciliation agreement with the consent of the aggrieved person.

(b) If an administrative law judge has commenced a hearing on the record under Regulation .16 of this chapter with respect to the charge, an aggrieved person may not commence a civil action for the alleged discriminatory housing practice that forms the basis of the charge issued by the Commission.

(4) A hearing under Regulation .16 of this chapter and State Government Article, §20-1027, Annotated Code of Maryland, may not continue regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by an aggrieved person under federal or State law seeking relief with respect to that discriminatory housing practice.

(5) Relief.

(a) Relief shall be awarded in accordance with State Government Article, §20-1035(e), Annotated Code of Maryland.

(b) Relief granted under State Government Article, §20-1035, Annotated Code of Maryland, may not affect any contract, sale, encumbrance, or lease consummated before the granting of relief and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the filing of a complaint with the Commission or civil action under State Government Article, §20-1035, Annotated Code of Maryland.

(6) Intervention by the Commission. If the Commission certifies that the case is of general public importance and upon timely application, the Commission may intervene in a civil action brought under State Government Article, §20-1035, Annotated Code of Maryland, and obtain any relief available under State Government Article, §20-1036(c), Annotated Code of Maryland.

*D. Provision of Administrative Proceeding.*

(1) Issuance of Statement of Charges.

(a) When a party does not elect a civil action, the Commission's General Counsel shall serve a copy of the statement of charges to each respondent and each aggrieved person on whose behalf the complaint was filed by certified mail or personal service.

(b) The Commission's General Counsel shall file the statement of charges not later than 30 days after the case is certified for public hearing and service is made to all parties under State Government Article, §20-1025(e), Annotated Code of Maryland.

(c) The statement of charges shall contain:

(i) An allegation that the person on whose behalf the complaint is filed is a proper complainant within the meaning of State Government Article, Title 20, Annotated Code of Maryland;

(ii) An allegation that the respondent is a proper respondent within the meaning of, and subject to, provisions of State Government Article, Title 20, Annotated Code of Maryland;

(iii) A factual allegation or allegations of an unlawful discriminatory housing practice or practices; and

(iv) A prayer for relief sought.

(d) The Commission's General Counsel may not issue a charge under this regulation after the beginning of the trial of a civil action that is commenced by an aggrieved party under federal law or State law and that seeks relief for the same discriminatory housing practice alleged in that aggrieved party's complaint.

(2) Answer.

(a) Any answer made to the statement of charges shall be filed within 15 days after the notice provided in accordance with §B(3) of this regulation.

(b) Upon application in writing to an administrative law judge, and before the end of the 15 days, an administrative law judge may, for good cause shown, extend the time within which an answer may be filed.

(c) The answer shall be filed with the Office of Administrative Hearings and the original of the answer shall be signed under oath or affirmation of the respondent and shall contain:

(i) The name, address, and email address of the respondent;

(ii) The name, address, telephone number, and email address of the respondent's attorney, if any;

(iii) A specific admission or denial or assertion that the respondent is without sufficient knowledge or information to form a belief with respect to each and every allegation of the complaint;

(iv) A statement of any matter constituting a defense to any allegations in the statement of charges; and

(v) A certification that service of this answer has been made upon all other parties.

(d) Any allegation in the statement of charges which is not denied or admitted in the answer shall be considered admitted, unless the respondent states in the answer that it is without sufficient knowledge or information to form a belief with respect to this allegation.

(e) Any allegation of new matter contained in the answer shall be deemed denied without the necessity of a reply being filed, unless a reply is ordered by the administrative law judge conducting the hearing.

**[.15] .16 Administrative Hearing Proceedings.**

A. General Information.

(1) Scope.

(a) This regulation contains the rules of practice and procedure established by the Maryland Commission on Human Relations and the Office of Administrative Hearings, under COMAR 28.02.01 in accordance with [Article 49B, §32(d)(3)] State Government Article, §20-1034, Annotated Code of Maryland, for administrative proceedings before an administrative law judge.

(b) This regulation applies only to an administrative law judge adjudication of a complaint asserted in a charge issued under [Article 49B, §32(b)] State Government Article, §20-1027, Annotated Code of Maryland, when:

(i) An election to civil court has not been filed in accordance with Regulation [.14B] .15 of this chapter; or

(ii) (text unchanged)

(2) — (4) (text unchanged)

B. (text unchanged)

C. Parties; Intervention.

(1) Parties to the proceedings include:

(a) The Commission, which files the charge under Regulation [.14B] .15 of this chapter seeking appropriate relief for an aggrieved party and the public interest;

(b) — (e) (text unchanged)

(2) (text unchanged)

D. — E. (text unchanged)

F. Subpoenas. Subpoenas shall be issued in accordance with [Article 49B, §31] *State Government Article*, §20-1023, Annotated Code of Maryland, and COMAR 28.02.01.11.

G. (text unchanged)

H. Hearing Procedures.

(1) Date.

(a) In accordance with [Article 49B, §32(f)] *State Government Article*, §20-1027(b), Annotated Code of Maryland, the hearing shall commence not later than 120 days following the filing of the charge under Regulation [.14] .15 of this chapter, unless it is impracticable to do so.

(b) (text unchanged)

(2) — (3) (text unchanged)

(4) Effect of a Civil Action on Administrative Proceeding.

(a) An administrative law judge may not continue an administrative proceeding under this regulation regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved person or the Commission under an act of Congress or State law seeking relief with respect to that discriminatory housing practice.

(b) (text unchanged)

(c) The commencement and maintenance of a civil action for appropriate temporary or preliminary relief under [Article 49B, §29] *State Government Article*, §20-1037, Annotated Code of Maryland, does not affect administrative proceedings under this regulation.

(5) — (12) (text unchanged)

#### [.16] .17 Dismissals and Decisions.

A. (text unchanged)

B. Decision of Administrative Law Judge.

(1) In General.

(a) Within the time period set forth in §B(6) of this regulation and [Article 49B, §32(f)(2)] *State Government Article*, §20-1028(a), Annotated Code of Maryland, the administrative law judge shall issue a decision and provisional order including findings of fact and conclusions of law upon each material issue of fact and law presented on the record.

(b) (text unchanged)

(2) Finding Against Respondent.

(a) (text unchanged)

(b) The relief may include, but is not limited to, the following:

(i) — (ii) (text unchanged)

(iii) Civil penalty against the respondent in accordance with [Article 49B, §32(f)(3)(ii)] *State Government Article*, §20-1028(b)(2), Annotated Code of Maryland; and

(iv) (text unchanged)

(3) (text unchanged)

(4) The administrative law judge may assess a civil penalty against the respondent in an amount that does not exceed:

(a) \$10,000, if the respondent has not been adjudged by order of the administrative law judge or a court to have committed a prior discriminatory housing practice;

(b) Except as provided in §B(5) of this regulation, \$25,000 if the respondent has been adjudged by order of the administrative law judge or a court to have committed one other discriminatory housing practice during the 5-year period ending on the date of the filing of the charge; or

(c) Except as provided in §B(5) of this regulation, \$50,000 if the respondent has been adjudged by order of the administrative law judge or a court to have committed two or more discriminatory

housing practices during the 7-year period ending on the date of the filing of the charge.

(5) If the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same individual who has been previously adjudged to have committed acts constituting a discriminatory housing practice, the civil penalties in §§B(4)(b)—(c) of this regulation may be imposed without regard to the period of time within which any other discriminatory housing practice occurred.

(6) All civil penalties shall be awarded in accordance with COMAR 14.03.03.02.

(7) At the request of the Commission, the Commission's General Counsel shall sue to recover a civil penalty due under this section.

[(4)] (8) Restrictions on Relief. In accordance with [Article 49B, §32(f)(4)] *State Government Article*, §20-1028(c), Annotated Code of Maryland, an order issued by the administrative law judge may not affect any contract, sale, encumbrance, or lease consummated before the issuance of the decision and provisional order that involved a bona fide purchaser, encumbrancer, or tenant without actual knowledge of the charges filed under Regulation [.14] .15 of this chapter.

[(5)] (9) Finding in Favor of Respondent.

(a) — (b) (text unchanged)

[(6)] (10) Date of Issuance.

(a) In accordance with [Article 49B, §32(f)(2)] *State Government Article*, §20-1028(a), Annotated Code of Maryland, the administrative law judge shall issue a decision and provisional order within 60 days after the end of the hearing, unless it is impracticable to do so.

(b) (text unchanged)

C. Service of Decision and Provisional Order. [The] *In accordance with State Government Article*, §20-1029(b), Annotated Code of Maryland, the decision and provisional order of an administrative law judge shall be delivered to all parties, the aggrieved person on whose behalf the charge was filed, the respondent and the Commission with a notice indicating the right of the Commission, the aggrieved person, or the respondent to enter an appeal of this decision and provisional order to an appeal board of the Commission within 30 days[, in accordance with Article 49B, §32(g)(1), Annotated Code of Maryland, and COMAR 14.03.01.12].

D. — E. (text unchanged)

F. Action Upon Issuance of a Final Decision and Order—Licensed or Regulated Businesses.

(1) (text unchanged)

(2) Petition for Judicial Review.

(a) The Commission shall give notice of the appropriate disciplinary action to the governmental agencies within 30 days after the issuance of the final decision, unless a petition for judicial review of the final decision and order as described in Regulation [.17] .18 of this chapter has been filed before the issuance of the notification of the agency.

(b) (text unchanged)

(c) (text unchanged)

G. — H. (text unchanged)

I. Effect of Commission Order. A Commission order under *State Government Article*, §§20-1026—20-1034, Annotated Code of Maryland, and these regulations does not affect a contract, sale, encumbrance, or lease that was consummated before the Commission issued the order, and involved a bona fide purchaser, encumbrancer, or tenant who did not have actual notice of the charge filed under *State Government Article*, Title 20, Annotated Code of Maryland, or these regulations.

**[.17] .18 Judicial Review and Enforcement of Final Decision and Order.**

**A. Judicial Review of Final Decision and Order.**

**(1) Petition for Review.**

(a) Any party adversely affected by a final decision and order under Regulation [.16E] .17E of this chapter may file a petition in the circuit court of the judicial circuit in which the discriminatory housing practice is alleged to have occurred under [Article 49B, §32(h)] *State Government Article, §20-1030(a)*, Annotated Code of Maryland.

(b) (text unchanged)

(2) (text unchanged)

**B. Enforcement of Final Decision.**

(1) Enforcement by the Commission. Following the issuance of a final decision and order under Regulation [.16E] .17E of this chapter, the General Counsel may petition the appropriate circuit court for the enforcement of the final decision and order and for appropriate temporary relief or restraining order in accordance with [Article 49B, §32(h)(2)(i)(1)] *State Government Article, §20-1031(a)*, Annotated Code of Maryland.

(2) Enforcement by Others. If before the expiration of 60 days from the date of issuance of the final decision and order under Regulation [.16E] .17E of this chapter, no petition for review of the final decision and order described under this regulation has been filed, and the General Counsel has not sought enforcement of the final decision and order as described under §B(1) of this regulation, a person entitled to relief under the final decision and order may petition the appropriate circuit court for enforcement of the final decision in accordance with [Article 49B, §32(k)] *State Government Article, §20-1031(e)*, Annotated Code of Maryland.

**[.18] .19 Pattern and Practice.**

A. Engagement in Pattern and Practice Discrimination. In accordance with [Article 49B, §34(a)] *State Government Article, §20-1036(a)*, Annotated Code of Maryland, the Commission may take action upon the finding by the Commission that it has probable cause to believe that:

(1) A person or group of persons is engaged in a pattern and practice of resistance to the full enjoyment of any of the rights granted by [Article 49B, §§19—37] *State Government Article, §§20-701—20-710 and 20-1020—20-1037*, Annotated Code of Maryland; or

(2) Any group of persons has been denied any of the rights granted by [Article 49B, §§19—37] *State Government Article, §§20-701—20-710 and 20-1020—20-1037*, Annotated Code of Maryland, and that the denial or resistance raises an issue of general public importance.

B. (text unchanged)

C. Subpoena. A subpoena issued under this regulation and [Article 49B, §34(b)] *State Government Article, §20-1036(b)*, Annotated Code of Maryland, may be enforced by the Commission or other party at whose request the subpoena is issued in appropriate proceedings in the circuit court for Baltimore City or the county in which the person to whom the subpoena was addressed resides, was served, or transacts business.

D. Relief. The court, in accordance with [Article 49B, §34(c)] *State Government Article, §20-1036(c)*, Annotated Code of Maryland, may:

(1) Award preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of [Article 49B, §§19—37] *State Government Article, §§20-701—20-710 and 20-1020—20-1037*, Annotated Code of Maryland, as is necessary to assure the full enjoyment of the rights granted by [Article 49B] *State Government Article, Title 20*, Annotated Code of Maryland;

(2) — (3) (text unchanged)

E. (text unchanged)

F. Intervention.

(1) Upon timely application, a person may intervene in a civil action commenced by the Commission under [Article 49B, §34(d)] *State Government Article, §20-1036(d)*, Annotated Code of Maryland, and this regulation, if the action involves:

(a) — (b) (text unchanged)

(2) The court may grant appropriate relief to any intervening party as is authorized to be granted to a plaintiff in a civil action under [Article 49B, §33] *State Government Article, §20-1035(e)*, Annotated Code of Maryland.

(3) (text unchanged)

GLENDORA C. HUGHES  
General Counsel

# **Title 17**

## **DEPARTMENT OF BUDGET AND MANAGEMENT**

### **Subtitle 04 PERSONNEL SERVICES AND BENEFITS**

#### **17.04.05 Disciplinary Actions**

Authority: State Personnel and Pension Article, §4-106 and Title 11, Annotated Code of Maryland

#### **Notice of Proposed Action**

[10-327-P]

The Secretary of Budget and Management proposes to amend Regulation .03 under **COMAR 17.04.05 Disciplinary Actions**.

#### **Statement of Purpose**

The purpose of this action is to amend the regulations regarding disciplinary actions related to employee performance. These changes are a result of the collective bargaining process and House Bill 275 passed in the 2010 legislative session.

#### **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 Leslie G. Buchman, Director, Department of Budget and Management, 301 W. Preston Street, Baltimore, MD 21201, or call 410 767-4718, or email to lbuchman@dbm.state.md.us, or fax to 410 333-5262. Comments will be accepted through December 20, 2010. A public hearing has not been scheduled.

#### **.03 Disciplinary Actions Related to Employee Performance.**

A. — F. (text unchanged)

G. Performance Appraisals.

(1) When an employee has been given an overall rating of “[needs improvement] *unsatisfactory*” on an annual performance



appraisal, the employee's supervisor shall inform the employee that the employee has 180 days from issuance of the rating to improve to the level of "[meets standards] *satisfactory*". Approximately midway through the 180-day period, the employee and the employee's supervisor shall meet to evaluate the employee's progress toward [meeting standards] *a satisfactory rating*. Failure to meet standards at the end of the 180-day period shall result in the employee's termination.

[(2) When an employee has been given an overall rating of "unsatisfactory" on an annual performance appraisal, the employee's supervisor shall inform the employee that the employee has 90 days from issuance of the rating to improve to the level of "meets standards". Approximately midway through the 90-day period, the employee and the employee's supervisor shall meet to evaluate the employee's progress toward meeting standards. Failure to meet standards at the end of the 90-day period shall result in the employee's termination.]

[(3)] (2) When an employee is terminated under the provisions of §G(1) [or (2)] of this regulation, the Secretary shall be notified and the appointing authority shall submit to the Secretary a copy of each of the documents required by State Personnel and Pensions Article, §7-503, Annotated Code of Maryland.

[(4) An employee may not receive an overall rating of "unsatisfactory" on the employee's annual performance appraisal unless the employee already received an overall "unsatisfactory" rating on the employee's previous mid-year appraisal.]

[(5)] (3) (text unchanged)

T. ELOISE FOSTER  
Secretary of Budget and Management

## Title 18 DEPARTMENT OF ASSESSMENTS AND TAXATION

### *Subtitle 17 AFFORDABLE HOUSING LAND TRUSTS*

#### **18.17.01 Registration**

*Authority: Tax-Property Article, §2-201; Real Property Article, §14-503; Annotated Code of Maryland*

##### **Notice of Proposed Action**

[10-329-P]

The Department of Assessments and Taxation proposes to adopt new Regulations **.01—.09** under a new chapter, **COMAR 18.17.01 Registration** under a new subtitle, **COMAR 18.17 Affordable Housing Land Trusts**.

##### **Statement of Purpose**

The purpose of this action is to carry out the purpose and intent of Ch. 610, Acts of 2010, which requires that Affordable Housing Land Trusts be registered with the Department.

##### **Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

##### **Estimate of Economic Impact**

The proposed action has no economic impact.

##### **Economic Impact on Small Businesses**

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

##### **Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

##### **Opportunity for Public Comment**

Comments may be sent to Robert Young, Acting Deputy Director, Department of Assessments & Taxation, 301 W. Preston Street, Room 808, Baltimore, MD 21201, or call (410) 767-1184, or email to [ryoung@dat.state.md.us](mailto:ryoung@dat.state.md.us), or fax to (410) 333-5873. Comments will be accepted through December 20, 2010. A public hearing has not been scheduled.

##### **.01 Definitions.**

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

*B. Terms Defined.*

*(1) "Affordable housing land trust" has the meaning stated in Real Property Article, §14-501(b), Annotated Code of Maryland.*

*(2) "Department" has the meaning stated in Real Property Article, §14-503(a), Annotated Code of Maryland.*

*(3) "Register" means to submit to the Department a completed registration form as prescribed by the Department.*

*(4) "Resident agent" has the meaning stated in Corporations and Associations Article, §1-101(s), Annotated Code of Maryland.*

##### **.02 Registration Required.**

*Each affordable housing land trust shall register its creation with the Department.*

##### **.03 Name Requirements.**

*The name of an affordable housing land trust must:*

*A. Include the words "Affordable Housing Land Trust"; and*

*B. Comply with Corporations and Associations Article, §1-504, Annotated Code of Maryland, and COMAR 18.04.02.*

##### **.04 Resident Agent Requirement.**

*An affordable housing land trust shall designate a resident agent and the street address of that resident agent at the time of registration.*

##### **.05 Change of Resident Agent.**

*An affordable housing land trust may change its resident agent by filing with the Department a statement that authorizes the change.*

##### **.06 Change of Resident Agent's Address.**

*The resident agent of an affordable housing land trust may change the resident agent's address by filing a statement with the Department:*

*A. Signed by the resident agent or on behalf of the resident agent; and*

*B. Including:*

*(1) The names of the affordable housing land trust for which the change is effective;*

*(2) The resident agent's old and new addresses; and*

*(3) The date on which the change is effective.*

##### **.07 Effective Date.**

*The change of resident agent or change of the resident agent's address is effective when the Department accepts the statement for record.*

##### **.08 Service of Process.**

*Service of process on a resident agent designated by an affordable housing land trust is as effective as if served on one of its trustees.*

**.09 Reporting Status.**

*A nonprofit organization operating an affordable housing land trust that gives up or loses its nonprofit status or ceases to exist shall promptly report this information to the Department.*

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

**Opportunity for Public Comment**

Comments may be sent to Alexis E. Gibson, Regulations Coordinator, Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, Baltimore, MD 21202, or call 410-468-2011, or email to agibson@mdinsurance.state.md.us, or fax to 410-468-2020. Comments will be accepted through December 20, 2010. A public hearing has not been scheduled.

**Title 31**

**MARYLAND INSURANCE  
ADMINISTRATION**

**Subtitle 09 LIFE INSURANCE AND  
ANNUITIES**

**31.09.14 Retained Asset Accounts**

Authority: Insurance Article, §§2-109(a), 12-208, and 16-108, Annotated Code of Maryland

**Notice of Proposed Action**

[10-319-P]

The Acting Insurance Commissioner proposes to amend Regulation .05 under **COMAR 31.09.14 Retained Asset Accounts**.

**Statement of Purpose**

The purpose of this action is to amend the disclosure requirements contained in COMAR 31.09.14.05. The disclosure requirements of the chapter are met during the exchange of paper claims forms or when a copy of the death certificate is filed with the insurer. When the Maryland Insurance Administration (MIA) promulgated COMAR 31.09.14, it did not take into account when insurers do not require paper claims or a copy of the death certificate before paying a life insurance claim. For example, when the claim amount is low, the insurer may permit the claim to be filed over the telephone. During the settlement over the phone, the insurer may offer a retained asset account as one of the settlement options. When a beneficiary indicates that he or she is interested in fast track payment made by check, the check is issued without the need to file any further forms, including a death certificate. When a beneficiary is interested in the other settlement options, the disclosures regarding all settlement options are provided, including the disclosures pertaining to retained asset accounts as required by COMAR 31.09.14 Retained Asset Accounts. If insurers are required to provide disclosures regarding settlement options to beneficiaries that request a fast track payment by check, it will delay the payment of claims for those beneficiaries. When promulgating this chapter, it was never the MIA's intention to delay payment of claims for beneficiaries. The amendments to COMAR 31.09.14.05 create an exception in the disclosure requirements for beneficiaries that chose a fast track settlement by check, thereby eliminating the delay of payment for claims.

**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.

**.05 Disclosure Requirements to Beneficiaries At Time of Claim Submission.**

A. [When] *Except as provided in §B of this regulation, when a beneficiary files a claim for proceeds, if one of the settlement options is a retained asset account, the insurer shall disclose in writing to the beneficiary all the settlement options available under the policy or contract.*

B. *The insurer shall be exempt from the requirement of providing the disclosure of all the settlement options to a beneficiary, if:*

(1) *The insurer permits the beneficiary to file the claim over the telephone;*

(2) *The insurer does not require the beneficiary to file a death certificate or any paperwork to file the claim for proceeds; and*

(3) *The beneficiary selects payment of a lump sum check, payable directly to the beneficiary, as the settlement option during the telephone call in which the beneficiary files the claim for proceeds.*

[B.] C. If an insurer [offers a beneficiary a retained asset account as a settlement option] *is required to provide disclosures under §A of this regulation, the insurer shall disclose in writing an explanation of the retained asset account's features including:*

(1)—(3) (text unchanged)

(4) *A statement as to whether the retained asset account is protected by the Federal Deposit Insurance Corporation.*

[(4)] (5)—[(11)] (12) (text unchanged)

ELIZABETH SAMMIS  
Acting Insurance Commissioner

# Errata

## COMAR 10.15.04.24

At 37:22 Md. R. 1565 (October 22, 2010), col. 1, line 28 from the bottom:

For: *(1) An action to suspend or revoke a license, complies with the*

Read: *(1) An action to suspend or revoke a license complies with the*

[10-24-39]

# 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: September 1, 2010, through September 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 18 CFR §806.22(e) and 18 CFR §806.22(f) for the time period specified above:

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

Hazleton Creek Properties, LLC; Hazleton Creek Properties, LLC – Mine Reclamation Site, ABR-201009108, Hazleton City, Luzerne County, Pa.; Consumptive Use of up to 0.055 mgd; Approval Date: September 10, 2010.

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

Chesapeake Appalachia, LLC, Pad ID: Vera, ABR-201009001, Fox Township, Sullivan County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: September 3, 2010.

Chief Oil & Gas LLC, Pad ID: Allen Drilling Pad #1, ABR-201009002, Asylum Township, Bradford County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: September 3, 2010.

Anadarko E&P Company LP, Pad ID: Plants Evergreen Farm Pad A, ABR-201009003, Cascade Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: September 3, 2010.

EOG Resources, Inc., Pad ID: OBERKAMPER Pad, ABR-201009004, Springfield Township, Bradford County, Pa.; Consumptive Use of up to 4.999 mgd; Approval Date: September 3, 2010.

EOG Resources, Inc., Pad ID: ROBBINS Pad, ABR-201009005, Springfield Township, Bradford County, Pa.; Consumptive Use of up to 4.999 mgd; Approval Date: September 3, 2010.

Pennsylvania General Energy Co. LLC, Pad ID: Shannon Todd Pad A, ABR-201009006, Todd Township, Huntingdon County, Pa.;

Consumptive Use of up to 3.000 mgd; Approval Date: September 3, 2010.

Chesapeake Appalachia, LLC, Pad ID: Alberta, ABR-201009007, Albany Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: September 3, 2010.

EOG Resources, Inc. Pad ID: MULLALY Pad, ABR-201009008, Ridgebury Township, Bradford County, Pa.; Consumptive Use of up to 4.999 mgd; Approval Date: September 3, 2010.

Chesapeake Appalachia, LLC, Pad ID: SGL 289B, ABR-201009009, West Burlington Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: September 3, 2010.

Cabot Oil & Gas Corporation, Pad ID: King P1, ABR-201009010, Dimock Township, Susquehanna County, Pa.; Consumptive Use of up to 3.575 mgd; Approval Date: September 3, 2010.

Chesapeake Appalachia, LLC, Pad ID: Stoudt, ABR-201009011, Overton Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: September 3, 2010.

EOG Resources, Inc. Pad ID: GHC Pad A, ABR-201009012, Lawrence Township, Clearfield County, Pa.; Consumptive Use of up to 4.999 mgd; Approval Date: September 3, 2010.

Anadarko E&P Company LP, Pad ID: COP Tract 685 Pad C, ABR-201009013, Cummings Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: September 3, 2010, including a partial waiver of 18 CFR §806.15.

Talisman Energy USA Inc., Pad ID: 03 003 Vanblarcom, ABR-201009014, Columbia Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: September 3, 2010.

EXCO Resources (PA), LLC, Pad ID: Litke 1H, 2H, ABR-20090425.1, Burnside Township, Centre County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 4, 2010, including a partial waiver of 18 CFR §806.15.

EXCO Resources (PA), LLC, Pad ID: Litke (7H & 8H), ABR-20090426.1, Burnside Township, Centre County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 4, 2010, including a partial waiver of 18 CFR §806.15.

Talisman Energy USA Inc., Pad ID: 05 035 Antisdel, ABR-201009015, Warren and Windham Townships, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: September 7, 2010.

Talisman Energy USA Inc., Pad ID: 05 036 Antisdel, ABR-201009016, Warren Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: September 7, 2010.

Talisman Energy USA Inc., Pad ID: 03 011 Eick, ABR-201009017, Columbia Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: September 7, 2010.

Talisman Energy USA Inc., Pad ID: 03 028 Jennings, ABR-201009018, Wells Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: September 7, 2010.

Talisman Energy USA Inc., Pad ID: 03 073 Ritz, ABR-201009019, Columbia Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: September 7, 2010.

Ultra Resources, Inc., Pad ID: State 811, ABR-201009020, Elk Township, Tioga County, Pa.; Consumptive Use of up to 4.990 mgd; Approval Date: September 7, 2010, including a partial waiver of 18 CFR §806.15.

Ultra Resources, Inc., Pad ID: State 844, ABR-201009021, Elk Township, Tioga County, Pa.; Consumptive Use of up to 4.990 mgd; Approval Date: September 7, 2010, including a partial waiver of 18 CFR §806.15.

EOG Resources, Inc., Pad ID: COP Pad J, ABR-201009022, Lawrence Township, Clearfield County, Pa.; Consumptive Use of up to 4.999 mgd; Approval Date: September 8, 2010.

- EOG Resources, Inc., Pad ID: PHC Pad S, ABR-201009023, Lawrence Township, Clearfield County, Pa.; Consumptive Use of up to 4.999 mgd; Approval Date: September 8, 2010.
- Talisman Energy USA Inc., Pad ID: 03 071 Wolf, ABR-201009024, Wells Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: September 8, 2010.
- Talisman Energy USA Inc., Pad ID: 03 070 Wolf, ABR-201009025, Wells Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: September 8, 2010.
- East Resources Management, LLC, Pad ID: Wood 496, ABR-201009026, Richmond Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 7, 2010.
- East Resources Management, LLC, Pad ID: Fish 826, ABR-201009027, Middlebury Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 8, 2010.
- XTO Energy Incorporated, Pad ID: Houseweart 8527H, ABR-201009028, Pine Township, Columbia County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 8, 2010.
- East Resources Management, LLC, Pad ID: Guindon 706, ABR-201009029, Union Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 8, 2010.
- EOG Resources, Inc. Pad ID: SGL 94 Pad A, ABR-201009030, Lawrence Township, Clearfield County, Pa.; Consumptive Use of up to 4.999 mgd; Approval Date: September 8, 2010.
- Chesapeake Appalachia, LLC, Pad ID: Williams, ABR-201009031, Ulster Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: September 9, 2010.
- Talisman Energy USA Inc., Pad ID: 05 010 Willard S, ABR-201009032, Orwell Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: September 9, 2010.
- Talisman Energy USA Inc., Pad ID: 05 023 Edsell, ABR-201009033, Pike Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: September 9, 2010.
- Talisman Energy USA Inc., Pad ID: 05 024 Edsell, ABR-201009034, Pike Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: September 9, 2010.
- Talisman Energy USA Inc., Pad ID: 05 069 Carrington, ABR-201009035, Orwell Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: September 9, 2010.
- Chesapeake Appalachia, LLC, Pad ID: Troise, ABR-201009036, Sheshequin Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: September 9, 2010.
- Chesapeake Appalachia, LLC, Pad ID: Decker Farms, ABR-201009037, Rush Township, Susquehanna County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: September 9, 2010.
- EOG Resources, Inc. Pad ID: COP Pad P, ABR-201009038, Lawrence Township, Clearfield County, Pa.; Consumptive Use of up to 4.999 mgd; Approval Date: September 9, 2010.
- EOG Resources, Inc. Pad ID: PHC Pad T, ABR-201009039, Lawrence Township, Clearfield County, Pa.; Consumptive Use of up to 4.999 mgd; Approval Date: September 9, 2010.
- Anadarko E&P Company LP, Pad ID: WW Litke Pad B, ABR-201009040, Curtin Township, Centre County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: September 9, 2010, including a partial waiver of 18 CFR §806.15.
- Chesapeake Appalachia, LLC, Pad ID: Keeler Hollow, ABR-201009041, Smithfield Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: September 10, 2010.
- East Resources Management, LLC, Pad ID: Kalke 819, ABR-201009042, Chatham Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 10, 2010.
- Anadarko E&P Company LP, Pad ID: COP Tract 290 Pad A, ABR-201009043, McHenry Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: September 10, 2010, including a partial waiver of 18 CFR §806.15.
- Novus Operating, LLC, Pad ID: Sparrow Hawk, ABR-201009044, Covington Township, Tioga County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: September 10, 2010.
- East Resources Management, LLC, Pad ID: Hotchkiss 472, ABR-201009045, Charleston Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 10, 2010.
- Anadarko E&P Company LP, Pad ID: Douglas C Kinley Pad A, ABR-201009046, Lycoming Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: September 10, 2010.
- Cabot Oil & Gas Corporation, Pad ID: Cosner P1R, ABR-201009047, Springville Township, Susquehanna County, Pa.; Consumptive Use of up to 3.575 mgd; Approval Date: September 10, 2010.
- Anadarko E&P Company LP, Pad ID: COP Tract 289 Pad E, ABR-201009048, McHenry Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: September 10, 2010, including a partial waiver of 18 CFR §806.15.
- East Resources Management, LLC, Pad ID: Lingle 1102, ABR-201009049, Deerfield Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 10, 2010.
- East Resources Management, LLC, Pad ID: Erickson 448, ABR-201009050, Delmar Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 10, 2010.
- East Resources Management, LLC, Pad ID: Williams 889, ABR-201009051, Deerfield Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 10, 2010.
- Cabot Oil & Gas Corporation, Pad ID: FraserE P1, ABR-201009052, Forest Lake Township, Susquehanna County, Pa.; Consumptive Use of up to 3.575 mgd; Approval Date: September 10, 2010.
- EOG Resources, Inc. Pad ID: JACKSON 1H Pad, ABR-201009053, Springfield Township, Bradford County, Pa.; Consumptive Use of up to 4.999 mgd; Approval Date: September 10, 2010.
- East Resources Management, LLC, Pad ID: Klettlinger 294, ABR-201009054, Delmar Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 10, 2010.
- EOG Resources, Inc., Pad ID: SSHC Pad A, ABR-201009055, Lawrence Township, Clearfield County, Pa.; Consumptive Use of up to 4.999 mgd; Approval Date: September 13, 2010.
- Ultra Resources, Inc., Pad ID: Bergey 812, ABR-201009056, Gaines Township, Tioga County, Pa.; Consumptive Use of up to 4.990 mgd; Approval Date: September 13, 2010.
- Anadarko E&P Company LP, Pad ID: COP Tract 731 Pad A, ABR-201009057, Cummings Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: September 13, 2010, including a partial waiver of 18 CFR §806.15.
- East Resources Management, LLC, Pad ID: Owlett 843, ABR-201009058, Middlebury Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 13, 2010.
- East Resources Management, LLC, Pad ID: Byrne 510, ABR-201009059, Rutland Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 13, 2010.
- EOG Resources, Inc., Pad ID: HALSTEAD Pad, ABR-201009060, Ridgebury Township, Bradford County, Pa.; Consumptive Use of up to 4.999 mgd; Approval Date: September 14, 2010.
- Chesapeake Appalachia, LLC, Pad ID: Driscoll, ABR-201009061, Overton Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: September 14, 2010.

- XTO Energy Incorporated, Pad ID: FOX 8501H, ABR-201009062, Shrewsbury Township, Lycoming County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 14, 2010.
- East Resources Management, LLC, Pad ID: Seymour 599, ABR-201009063, Sullivan Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 15, 2010.
- East Resources Management, LLC, Pad ID: Schmelzle 703, ABR-201009064, Union Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 15, 2010.
- East Resources Management, LLC, Pad ID: Spencer 729, ABR-201009065, Liberty Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 15, 2010.
- Chesapeake Appalachia, LLC, Pad ID: Delhagen, ABR-201009066, Rush Township, Susquehanna County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: September 15, 2010.
- Chesapeake Appalachia, LLC, Pad ID: Burleigh, ABR-201009067, Wyalusing Borough, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: September 15, 2010.
- Chief Oil & Gas LLC, Pad ID: Quava Drilling Pad #1, ABR-201009068, Davidson Township, Sullivan County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: September 15, 2010.
- Chesapeake Appalachia, LLC, Pad ID: Bennett NMPY-38, ABR-201009069, Tuscarora Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: September 16, 2010.
- Chief Oil & Gas LLC, Pad ID: Hemlock Hunting Club Drilling Pad #1, ABR-201009070, Elkland Township, Sullivan County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: September 16, 2010.
- Chief Oil & Gas LLC, Pad ID: Wistar-Shaffer Tracts Drilling Pad #1, ABR-201009071, Shrewsbury Township, Sullivan County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: September 16, 2010.
- Chesapeake Appalachia, LLC, Pad ID: Wygrala, ABR-201009072, Wysox Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: September 20, 2010.
- Chesapeake Appalachia, LLC, Pad ID: Matt, ABR-201009073, Elkland Township, Sullivan County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: September 20, 2010.
- XTO Energy Incorporated, Pad ID: Lucella 8564H, ABR-201009074, Moreland Township, Lycoming County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 20, 2010.
- Talisman Energy USA Inc., Pad ID: 01 080 Ferguson, ABR-201009075, Granville Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: September 20, 2010.
- Chesapeake Appalachia, LLC, Pad ID: Boyanowski, ABR-201009076, Meshoppen Township and Braintrim Township, Wyoming County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: September 20, 2010.
- Chesapeake Appalachia, LLC, Pad ID: Rain, ABR-201009077, Elkland Township, Sullivan County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: September 20, 2010.
- Talisman Energy USA Inc., Pad ID: 05 092 Upham, ABR-201009078, Pike Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: September 20, 2010.
- Talisman Energy USA Inc., Pad ID: 05 074 Zimmerli, ABR-201009079, Orwell Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: September 20, 2010.
- East Resources Management, LLC, Pad ID: Ingalls 710, ABR-201009080, Liberty Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 20, 2010.
- East Resources Management, LLC, Pad ID: Talley 488, ABR-201009081, Covington Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 20, 2010.
- Chesapeake Appalachia, LLC, Pad ID: Governale, ABR-201009082, Wysox Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: September 20, 2010.
- Anadarko E&P Company LP, Pad ID: Gayla D Loch Pad A, ABR-201009083, Cogan House Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: September 20, 2010.
- Chesapeake Appalachia, LLC, Pad ID: Connell, ABR-201009084, Cherry Township, Sullivan County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: September 20, 2010.
- Southwestern Energy Production Company, Pad ID: Strong Pad, ABR-201009085, Herrick Township, Bradford County, Pa.; Consumptive Use of up to 4.990 mgd; Approval Date: September 20, 2010.
- Southwestern Energy Production Company, Pad ID: Ross Pad, ABR-201009086, Herrick Township, Bradford County, Pa.; Consumptive Use of up to 4.990 mgd; Approval Date: September 20, 2010.
- Chief Oil & Gas LLC, Pad ID: Lightner East Drilling Pad #1, ABR-201009087, Juniata Township, Blair County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: September 21, 2010.
- East Resources Management, LLC, Pad ID: Smith 589, ABR-201009088, Richmond Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 22, 2010.
- East Resources Management, LLC, Pad ID: Martin 421, ABR-201009089, Delmar Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 22, 2010.
- East Resources Management, LLC, Pad ID: Schimmel 830, ABR-201009090, Farmington Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 22, 2010.
- East Resources Management, LLC, Pad ID: Lopatofsky 287, ABR-201009091, Charleston Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 22, 2010.
- East Resources Management, LLC, Pad ID: Worden 571, ABR-201009092, Charleston Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 22, 2010.
- Chesapeake Appalachia, LLC, Pad ID: Foster, ABR-201009093, Wysox Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: September 23, 2010.
- Enerplus Resources (USA) Corporation, Pad ID: Winner 4H, ABR-201009094, West Keating Township, Clinton County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 23, 2010.
- East Resources Management, LLC, Pad ID: Empson 899, ABR-201009095, Deerfield Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 23, 2010.
- East Resources Management, LLC, Pad ID: Burke 285, ABR-201009096, Charleston Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 23, 2010.
- East Resources Management, LLC, Pad ID: Patterson 570, ABR-201009097, Charleston Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 24, 2010.
- Williams Production Appalachia, LLC, Pad ID: Depue Well #2H, ABR-201009098, Franklin Township, Susquehanna County, Pa.;

Consumptive Use of up to 4.000 mgd; Approval Date: September 27, 2010.

Anadarko E&P Company LP, Pad ID: Lycoming H&FC Pad B, ABR-201009099, Cogan House Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: September 27, 2010.

Chesapeake Appalachia, LLC, Pad ID: Curtis New, ABR-201009100, Asylum Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: September 27, 2010.

East Resources Management, LLC, Pad ID: Sherman 498, ABR-201009101, Richmond Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: September 27, 2010.

Chesapeake Appalachia, LLC, Pad ID: Hope, ABR-201009102, Meshoppen Township, Wyoming County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: September 28, 2010.

Chesapeake Appalachia, LLC, Pad ID: Kohler, ABR-201009103, Liberty Township, Tioga County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: September 28, 2010.

Chesapeake Appalachia, LLC, Pad ID: Jaishawoo, ABR-201009104, Auburn Township, Susquehanna County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: September 29, 2010.

Chesapeake Appalachia, LLC, Pad ID: Pinehollow, ABR-201009105, Rush Township, Susquehanna County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: September 29, 2010.

EOG Resources, Inc., Pad ID: DEMEO 1H Pad, ABR-201009106, Ridgebury Township, Bradford County, Pa.; Consumptive Use of up to 4.999 mgd; Approval Date: September 30, 2010.

Anadarko E&P Company LP, Pad ID: Kenneth T Schriener Pad A, ABR-201009107, Gamble Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: September 30, 2010.

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

Dated: October 22, 2010.

STEPHANIE L. RICHARDSON  
Secretary to the Commission.  
[10-24-29]

# General Notices

## Notice of ADA Compliance

The State of Maryland is committed to ensuring that individuals with disabilities are able to fully participate in public meetings. Anyone planning to attend a meeting announced below who wishes to receive auxiliary aids, services, or accommodations is invited to contact the agency representative at least 48 hours in advance, at the telephone number listed in the notice or through Maryland Relay.

### ADVISORY COUNCIL ON CEMETERY OPERATIONS

**Subject:** Public Meeting  
**Date and Time:** December 2, 2010, 10 a.m. — 1 p.m.  
**Place:** Dept. of Labor, Licensing, and Regulation, 500 N. Calvert St., 2nd Fl. Conf. Rm., Baltimore, MD  
**Contact:** Benjamin Foster (410) 230-6229  
 [10-24-23]

### BOARD FOR THE CERTIFICATION OF RESIDENTIAL CHILD CARE PROGRAM ADMINISTRATORS

**Subject:** Public Meeting  
**Date and Time:** December 11, 2010, 9:30 — 11:30 a.m.  
**Place:** 4201 Patterson Ave., Baltimore, MD  
**Contact:** Kim Mayer (410) 764-5911  
 [10-24-15]

### BOARD OF CHIROPRACTIC AND MASSAGE THERAPY EXAMINERS

**Subject:** Public Meeting  
**Date and Time:** December 9, 2010, 10 a.m. — 1 p.m.  
**Place:** Dept. of Health and Mental Hygiene, 4201 Patterson Ave., Rm. 528, Baltimore, MD  
**Contact:** Maria Ware (410) 764-5902  
 [10-24-43]

### 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 Winpiger (410) 821-2829  
 [10-24-05]

### 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 Winpiger (410) 821-2829  
 [10-24-06]

### COMMISSION ON CRIMINAL SENTENCING POLICY

**Subject:** Public Meeting  
**Date and Time:** December 14, 2010, 5 — 6 p.m.  
**Place:** House Office Bldg., Judiciary Committee Rm. 100, Annapolis, MD  
**Contact:** David Soule (301) 403-4165  
 [10-24-21]

### COMMISSION ON CRIMINAL SENTENCING POLICY

**Subject:** Public Hearing  
**Date and Time:** December 14, 2010, 6:15 — 8 p.m.  
**Place:** House Office Bldg., Judiciary Conf. Rm., 6 Bladen St., Annapolis, MD  
**Contact:** David Soule (301) 403-4165  
 [10-24-22]

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

**Subject:** Public Meeting  
**Date and Time:** December 7, 2010, 11 a.m. — 2 p.m.  
**Place:** Talbot Co. Dept. of Social Services, 301 Bay St., Unit 5, Multipurpose Rm., Easton, MD  
**Add'l. Info:** This Advisory Council Business Meeting is open for the public to observe. (There will be no public forum following this Advisory Council meeting.) Sign Language interpreters, real-time captioning services and assistive listening devices will be provided. For additional accommodations requests, please contact Laura Quinn at [lquinn@gov.state.md.us](mailto:lquinn@gov.state.md.us).  
**Contact:** Laura Quinn (410) 767-7794  
 [10-24-26]

### PROFESSIONAL STANDARDS AND TEACHER EDUCATION BOARD

**Subject:** Public Meeting  
**Date and Time:** December 2, 2010, 9 a.m. — 12 p.m.  
**Place:** Nancy S. Grasmick State Education Bldg., 200 W. Baltimore St., Baltimore, MD  
**Contact:** Madeline Koum (410) 767-0385  
 [10-24-18]

### DEPARTMENT OF EDUCATION/DIVISION OF REHABILITATION SERVICES

**Subject:** Public Meeting  
**Date and Time:** December 17, 2010, 12 — 3 p.m.  
**Place:** Workforce & Technology Center, 2301 Argonne Dr., Rm. T-130, Baltimore, MD  
**Add'l. Info:** Toll Free Number 866-996-0961  
**Contact:** Tonya Gilchrist, Administrative Officer (410) 554-5412  
 [10-24-16]

### MARYLAND STATE BOARD OF EDUCATION

**Subject:** Public Meeting  
**Date and Time:** December 14, 2010, 9 a.m. — 5 p.m.; December 15, 2010  
**Place:** Nancy S. Grasmick State Education Bldg., 200 W. Baltimore St., Baltimore, MD  
**Add'l. Info:** The State Board of Education is pleased to receive oral public comment at each of its regular monthly meetings. In order to allow the State Board sufficient time for its other business, the total time allotted to public comment will generally be limited to thirty (30) minutes. Individuals seeking to speak to the Board will be given three (3) minutes each. Persons desiring to speak to the State Board, must call (410-767-0467) or e-mail ([cnecessary@msde.state.md.us](mailto:cnecessary@msde.state.md.us)) the Board office no earlier than 1 week prior to the meeting to register to speak. Registration will be accepted on a first-come, first-served basis. In order to make the limited time available most effective, speakers are urged to provide multiple written copies of their comments or other material amplifying their views.  
**Contact:** Charlene Necessary (410) 767-0467  
 [10-24-17]

### EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL

**Subject:** Public Meeting  
**Date and Time:** December 2, 2010, 1 — 3 p.m.  
**Place:** 653 W. Pratt St., Ste. 212, Baltimore, MD



**Add'l. Info:** The Statewide Emergency Medical Services Advisory Council (SEMSAC) meets regularly the 1st Thursday of each month.  
**Contact:** Leandra M. Gilliam (410) 706-4449

[10-24-11]

### EMERGENCY MEDICAL SERVICES BOARD

**Subject:** Public Meeting  
**Date and Time:** December 14, 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

[10-24-10]

### BOARD FOR PROFESSIONAL ENGINEERS

**Subject:** Public Meeting  
**Date and Time:** December 9, 2010, 9 a.m.  
**Place:** 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD  
**Contact:** Pamela J. Edwards (410) 230-6263

[10-24-36]

### CONTINUING PROFESSIONAL COMPETENCY COMMITTEE OF THE BOARD FOR PROFESSIONAL ENGINEERS

**Subject:** Public Meeting  
**Date and Time:** November 29, 2010, 2:30 p.m.  
**Place:** 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD  
**Contact:** Pamela J. Edwards (410) 230-6263

[10-24-34]

### DEPARTMENT OF THE ENVIRONMENT/LAND MANAGEMENT ADMINISTRATION

**Subject:** Public Meeting  
**Date and Time:** December 2, 2010, 9:30 — 11:30 a.m.  
**Place:** MDE Headquarters, 1800 Washington Blvd., Aeris Conf. Rm., Baltimore, MD  
**Add'l. Info:** Meeting of the Governor's Lead Poisoning Prevention Commission  
**Contact:** Tracy Smith (410) 537-3847

[10-24-30]

### FIRE PREVENTION COMMISSION

**Subject:** Public Meeting  
**Date and Time:** December 9, 2010, 10 a.m.  
**Place:** Kent Island Volunteer Fire Dept., 1610 Main St., Chester, MD  
**Add'l. Info:** If public schools in Queen Anne's County are closed due to inclement weather, the meeting and any scheduled appeals will be rescheduled.  
**Contact:** Heidi Ritchie (877) 890-0199

[10-24-42]

### DEPARTMENT OF HEALTH AND MENTAL HYGIENE

**Subject:** Call For Pharmacist Nominations to the Drug Utilization (DUR) Board  
**Add'l. Info:** The Maryland Department of Health and Mental Hygiene Drug Utilization Review (DUR) Board is currently recruiting for a pharmacist to serve on the Maryland DUR Board beginning in March 2011.

The implementation of the Omnibus Budget Reconciliation Act of 1990 requires that the Maryland Department of Health and Mental Hygiene establish a DUR Board. The DUR Board is comprised of both physicians and pharmacists and has been in operation since November 1992. The activities of the DUR Board include:

- Overseeing retrospective and prospective DUR within the Maryland Medicaid Program.
- Approving DUR criteria and standards.
- Making recommendations concerning education and other types of interventions based on prospective and retrospective DUR findings.
- Preparing an annual report for submission to the Centers for Medicare and Medicaid (CMS) describing the nature and scope of the DUR program, summarizing educational/interventional strategies used, and estimating cost savings generated.
- Reviewing individual recipient profiles and make recommendations to restrict patients who might be abusing Medicaid prescription drugs.

The DUR Board has quarterly 3-hour meetings in the Baltimore area. Meetings are normally scheduled on a Thursday morning during the months of March, June, September, and December.

The membership of the Maryland DUR Board includes health care professionals who have recognized knowledge and expertise in one of the following areas:

- The clinically appropriate prescribing of outpatient drugs.
- The clinically appropriate dispensing and monitoring of outpatient drugs.
- Drug use review, evaluation, and intervention.
- Medical quality assurance.

Health Information Designs, Inc. is providing administrative and technical support to the Department of Health and Mental Hygiene with regard to the DUR Board. For an application packet, please contact Joseph Paradis, PharmD, at Health Information Designs at 443-690-1997 or via e-mail at joe.paradis@hidinc.com. The application deadline is December 31, 2010.

**Contact:** Alex Taylor (410) 767-5878  
 [10-24-47]

### DEPARTMENT OF HEALTH AND MENTAL HYGIENE/LABORATORIES ADMINISTRATION

**Subject:** Public Meeting  
**Date and Time:** December 7, 2010, 8:30 a.m. — 12 p.m.  
**Place:** 201 W. Preston St., O'Connor Bldg., Rm. 1-37, Baltimore, MD  
**Contact:** Georgette P. Zoltani (410) 764-2899

[10-24-27]

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

**Subject:** Public Meeting  
**Date and Time:** December 8, 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  
 [10-24-12]

### HOME IMPROVEMENT COMMISSION

**Subject:** Public Meeting  
**Date and Time:** December 2, 2010, 10 a.m. — 12 p.m.  
**Place:** 500 N. Calvert St., 2nd Fl. Conf. Rm., Baltimore, MD  
**Contact:** Steven Smitson (410) 230-6169  
 [10-24-19]

## GENERAL NOTICES

1704

### BOARD FOR PROFESSIONAL LAND SURVEYORS

**Subject:** Public Meeting

**Date and Time:** December 1, 2010, 10 a.m.,

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

**Contact:** Pamela J. Edwards (410) 230-6263

[10-24-35]

### MARYLAND HEALTH CARE COMMISSION

**Subject:** Public Meeting

**Date and Time:** December 16, 2010, 1 p.m.

**Place:** Maryland Health Care Commission, 4160 Patterson Ave., Conf. Rm. 100, Baltimore, MD

**Add'l. Info:** Individuals requiring special accommodations are requested to contact Valerie Wooding at (410) 764-3460, or the Department of Health and Mental Hygiene TTY at (410) 383-7755, not later than 20 working days before the meeting to make arrangements.

**Contact:** Valerie Wooding (410) 764-3460

[10-24-13]

### MARYLAND HEALTH CARE COMMISSION

**Subject:** Notice of Request for Modification to Approved CON

**Add'l. Info:** On November 1, 2010, the Maryland Health Care Commission (MHCC) received notice and a request for approval of project changes under COMAR 10.24.01.17B from GOVANS, holder of a Certificate of Need (CON), Docket No. 07-24-2224, The Green House at Stadium Place, issued on April 17, 2008.

The project's sponsor has requested approval for change in financial mechanism.

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

[10-24-46]

### MINORITY BUSINESS ENTERPRISE ADVISORY COMMITTEE

**Subject:** Public Meeting

**Date and Time:** December 1, 2010, 8:30 a.m. — 5 p.m.

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

**Contact:** Pam Gregory (410) 865-1253

[10-24-33]

### BOARD OF MORTICIANS AND FUNERAL DIRECTORS

**Subject:** Public Meeting

**Date and Time:** December 8, 2010, 10:30 a.m. — 12:30 p.m.

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

**Add'l. Info:** Review statutes and regulations and vote as necessary. Sign language interpreter and/or other appropriate accommodations for qualified individuals will be provided upon request.

**Contact:** Robin Bailey (410) 764-4792

[10-24-09]

### DEPARTMENT OF NATURAL RESOURCES/COASTAL MANAGEMENT PROGRAM

**Subject:** Public Notice of Proposed Change to the Maryland Coastal Management Program

**Add'l Info:** Maryland's Draft Enforceable Coastal Policies

Pursuant to 15 C.F.R. §923.84(b), the Maryland Department of Natural Resources (DNR) has submitted to the Office of the Ocean and Coastal Resource Management (OCRM) of the National Oceanic and Atmospheric Administration program changes to the Maryland Coastal Management Program (CMP). Maryland considers these program changes to be routine and has requested OCRM's concurrence in this determination.

The submitted routine program changes fall within existing State authority and do not substantially change permissible uses in the coastal zone. This submission is a comprehensive update and listing of all of the Maryland Coastal Program's enforceable policies. The proposed changes include the deletion of outdated, unenforceable, vague, and irrelevant enforceable policies; revision of existing enforceable policies to reflect current State law and newly-identified enforceable mechanisms; and the addition of narrative policy statements derived from current state laws that were previously incorporated into the Program.

A copy of the Routine Program Change, which includes a complete list of the proposed enforceable policies, including any new enforceable policies, is available at [http://dnr.maryland.gov/ccp/coastal\\_policy.asp](http://dnr.maryland.gov/ccp/coastal_policy.asp). A copy of the Routine Program Change may also be obtained by calling Joe Abe at (410) 260-8740.

The OCRM is now reviewing this request for concurrence. Comments regarding whether the incorporation of these changes to the CMP constitute a routine program change under the Coastal Zone Management Act and its regulations may be submitted to:

NOAA Contact Name: Mr. John King

NOAA Title and Address: Chief, Coastal Programs Division, OCRM/NOAA (N/ORM3), 1305 East-West Highway, 11th Floor, Silver Spring, MD 20910

Comments may be submitted to OCRM through December 10, 2010. If you have any questions regarding this notice, please contact Joe Abe, Coastal Policy and Project Review Specialist, Maryland Department of Natural Resources, at (410) 260-8740.

**Contact:** Joe Abe (410) 260-8740

[10-24-48]

### BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

**Subject:** Public Meeting

**Date and Time:** December 8, 2010, 9:30 a.m.

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

**Contact:** Patricia A. Hannigan (410) 764-4750

[10-24-02]

### BOARD OF OCCUPATIONAL THERAPY PRACTICE

**Subject:** Public Meeting

**Date and Time:** December 17, 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

[10-24-14]

**PROCUREMENT ADVISORY  
COUNCIL (PAC)**

**Subject:** Public Meeting  
**Date and Time:** November 30, 2010, 10 a.m. — 12 p.m.  
**Place:** MDOT Headquarters, 7201 Corporate Dr., Hanover, MD  
**Contact:** Missy Hodges (410) 260-7335  
 [10-24-31]

**BOARD OF EXAMINERS OF  
PSYCHOLOGISTS**

**Subject:** Public Meeting  
**Date and Time:** December 10, 2010, 9 a.m. — 12 p.m.  
**Place:** Loyola University-Columbia Graduate Center, 8890 McGraw Rd., Columbia, MD  
**Add'l. Info:** Sign language interpreters/other appropriate accommodations for qualified individuals with disabilities will be provided upon request.  
**Contact:** Dorothy Kutcherman (410) 764-4703  
 [10-24-32]

**RACING COMMISSION**

**Subject:** Public Meeting  
**Date and Time:** November 29, 2010, 2 — 3 p.m.  
**Place:** Laurel Park, Laurel, MD  
**Add'l. Info:** The meeting scheduled for November 23, 2010, has been canceled and rescheduled for November 29, 2010.  
**Contact:** J. Michael Hopkins (410) 296-9682  
 [10-24-41]

**REAL ESTATE COMMISSION**

**Subject:** Public Meeting  
**Date and Time:** December 15, 2010, 10:30 a.m.  
**Place:** Dept. of Labor, Licensing, and Regulation, 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD  
**Contact:** Patricia Hannon (410) 230-6199  
 [10-24-07]

**REAL ESTATE COMMISSION**

**Subject:** Public Hearing  
**Date and Time:** December 15, 2010, 12:30 p.m.  
**Place:** Dept. of Labor, Licensing, and Regulation, 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD  
**Contact:** Patricia Hannon (410) 230-6199  
 [10-24-08]

**RETIREMENT AND PENSION  
SYSTEM — BOARD OF TRUSTEES**

**Subject:** Public Meeting  
**Date and Time:** December 21, 2010, 9 a.m.  
**Place:** Sun Trust Bldg., 120 E. Baltimore St., 16th Fl. Boardroom, Baltimore, MD  
**Add'l. Info:** Meeting date and location are subject to change. Anyone interested in attending should contact the MD Retirement Agency for confirmation. Please note, the meeting may include a closed session. Sign language interpreters and/or appropriate accommodation for qualified individuals with disabilities will be provided upon request; please call 410-625-5609 or 1-800-735-2258 TTY.  
**Contact:** Patrice Sowah (410) 625-5609  
 [10-24-03]

**MARYLAND BUSINESS TAX  
REFORM COMMISSION**

**Subject:** Public Meeting  
**Date and Time:** December 7, 2010, 2 — 6 p.m.  
**Place:** Louis L. Goldstein Treasury Bldg., 80 Calvert St., Assembly Rm., Annapolis, MD  
**Contact:** Linda I. Vasbinder (410) 260-7450  
 [10-24-24]

**MARYLAND BUSINESS TAX  
REFORM COMMISSION**

**Subject:** Public Meeting  
**Date and Time:** December 13, 2010, 2 p.m.  
**Place:** Louis L. Goldstein Treasury Bldg., 80 Calvert St., Assembly Rm., Annapolis, MD  
**Contact:** Linda I. Vasbinder (410) 260-7450  
 [10-24-25]

**MARYLAND TRANSPORTATION  
AUTHORITY**

**Subject:** Public Meeting  
**Date and Time:** November 24, 2010, 9 — 11 a.m.  
**Place:** Maryland Transportation Authority, Point Breeze Complex, 2310 Broening Hwy., Ste. 160, Baltimore, MD  
**Add'l. Info:** A portion of this meeting may be held in closed session.  
**Contact:** Cindy Taylor (410) 537-1002  
 [10-24-20]

**BOARD OF WELL DRILLERS**

**Subject:** Public Meeting  
**Date and Time:** December 15, 2010, 9 a.m. — 4 p.m.  
**Place:** MDE, 1800 Washington Blvd., Terra Conference Rm., Baltimore, MD  
**Add'l. Info:** A portion of this meeting may be held in closed session.  
**Contact:** Pat Kratochvil (410) 537-3644  
 [10-24-04]

**WORKERS' COMPENSATION  
COMMISSION**

**Subject:** Public Meeting  
**Date and Time:** December 9, 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  
 [10-24-01]

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September, 2010

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  - 22 MVA – Preventive Maintenance Program
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- 04 Regulation of Water Supply, Sewage Disposal, and Solid Waste
- 05 Board of Well Drillers
- 06 Waterworks and Waste Systems Operators
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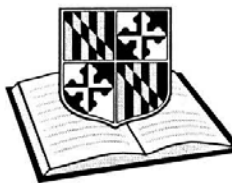
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