



Maryland Register

Issue Date: December 2, 2011

Volume 38 • Issue 25 • Pages 1555—1678

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Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before November 14, 2011, 5 p.m.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 14, 2011.

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



Information About the Maryland Register and COMAR

MARYLAND REGISTER

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

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

The following information is also published regularly in the Register:

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

CITATION TO THE MARYLAND REGISTER

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

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

CODE OF MARYLAND REGULATIONS (COMAR)

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

CITATION TO COMAR REGULATIONS

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

DOCUMENTS INCORPORATED BY REFERENCE

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

HOW TO RESEARCH REGULATIONS

An Administrative History at the end of every COMAR chapter gives information about past changes to regulations. To determine if there have been any subsequent changes, check the "Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed" which is found online at www.dsd.state.md.us/CumulativeIndex.pdf. This table lists the regulations in numerical order, by their COMAR number, followed by the citation to the Maryland Register in which the change occurred. The Maryland Register serves as a temporary supplement to COMAR, and the two publications must always be used together. A Research Guide for Maryland Regulations is available. For further information, call 410-260-3876.

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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)

Maryland Register (ISSN 0360-2834). Postmaster: Send address changes and other mail to: Maryland Register, State House, Annapolis, Maryland 21401. Tel. 410-260-3876; Fax 410-280-5647. Published biweekly, with cumulative indexes published quarterly, by the State of Maryland, Division of State Documents, State House, Annapolis, Maryland 21401. The subscription rate for the Maryland Register is \$225 per year (first class mail). All subscriptions post-paid to points in the U.S. periodicals postage paid at Annapolis, Maryland and additional mailing offices.

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, and Subscription Manager; **Tami Cathell**, Help Desk, COMAR and Maryland Register Online.

Front cover: State House, Annapolis, MD, built 1772—79.

Illustrations by Carolyn Anderson, Dept. of General Services

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January 27**	January 9	January 18	January 13
February 10	January 23	February 1	January 30
February 24**	February 6	February 14	February 13
March 9**	February 17	February 29	February 27
March 23	March 5	March 14	March 12
April 6	March 19	March 28	March 26
April 20	April 2	April 11	April 9
May 4	April 16	April 25	April 23
May 18	April 30	May 9	May 7
June 1**	May 14	May 21	May 18
June 15**	May 24	June 6	June 4
June 29	June 11	June 20	June 18
July 13**	June 25	July 3	July 2
July 27	July 9	July 18	July 16

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

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

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

** Note closing date changes

The regular closing date for Proposals and Emergencies is Monday.

COMAR Online

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

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

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

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31.10.01.01—.03 • 38:24 Md. R. 1548 (11-18-11)
31.12.08.04 • 38:17 Md. R. 1039 (8-12-11)
31.14.03.10 • 38:20 Md. R. 1251 (9-23-11)

33 STATE BOARD OF ELECTIONS

33.01.01.01 • 38:23 Md. R. 1468 (11-4-11)
33.07.07.01—.04 • 38:23 Md. R. 1468 (11-4-11)
33.07.08.01,.03 • 38:23 Md. R. 1468 (11-4-11)
33.07.09.01—.06 • 38:23 Md. R. 1468 (11-4-11)
33.11.03.08 • 38:23 Md. R. 1470 (11-4-11)
33.11.04.03 • 38:23 Md. R. 1470 (11-4-11)
33.13.02.02 • 38:21 Md. R. 1313 (10-7-11)
33.13.03.02 • 38:21 Md. R. 1313 (10-7-11)
33.13.05.01,.02 • 38:21 Md. R. 1313 (10-7-11)
33.13.06.03—.05 • 38:21 Md. R. 1313 (10-7-11)
33.13.06.03,.05 • 38:23 Md. R. 1471 (11-4-11)
33.13.08.01—.05 • 38:21 Md. R. 1313 (10-7-11)
33.13.09.01—.05 • 38:21 Md. R. 1313 (10-7-11)
33.13.10.01,.02 • 38:23 Md. R. 1471 (11-4-11)
33.17.06.08—.11 • 38:23 Md. R. 1468 (11-4-11)

34 DEPARTMENT OF PLANNING

34.04.09.08 • 38:25 Md. R. 1669 (12-2-11)

The Judiciary

COURT OF APPEALS OF MARYLAND DISCIPLINARY PROCEEDINGS

This is to certify that by an Opinion and Order of this Court dated October 25, 2011, **ANDRE LEVELL BRADY**, 23 The Oval, Oldbrook, Milton Keynes MK6 2TP, United Kingdom, has been disbarred 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 Opinion and Order of this Court dated October 26, 2011, **ALEXANDER NNANNA AGILIGA**, 9701 Apollo Drive, P.O. Box 6880, Largo, Maryland 20782, has been disbarred 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 Opinion and Order of this Court dated October 26, 2011, **BRENDA CAROL BRISBON**, 2817 Goodwood Road, Apt. 1-R, Baltimore, Maryland 21214, has been indefinitely suspended from the further practice of law in this State and her name as an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 16-713).

* * * * *

This is to certify that by an Opinion and Order of this Court dated October 27, 2011, **JOEL DAVID JOSEPH**, 9935 South Santa Monica Boulevard, Beverly Hills, California 90212, has been disbarred 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 November 9, 2011, **BRIAN WILLIAM YOUNG**, USP Lewisburg, Satellite Camp – RDAP, P.O. Box 2000, Lewisburg, PA 17837, 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).

[11-25-33]

ATTORNEYS TO BE ADMITTED TO THE BAR

Annapolis, Maryland
November 4, 2011

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 4th day of November 2011, by the Court of Appeals of Maryland ORDERED that the Board's recommendation be ratified subject to the conditions therein stated on the 5th day of December 2011, 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 4, 2011

BESSIE M. DECKER
Clerk
Court of Appeals of Maryland

EXHIBIT A GENERAL BAR EXAMINATION JULY 2011

Abend, Katherine Ann, 220 13th St., S.E., #26, Washington, DC, 20003
Abramowitz, Adam Scott, 7103 Clarendon Road, Apt. A, Bethesda, MD, 20814
Abrams, Tanya Marie Newhouse, 8201 16th St., Apt. 618, Silver Spring, MD, 20910
Aceves, Mary Elena, 22200 Goshen School Road, Gaithersburg, MD, 20882
Adams, Erika Rae, 2614 41st St., NW, #4, Washington, DC, 20007
Adcock, Kathleen Dilley, 4311 Manorwood Drive, Glen Arm, MD, 21057
Adegbuyi, Rafiyat Damilola, 8105 Eastern Ave., Apt. C-314, Silver Spring, MD, 20910
Adejumo, Simisola Morenike, 7040 Holly Springs Lane, ElkrIDGE, MD, 21075
Agatstein, Briana, 12093 Long Lake Drive, Owings Mills, MD, 21117
Ahmad, Aasma, P.O. Box 4101, Arlington, VA, 22204
Ahmad, Zubair Zulfiqar, 21 Caraway Road, Reisterstown, MD, 21136
Al-Keliddar, Yaser, 1604 Brookside Road, McLean, VA, 22101
Alavi, Asher Sadik, 3004 Clarkson Drive, Abingdon, MD, 21009
Albright, Kelly Nicole, 1534 Galena Road, Baltimore, MD, 21221
Alcorn, Sean Neumann, 3508 Woodbine St., Chevy Chase, MD, 20815
Alderman, Mark Jenkins, 7531 Mount Vista Road, Kingsville, MD, 21087
Alexander, Jeremy Michael, 4414 W Street, NW, Washington, DC, 20007
Ali, Salima Jamal, 5539 Columbia Pike, Apt. 607, Arlington, VA, 22204
Allemang, Kelsey Erin, 420 7th St., NW, Apt. 604, Washington, DC, 20004
Allen, Kimberley Kay, 1615 Q St., NW, Apt. 1105, Washington, DC, 20009
Allen, Rachel Diane, 110 Glen Oban Dr., Arnold, MD, 21012
Allende, Shaun William, 1234 Massachusetts Ave., N.W., #601, Washington, DC, 20005
Alman, Arielle Cherise, 831 East 40th Street, Brooklyn, NY, 11210
Alonso-Marsden, Ana Corina, 3636 16th Street, N.W., Apt. B-607, Washington, DC, 20010
Altman, Joshua Philip, 3226 Leverton Ave., Baltimore, MD, 21224

THE JUDICIARY

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- Amare, Paulos, 12712 Robindale Drive, Rockville, MD, 20853
 Amick, Michelle Anne, 18807 Severn Rd., Gaithersburg, MD, 20879
 Ammus, Seif, 3000 Connecticut Ave., NW, Apt. 215, Washington, DC, 20008
 Anchors, Lindsay Malle, 6 Flints Grove Drive, North Potomac, MD, 20878
 Anderson, Keleigh, 3436 Littleleaf Place, Laurel, MD, 20724
 Anderson, Sara Elizabeth, 114 Pinewood Place, Ithaca, NY, 14850
 Andres, Bruce, 2301 Leeward Drive, Westminster, MD, 21158
 Andrews, Katherine Nora, 1717 R Street, N.W., Apt. 402, Washington, DC, 20009
 Anello, Erin Elizabeth-Rose, 915 Rockhill Avenue, Baltimore, MD, 21229
 Annand, John Richard, 1746 Kilbourne Pl., NW, Washington, DC, 20010
 Apol, Tasnima, 371 Westbury Drive, Riva, MD, 21140
 Aquilina III, Joseph Thomas, 1001 L Street, N.W., Apt. 504, Washington, DC, 20001
 Aquilino, Catrina Celestine, 12309 Rockledge Dr., Bowie, MD, 20715
 Arnold, Judson Ross, 1417 Bolton Street, Baltimore, MD, 21217
 Arora, Samir, 7213 Sheehan Court, Rockville, MD, 20855
 Arriaza-Roht, Laura Julia, 2827 28th Street, N.W., Apt. 20, Washington, DC, 20008
 Aryal, Arti, 111 Albermarle Street, Baltimore, MD, 21202
 Ashar, Monica Marie Glockner, 5306 Nevada Ave., N.W., Washington, DC, 20015
 Ashkeboussi, Leila, 11620 Hawkes Road, Clarksburg, MD, 20871
 Ashley, Thomas Howe, 815 Thayer Avenue, #528, Silver Spring, MD, 20910
 Ashton, Thomas Malcolm, 101 Crystal Spring Drive, Ashton, MD, 20861
 Assefa, Cassandra Charie Valdez, 8310 Tahona Driveve., Silver Spring, MD, 20903
 Astran, Blake Jarrod, 8110 Old Georgetown Road, Bethesda, MD, 20814
 Atakpu, Lee Odion, 1826 35th Street, N.W., Washington, DC, 20007
 Atas, Laura Harger, 1705 Sulgrave Avenue, Baltimore, MD, 21209
 Atta, Saiqa, 2104 Grey Fox Court, Gambrills, MD, 21054
 Attix, Jeffrey Edward, 2637 N. Calvert Street, Baltimore, MD, 21218
 Ausley, Nicholas Tyson, 43962 Woodmont Drive, Leonardtown, MD, 20650
 Avendt, Michael Patrick, 707 S. President St., Apt. 836, Baltimore, MD, 21202
 Ayala Jr., Fernando Antonio, 661 Portland Street, Baltimore, MD, 21230
 Aybar, Jennifer Lynn, 12205 Malta Lane, Bowie, MD, 20715
 Ayd, Jessica Jendrek, 418 Cedarcroft Road, Baltimore, MD, 21212
 Azmera, Michael Hadgu, 22 Sutton Court, Upper Marlboro, MD, 20774
 Azocar, Kara Leibin, 4740 Connecticut Ave., N.W., Apt. 911, Washington, DC, 20008
 Bacon, Stephen Louis, 10731 Bridlerein Terrace, Columbia, MD, 21044
 Baer, Louis Anker, 5440 Marinelli Rd., Apt. 119, Rockville, MD, 20852
 Bagchi, Koustubh Jyoti, 2723 Corning Court, Reno, NV, 89523
 Bah, Mohamed Alpha, 3300 East West Hwy., #240, Hyattsville, MD, 20782
 Balkum, Erica Joy, N5140 M-95, Iron Mountain, MI, 49801
 Ball, Chaz Romeo, 4 Redgate Court, Catonsville, MD, 21228
 Barnes, Henry Roland, 5033 Columbia Road, Columbia, MD, 21044
 Barnes, Khaliah N'cole, 3703 Kristin Lee Lane, Houston, TX, 77014
 Baron, Blake Byron, 5554 Suffield Court, Columbia, MD, 21044
 Barry, Amy Diana, 175 Blossom St., #1207, Boston, MA, 02114
 Barry, Korey Joseph, 3552 10th Street, N.W., Washington, DC, 20010
 Basin, Mariya, 3187 Lindenwood Lane, Fairfax, VA, 22031
 Baum, Sarah Elinor, 44 Poultney St., Baltimore, MD, 21230
 Baumgardner, Derek Justin, 105 120th Street, Unit 139, Ocean City, MD, 21842
 Baylor, Justin Michael, 20318 Mount Aetna Road, Hagerstown, MD, 21742
 Beale, Joshua John, 414 Water Street, Unit 2106, Baltimore, MD, 21202
 Bearese, Timothy Peter, 11701 Clearview Ct., Hagerstown, MD, 21742
 Beauheim, Alice Diana, 2230 George C Marshall Drive, #425, Falls Church, VA, 22043
 Beckett, Jack Kenneth, 3401 Keswick Rd., Apt 2, Baltimore, MD, 21211
 Beckham, Michael Thomas, 5349 Broad Branch Rd., N.W., Washington, DC, 20015
 Beder, Michael Philip, 900 N. Stafford St., Apt. 1215, Arlington, VA, 22203
 Beechener, Megan Elizabeth, 766 Dividing Road, Severna Park, MD, 21146
 Behrend, Daniel James, 10 Allegheny Ctr., Apt. 418, Pittsburgh, PA, 15212
 Beitner, David Mark, 2900 Terry Dr., Apt. A, Baltimore, MD, 21209
 Belfon-Valentine, Joi Sharonda, 605 Azalea Drive, Rockville, MD, 20850
 Bell, Lisa Meghan, 1615 21st Street, N.W., Apt. B, Washington, DC, 20009
 Bellamy, Yonne Sylese, 1133 East West Highway, Apt. 1221-W, Silver Spring, MD, 20910
 Bellotti, Adam Michael, 715 6th Street, SW, Washington, DC, 20024
 Ben-Zev, Juliya, 1000 Fell Street, #401, Baltimore, MD, 21231
 Benham, Isaac Martin, 1469 Harvard Street, NW, Washington, DC, 20009
 Benjamin, Robert Aron, 8304 MacArthur Blvd., Cabin John, MD, 20818
 Berg, Alexander Paul, 850 Quincy St., NW, Apt. #629, Washington, DC, 20011
 Berkey, Shannon Marie, 128 Lloyd Street, Baltimore, MD, 21202
 Berry, Susan Charmaine, 6505 14th Street, Apt. 504, Washington, DC, 20012
 Bertinelli, Alexa Elena, 834 Park Avenue, Baltimore, MD, 21201
 Bertkau, Michael Cole, 166 Thunder Lake Road, Wilton, CT, 06987
 Besser, Aaron Joel, 518 West Fayette St, Apt 903, Baltimore, MD, 21201
 Betancourt, Kiantar, 6305 Queens Chapel Rd., University Park, MD, 20782
 Bhanot, Rahul, 6309 Burnt Mountain Path, Columbia, MD, 21045
 Bidinger, Elizabeth Marie, 1703 Alicanna Street, Apt. B, Baltimore, MD, 21231
 Bishop, Brian Keith, 403 Murdock Rd., Baltimore, MD, 21212
 Bisig, Brynne Cory, 3003 Van Ness Street, N.W., Apt. S-602, Washington, DC, 20008
 Black V, Clinton Rutherford, 702 West Timonium Road, Lutherville, MD, 21093
 Blackmon, LyTia Nichelle, 9420 Squires Ct., Laurel, MD, 20723
 Blank, Aaron Michael, 8200 Wisconsin Ave., #312, Bethesda, MD, 20814
 Blank, Avery Morgan, 39 W. Lexington St., Apt. 1509, Baltimore, MD, 21201
 Blegay, Walakewon Massaquoi, 6559 Pennsylvania Ave., #T1, District Heights, MD, 20747
 Blehar, Jeffrey Daniel, 10509 Crossing Creek Rd., Potomac, MD, 20854

- Blondell, Nicole Marie, 326 Tulip Oak Court, Linthicum, MD, 21090
 Boffen, Christina Nicole, 303 Newburg Ave., Catonsville, MD, 21228
 Bokhari, Syed Shaun Aguite, 23 Pierside Drive, Unit 317, Baltimore, MD, 21230
 Bona, Andrew Vernon, 2130 P Street, N.W., Apt. 916, Washington, DC, 20037
 Bonifant, Nancy Elizabeth, 16312 Old Orchard Road, Silver Spring, MD, 20905
 Boppana, Sravya, 13264 Holly Meadow Lane, Oak Hill, VA, 20171
 Boring, Amy Renee, 1905 Larch Ct., Edgewood, MD, 21040
 Boston, Kristen Schrock, 11644 Dennis Drive, Princess Anne, MD, 21853
 Boudouris, Kathryn Lee, 4522 Avondale St., #6, Bethesda, MD, 20814
 Bowen, Nathaniel Coleman, 613 Hillside Ave., Wilmington, DE, 19805
 Bowers, Michael Grant, 5266 Cedar Lane, Apt. 163, Columbia, MD, 21044
 Boyd, Sandi Pessin, 29 Underwood Street, N.W., Washington, DC, 20012
 Bradbury, Jennifer O'Connor, 645 Washington Boulevard, Baltimore, MD, 21230
 Braden, Andrew Scott, 3043 Osgood Rd., W., Columbus, OH, 43232
 Branch, Leah Lynn, 1812 Vernon Street, N.W., Apt. 31, Washington, DC, 20009
 Branda, James Tilman, 1815 17th Street, NW, Apt. #308, Washington, DC, 20009
 Brassell, Courtney Elizabeth, PO Box 3099, PSC 470, FPO, AP, 96534
 Brenha, Christina Barradas, 400 Massachusetts Ave., N.W., Apt. 516, Washington, DC, 20001
 Brenner, Matthew Henry, 960 Fell Street, Unit 516, Baltimore, MD, 21231
 Brighish, Jessica, 5106 Albemarle Street, NW, Washington, DC, 20016
 Brill, Nathan Seth, 37 Maryland Ave., Apt. 433, Rockville, MD, 20850
 Brockmeyer, Katherine Mary, 1203 Mikara Ct., Bel Air, MD, 21015
 Brondi, Heather Nicole, 12 Ashley Drive, Ballston Lake, NY, 12019
 Brooks, Ian Barnett, 1301 M St., NW, Apt. 524, Washington, DC, 20005
 Brooks, Paula Jean, 5540 32nd St., N.W., Washington, DC, 20015
 Brooks-Gelling, Patrice Nicole, 4105 Postgate Terrace, Apt. 203, Silver Spring, MD, 20906
 Brown, Jamar Raphael, 519 W. Pratt St., Apt. 110, Baltimore, MD, 21201
 Brown, Julia Mehr, 4307 Scotch Rose Court, Pikesville, MD, 21208
 Brown Jr., Steven Raymond, 4406 Carleview Road, Baltimore, MD, 21207
 Browne, Rita Gayle, 2708 Hamilton Ave, Baltimore, MD, 21214
 Bruins, Benjamin Francis, 3541 Foxhall Dr., Davidsonville, MD, 21035
 Brundage, Jeffrey Paul, 801 N. Cleveland St., Arlington, VA, 22201
 Brunner, Margaret Louise, 101 W. Read Street, 202, Baltimore, MD, 21201
 Brunsdale, Shaleen John, 4100 Massachusetts Ave., N.W., Apt. 819, Washington, DC, 20016
 Buck, Alexandra Jane, 7601 Hackamore Drive, Potomac, MD, 20854
 Buckley, Alexander Joseph, 747 E. Saddle River Road, Ho Ho Kus, NJ, 07423
 Bucy, Dana Renee, 315 Shipley Ave., Glen Burnie, MD, 21061
 Budow, Matthew Jaret, 10713 Laurel Leaf Place, Potomac, MD, 20854
 Buente, Christopher William, 1400 Irving St., Apt. 213, Washington, DC, 20010
 Buettner, Courtney Kaye, 433 Mayapple Court, Abingdon, MD, 21009
 Burger, Andrew Tarman, 6704 Sherwood Road, Towson, MD, 21239
 Burkhardt, Jeremy Layfield, 3010 Wisconsin Ave NW, Apt 401, Washington, DC, 20016
 Burman, Damon Lamont, 6102 Twilight Court, Baltimore, MD, 21206
 Burns, Christine Ann, 3840 Paul Mill Road, Ellicott City, MD, 21042
 Busby, Allison Mae, 529 South Chapel Street, Baltimore, MD, 21231
 Buxton, Michael James, 202 G Street, S.W., Washington, DC, 20024
 Byrd, Mark Spencer, P.O. Box 5278, Gaithersburg, MD, 20882
 Byrne, Justin Wesse, 9293 Lapwing Ct., Columbia, MD, 21045
 Caiazza, Amy Beth, 8810 Maywood Avenue, Silver Spring, MD, 20910
 Caldwell, Adam Joseph, 9045 Thames Meade Road, Apt. I, Laurel, MD, 20723
 Calloway III, Daniel DuBarry, 106 Kent Lane, Trumbull, CT, 06611
 Calomeris, Jeannette Linda, 11421 Falls Road, Potomac, MD, 20854
 Campbell, Sheree Briana, 351 Cloudes Mill Drive, Alexandria, VA, 22304
 Campbell, Sheri Danielle, 8817 Blue Smoke Dr., Gaithersburg, MD, 20879
 Campion Samueleis, Jennifer Barrett, 3904 Clarks Lane, Baltimore, MD, 21215
 Cane, Nicole Alexis, 1025 N. 2nd Avenue, Unit 429-B, Phoenix, AZ, 85003
 Cannaday IV, Irvin, 1445 Otis Place, N.W., Apt. 208, Washington, DC, 20010
 Canney, Timothy John, 2404 3rd St. N., Arlington, VA, 22201
 Cantor, Michael Taylor, 621-B Saint Paul Street, Baltimore, MD, 21202
 Cappuccio, Laura Ann, 1201 South Eads Street, Apt. 908, Arlington, VA, 22202
 Caramenico, Stephen Nicholas, 4206 Red Mapel Ct., Burtonsville, MD, 20866
 Cardile, Salvatore Joseph, 16209 Jerald Road, Laurel, MD, 20707
 Cardozo, Julia Louisa, 777 S. Eden St., Apt. 1003, Baltimore, MD, 21231
 Carney, James Patrick, 1633 Covington Street, Baltimore, MD, 21230
 Carothers, Christin Cahli-anne, 8105 Long Shadows Drive, Fairfax Station, VA, 22039
 Carroll, Brendan Michael, 1200 N. Veitch St., Apt. 401, Arlington, VA, 22201
 Carter, Andrew David, 7723 Acrocomia Drive, Hanover, MD, 21076
 Carter, Melissa Alaina, 7818 Hanover Pkwy., #202, Greenbelt, MD, 20770
 Cascio, Virginia Marie, 7404 Ottenbrook Terrace, Derwood, MD, 20855
 Castellano, Christopher Robert, 22208 Creekview Drive, Gaithersburg, MD, 20882
 Castro, Fidel Anival, 13235 Bregman Road, Silver Spring, MD, 20904
 Ceryes, Brent Patrick, 18 Ridgefield Rd., Lutherville, MD, 21093
 Chado, Cheryl Lynn, 4100 Massachusetts Ave., N.W., Apt. 614, Washington, DC, 20016
 Chaffatt, Abby-Gail Shannon-Lee, 13882 Cocanut Avenue, Juno Beach, FL, 33408
 Chance, Antoinette Nicole, 15104 Kendalwood Drive, Upper Marlboro, MD, 20772
 Chance, David Matthew, 1011 Collindale Ave., Mount Airy, MD, 21771

THE JUDICIARY

1566

- Chandrasekher, Rekha, 300 Massachusetts Ave., N.W., #542, Washington, DC, 20001
- Chang, Wei Chieh, 1569 Rutland Way, Hanover, MD, 21076
- Cheek II, Robert Nathaniel, 218 N. Charles St., Apt. 2401, Baltimore, MD, 21201
- Cherniak, Ari Nathan, 5721 Narcissus Ave., Baltimore, MD, 21215
- Chiarizia, Emily Mary, 9413 Northgate Road, Laurel, MD, 20723
- Childress, Jessica Nicole, 8715 First Avenue, Apt. 729-C, Silver Spring, MD, 20910
- Chin, Jessica May Yee, 710 15th St., South, Apt. B, Arlington, VA, 22202
- Choe, Soyoun, 7205 Piney Woods Place, Laurel, MD, 20707
- Choren, Pernell Adam, 950 25th Street, N.W., Apt. 1029-N, Washington, DC, 20037
- Christie, Andre Barrington, 9323 Lyonswood Drive, Owings Mills, MD, 21117
- Clark, Helen Torsella, 44 Old Granary Ct., Catonsville, MD, 21228
- Clark, Rena Adonica, 6413 Livingston Road, Apt. 301, Oxon Hill, MD, 20745
- Clark Jr., Dennis George, 2805 8th St., S., Apt. 362-A, Arlington, VA, 22204
- Clarke, Jessica Barbara, 6200 St. Ignatius Drive, #304, Fort Washington, MD, 20744
- Cochran, Michael Lawrence, 1232 Elm Ridge Avenue, Baltimore, MD, 21229
- Coen, Jon Michael, 3110 Mt. Vernon Ave., Apt. 314, Alexandria, VA, 23305
- Cole, Christopher Alan, 6833 Piney Branch Road, NW, Washington, DC, 20012
- Cole, Jessica Lee, 2801 Quebec Street, N.W., Apt. 723, Washington, DC, 20008
- Coleman, Tyrese LaChelle, 6108 43rd St., Hyattsville, MD, 20781
- Collevocchio Jr, Nicholas Joseph, 2731 Westminster Road, Ellicott City, MD, 21043
- Condon, Meghan Dimond, 8102 Elmberly Ct., Apt. 1217, Pasadena, MD, 21122
- Conlin, Christopher John, 113 Tennessee Ave., N.E., Washington, DC, 20002
- Contini, Anthony Michael, 2122 Massachusetts Ave., N.W., Apt. 808, Washington, DC, 20008
- Cooch, Joseph William, 101 E. Wells St., Apt. A309, Baltimore, MD, 21230
- Cook, Shelby Jill, 4101 Albemarle Street, N.W., Apt. 423, Washington, DC, 20016
- Cooke, Brec Allison, 2111 19th St., N.W., Apt. A, Washington, DC, 20009
- Cooke, Elizabeth Ashley, 1536 Hampton Hill Circle, McLean, VA, 22101
- Cooper, Carla Kallman, 2101 Kimrick Place, Timonium, MD, 21093
- Cooper, Dayna Chimere, 2884 Kentucky Ave, Baltimore, MD, 21213
- Cooper, Jacques Lee, 454 Waterford Way, Kissimmee, FL, 32839
- Copeland, Stacy Deidre, 2405 Edwards Manor Dr., Forest Hill, MD, 21050
- Corcoran, Patrick Gardiner, 5564 Porterstown Road, Keedysville, MD, 21756
- Corley, James Arba Henry, 3 Athenry Court, Apt. 303, Timonium, MD, 21093
- Cornwell, Judith Gibson, 118 6th Street SE, Apt. A, Washington, DC, 20003
- Cortemeglia, Cheryl, 8150 Baltimore Ave., 518-2, College Park, MD, 20740
- Costinett, Andrew Harrison, 12912 Flack Street, Silver Spring, MD, 20906
- Cotten, Christin Elizabeth, 301 Dogwood Avenue, Clayton, NC, 27520
- Crane, Judd Devon, 15 Biscay Court, Baltimore, MD, 21234
- Cravath, Catherine Jeanne, 20000 Giantstep Ter., Montgomery Village, MD, 20886
- Cray, Andrew S, 5405 Tuckerman Ln., Apt. 926, Rockville, MD, 20850
- Creech, Jamar Wilson, 10810 Joyceton Drive, Upper Marlboro, MD, 20774
- Creticos, Alexander Peter, 1300 Saint Paul's Way, Crownsville, MD, 21032
- Crotty, Sean Michael, 1111 11th St., N.W., Apt. 506, Washington, DC, 20001
- Crum, Travis Meredith, 306 Copper Oaks Drive, Woodsboro, MD, 21798
- Cruz, Marisa Frances Likar, c/o Glaudemans, 2000 F St NW, Apt. 504, Washington, DC, 20006
- Cuffee, Antonia Lynn, 415 South Street, Easton, MD, 21601
- Cugelman-McMahon, Tara Lindsay, 1320 N. Veitch St., #1212, Arlington, VA, 22201
- Cuneo, Carolyn Jane, 37 Clarke Drive, East Northport, NY, 11731
- Cuomo, Gina Marie, 10712 Pot Spring Road, Cockeysville, MD, 21030
- Curtin, Thomas Joseph, 17926 W. Griswold Rd., Waddell, AZ, 85355
- D'Alessio, Mariela Christine, 2527 Chestnut Hill Road, Forest Hill, MD, 21050
- Dahl, Stephanie Michele, 39 W. Lexington St., #906, Baltimore, MD, 21201
- Dalphonse, Helen Yoon-Mee Marie, 331 Prince George Street, Laurel, MD, 20707
- Daniel, Eric Michael, 1261 New Hampshire Ave., NW, Washington, DC, 20036
- Das, Anand Suhas, 5405 Tuckerman Lane, Apt. 520, North Bethesda, MD, 20852
- Davies, Kathleen Megan, 6502 Beechwood Drive, Columbia, MD, 21046
- Davis, Britton Dale, 2014 Klinge Rd., N.W., Washington, DC, 20010
- Davis, Charles Christopher, 1552 8th Street, N.W., Basement, Washington, DC, 20001
- Davis, Michelle Antonette, 5885 Colorado Ave., N.W., #302, Washington, DC, 20011
- Deacon, Daniel Taylor, 4849 Connecticut Ave., N.W., Apt. 824, Washington, DC, 20008
- Dean, Bryan Thomas, P.O. Box 1245, Grand Marais, MN, 55604
- deBettencourt, Christopher Francis, 161 Chestnut Avenue, Carlisle, PA, 17013
- Dechter, Anne Wallace Howard, 3220 Connecticut Ave., N.W., Apt. 304, Washington, DC, 20008
- Decker, Patrick Michael Andrew, 9652 Motley Lane, Vienna, VA, 22181
- Deere, Molly Margaret, 3612 Hooper Avenue, Baltimore, MD, 21211
- Dein, Jennifer Dara, 1200 N. Garfield Street, Apt 209, Arlington, VA, 22201
- Dembeck, Barbara Jean, 1660 Brimfield Circle, Eldersburg, MD, 21784
- Demory, Wesley Allen, 39 W. Lexington St., Apt. 201, Baltimore, MD, 21201
- Denison, Katelyn Diane, 155 Potomac Passage, Unit 317, Oxon Hill, MD, 20745
- Dent, Shannon Abell, 41655 Matthew Court, Leonardtown, MD, 20650
- Denton, Michelle Nicole, 1190 West Northern Pkwy, Apt. 827, Baltimore, MD, 21210
- Dernulc, Brian Matthew, 6169 Rockawalkin Rd., Salisbury, MD, 21801

- DeAngelis, Kate McErlain, 2120 Vermont Ave., N.W., Apt. 309, Washington, DC, 20001
- DeLeon, Katherine Malia Malie, 5701 Wilson Lane, Bethesda, MD, 20817
- DeMoss, Lindsay Renee, 52487 Cedar Lane, Apt. 149, Columbia, MD, 21044
- DePass, Shanice Alexia, 1503 Varnum St., N.W., Washington, DC, 20011
- DeRoo, Pier Douglas, 7408 Carroll Avenue, Takoma Park, MD, 20912
- DeSalvo, Bria Nicole, 603 3rd St., N.E., Washington, DC, 20002
- Di Salvo, Anne Elizabeth, 3815 Kimble Road, Baltimore, MD, 21218
- Didion, David Michael, 10710 Gainsborough Rd., Potomac, MD, 20854
- Dinkin, Victoria, 5073 Bradley Blvd., Apt. 3, Chevy Chase, MD, 20815
- Dittamo, Tara Lindsey, 19 Observation Ct., #302, Germantown, MD, 20876
- DiPadova, Nina Elizabeth, 3218 Wisconsin Avenue, N.W., Apt. 205, Washington, DC, 20016
- DiTomasso, Paul Elio, 1301 North Troy St., Apt. 110, Arlington, VA, 22201
- Djoukeng, Cyril Tsoigni, 1207 Forest Glen Road, Silver Spring, MD, 20901
- Dobbs, Kristin Elizabeth, 5415 Connecticut Ave., N.W., Apt. 333, Washington, DC, 20015
- Dobson, Jeffrey Charles, 3712 Woodley Road, N.W., Washington, DC, 20016
- Dodrill, Andrea Nicole, 10704 Cardington Way, Apt. 204, Cockeysville, MD, 21030
- Dolan, Danielle Ashley, 11204 Yardley Place, Ijamsville, MD, 21754
- Dombach, James Phillip, 5907B Highdale Circle, Alexandria, VA, 22310
- Donohue, Bryce William, P.O. Box 79, Butler, MD, 21023
- Dooling, Benjamin Michael, 5111 Dudley Lane, Apt. 103, Bethesda, MD, 20814
- Doran, Erin Eileen, 719 N. Washington Pl., Apt. 3-R, Baltimore, MD, 21201
- Doyle, Katelan McKenzie, 1556 North Oak Hill Drive, South Bend, IN, 46637
- Doyle, Shannon Mary, 1020 N Highland Ave., Unit 611, Arlington, VA, 22201
- Dozier, Jalil Devon, 13010 Conductor Way, Silver Spring, MD, 20904
- Drake, Kristin Louise, 930 Wayne Ave., Apt. 602, Silver Spring, MD, 20910
- Drew, Nicole Yvette, 3005 Crest Avenue, Cheverly, MD, 20785
- Droste, Meghan Alexis, 1320 N. Veitch Street, Apt. 1302, Arlington, VA, 22201
- Drumm, Kaelyn Marie, 724 S. Luzerne Ave., Baltimore, MD, 21224
- Drummond, Makani Diache, 12603 Dusty Wheel Lane, Fairfax, VA, 22033
- Dubin, Ashley Picker, 50 Phillips Street, Apt. 6, Boston, MA, 02114
- Duffy, Ryan Michael, 5329 5th Street N, Arlington, VA, 22203
- Dugan, Neal Harrington, 3111 Pouska Road, Abingdon, MD, 21009
- Duker, Maame Vivian, 1201 West Mount Royal Ave., Apt. 319, Baltimore, MD, 21217
- Duncan, Justin Evan, 13602 Colgate Way, Apt. 618, Silver Spring, MD, 20904
- Duru, Jr., Omer, 9 Blauvelt Street, Teaneck, NJ, 07666
- DuBois, Kelly Eszen, 901 N. Pollard St., #1217, Arlington, VA, 22203
- Dwyer, Stephen Hayes, 355 I Street, S.W., #409-S, Washington, DC, 20024
- Earley, Katherine Marie, 25980 Talamore Drive, Chantilly, VA, 20152
- Eden, Amanda Claudette, 2449 Bell Branch Rd., Gambrills, MD, 21054
- Edwards, Jason Thomas, 6050 California Circle, #607, Rockville, MD, 20852
- Ehrenpreis, Saul Allen, 1133 East West Highway, #1120, Silver Spring, MD, 20910
- Eisenmenger, Jessica Anne, 311 Rollingwood Road, Roanoke Rapids, NC, 27870
- Eisner, Marina, 6013 Massachusetts Ave., Bethesda, MD, 20816
- Elkins, Sarah Margaret, 5445 Osborne Road, Phoenix, AZ, 85108
- Elledge, Caitlin Flannery, 1904 Matthew Lane, Knoxville, TN, 37923
- Elligson IV, John Lawrence, 4116 Church Road, Millers, MD, 21102
- Elliott II, Robert Alonzo, 5 Murphy Court, West Orange, NJ, 07052
- Ellison II, James Lester, 400 Phelps Ave., Glen Burnie, MD, 21060
- Emery, Margaret, 1710 35th St., N.W., Washington, DC, 20007
- Enterline, John Franklin, 7727 Carroll Avenue, Takoma Park, MD, 20912
- Epstein, Daniel Zachary, 425 8th Street NW, Apt. 646, Washington, DC, 20004
- Epstein, Yael Tuvia, 425 8th Street, N.W., Unit 646, Washington, DC, 20004
- Erim, Can, 7420 Westlake Terrace, Apt. 1309, Bethesda, MD, 20817
- Eskelsen, Grant William, 4011 Glenridge St., Kensington, MD, 20895
- Eskow, Jocelyn Alice, 1903 7th St., N.W., Apt. 34, Washington, DC, 20001
- Eskow, Shawn Michael, 11406 Twining Lane, Potomac, MD, 20854
- Essama, Lydie, 11449 Frances Green Drive, North Potomac, MD, 20878
- Estrada, Emily Lauren, 1402 NE 70th Street, Seattle, WA, 98115
- Etheridge, Brandon Michael, 401 Massachusetts Ave., NW, Apt. 505, Washington, DC, 20001
- Evans, Beth Patricia, 1220 South Hanover Street, Apt. 2, Baltimore, MD, 21230
- Evermann, John Benjamin Lyle, 5005 Blythewood Rd., Baltimore, MD, 21210
- Ewing, Patrick James, 1617 Patapsco Street, Baltimore, MD, 21230
- Eyler, Meaghan Lee, 12 Luther Drive, Thurmont, MD, 21788
- Ezell, Troy Lamont, 5325 Westbard Avenue, #103, Bethesda, MD, 20816
- Fairman, Leah Sebastiane, 815 Thayer Ave, Apt 830, Silver Spring, MD, 20910
- Falusi, Olayemi Isaac, 7756 Finns Ln., Apt. A2, Lanham, MD, 20706
- Fama, Brennan Joseph, 5225 Pooks Hill Road, Apt. 326 North, Bethesda, MD, 20814
- Farquhar, Margaret Jennings, 1601 Olney Sandy Spring Road, Sandy Spring, MD, 20860
- Farra, Adam Heider, 4 East Branch Lane, Baltimore, MD, 21202
- Farris, Alexis Marie, 1931 16th St., NW, Apt. 2, Washington, DC, 20009
- Fattahi, Parva, 5708 Stillwell Rd., Rockville, MD, 20851
- Fautsch, David Nicholas, 1312 Tomahawk Dr., Dubuque, IA, 52003
- Federline, Daniel Mark, 6820 Guest Call, Unit 246, Elkridge, MD, 21075
- Feldman, Dena Lynn Wigder, 2827 15th Street, NW, #102, Washington, DC, 20009
- Feldman, Yana Iosifovna, 5415 Connecticut Avenue, N.W., Apt. 233, Washington, DC, 20015
- Ferguson IV, William Claiborne, 801 S. East Avenue, Baltimore, MD, 21224
- Ferner, Stephanie Rae, 1142 Colony Ridge Rd., Odenton, MD, 21113
- Ferrine, Alexis LaToya, 67 Beverly Road, Springfield, NJ, 07081

THE JUDICIARY

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- Fersh, Rachel Ilana, 3003 Van Ness St. NW, Apt. W1004, Washington, DC, 20008
- Fiedler, Randolph Makoto, 1145 Scenic Crest Drive, Henderson, NV, 89052
- Figueira, Julie Rose, 3648 Park Place, NW, Washington, DC, 20010
- Fine, Justin Ean, 17 Cornhill Street, Annapolis, MD, 21401
- Finkley, Reshaun Markie, 2003 Strauss Street, Brooklyn, NY, 11212
- Finstein, Eve Rebecca, 6012 Red Clover Lane, Clarksville, MD, 21029
- Fisher, Emily Michelle, 1457 Towson Street, Baltimore, MD, 21230
- Fisher, Joshua Kelley, 1728 Bolton St., Apt. 3, Baltimore, MD, 21217
- Fiske, Edmund James, 3123 Elmora Avenue, Baltimore, MD, 21213
- Fitzgerald, Erin Page, 634 A St., NE, Apt. B, Washington, DC, 20002
- Flagg, Christopher Lee Andrew, 403 South Sapodilla Avenue, Apt. 102, West Palm Beach, FL, 33401
- Flaherty, Renee Denise, 300 N. State St., #3006, Chicago, IL, 60610
- Flanagan, Krista Miquel, 9401 Stoney Harbor Drive, Fort Washington, MD, 20744
- Flores, Linh Tran, 13660 Venturi Lane, Oak Hill, VA, 20171
- Flores, Moises Andruz, 13108 Larkhall Circle, Fort Washington, MD, 20744
- Flowers, Arija Morgan, 1747 Lanier Pl., N.W., Basement, Washington, DC, 20009
- Fogarty, Meghann Rose, 5002 Jamestown Road, Bethesda, MD, 20816
- Fogleman, Matthew Warren, 723 Fallsgrove Drive, Apt. 4130, Rockville, MD, 20850
- Foley IV, John Paul, 3501 Spanish Bay Court, Elkton, MD, 21921
- Follick, Julia Solway, 232 F Street, N.E., Washington, DC, 20002
- Foltin, Jason Robert, 1201 West Mt. Royal Avenue, Apt. 206, Baltimore, MD, 21217
- Foltz, Madeleine Nichol, 27 Caltrider Lane, Reisterstown, MD, 21136
- Fonner, Gina Frezzo, 335 Logan Court, Abingdon, MD, 21009
- Forde, Jennifer Margot, 1444 Rhode Island Ave., N.W., Apt. 809, Washington, DC, 20005
- Fox, LaKeeshia Austin, 1623 Butler St., S.E., Apt. 101, Washington, DC, 20020
- Foxworth, Ashley Manning, 3513 Anton Farms Rd., Pikesville, MD, 21208
- Francis, Susan Kay, 3309 Moravia Road, Baltimore, MD, 21214
- Francis-Williams, Latoya Andrea, 3508 Stoneybrook Road, Randallstown, MD, 21133
- Friedberg, Alison Beth, 1200 East West Hwy, Apt. 407, Silver Spring, MD, 20910
- Friedman, Charles Andrew, 1314 Double Gate Dr., Davidsonville, MD, 21035
- Frison, Teresa Louise, 1375 Fairmont Street NW, Apt 502, Washington, DC, 20009
- Frohman, Jennifer Lynn, 3723 Windom Pl., N.W., Washington, DC, 20016
- Fuller, Elizabeth Anne, 43 Glen Alpine Rd., Phoenix, MD, 21131
- Galan, Juliana Marie, P.O. Box 429, St. Michaels, MD, 21663
- Gallina, Joseph Anthony, 5328 Connecticut Avenue NW, Washington, DC, 20015
- Gandal-Powers, Mara Kressin, 2745 29th Street, N.W., Apt. 205, Washington, DC, 20008
- Gandhi, Mahvash Latif, 12183 Waveland Street, Fairfax, VA, 22033
- Gannon, Kathleen Claire, 5607 Durbin Road, Bethesda, MD, 20814
- Garcia, Bradley Nelson, 10713 Game Preserve Road, Gaithersburg, MD, 20879
- Garfunkel, Michael Jacob, 2538 Farringdon Road, Baltimore, MD, 21209
- Garman, Holly Annette, 1304 River Road, Crownsville, MD, 21032
- Gaszner, Miklos, 22 Infield Ct., N., Rockville, MD, 20854
- Gaudiano, Ashley Nicole, 14 Poultney Street, Baltimore, MD, 21230
- Gaudreau, Andrew William, 3016 Norwood Avenue, Pittsburgh, PA, 15214
- Gaughenbaugh, Alison Catherine, 12930 Edgewood Court, Pickerington, OH, 43147
- Gawronski, Jennifer Lin, 2924 Wyman Parkway, Baltimore, MD, 21211
- Gaztambide-Arandes, Laura Judith, 4849 Connecticut Ave., Apt. 824, Washington, DC, 20008
- Gelfand, James Patrick, 555 Massachusetts Ave., N.W., #1416, Washington, DC, 20001
- Gelmann, Emily Beth, 300 West Lombard St., Apt. 1201, Baltimore, MD, 21201
- Gemmell, Elizabeth Killian-Marie, 201 Carolina Point Pkwy., Apt. 613, Greenville, SC, 29607
- Genvert, Lauren Catherine, 300 West Lombard St., Apt. 1102, Baltimore, MD, 21201
- Geranmayeh, Cyrus Mark, 112 Bent Tree Drive, Palm Beach Gardens, FL, 33418
- Geronimo, Ronan-Allan Carpio, 7820 Jeremy Terrace, Derwood, MD, 20855
- Getz, James Alan, 2071 Druid Park Drive, Apt. 2, Baltimore, MD, 21211
- Geyer, Hannah Rae, 3000 N. Washington Blvd., Apt. 701, Arlington, VA, 22201
- Ghattas, Thierry Albert, 10509 Coving Cross Lane, Vienna, VA, 22182
- Gibson, Misty Phillips, 636 S. Potomac St., Baltimore, MD, 21224
- Gilliland, Alexandra Victoria, 607 Dunberry Drive, Arnold, MD, 21012
- Gimovsky, Matthew David, 240 Virginia Ave., NW, Apt. C-1023, Washington, DC, 20037
- Ginsburg, Shana Rae, 11100 Whisperwood Lane, Rockville, MD, 20852
- Glickman, Alan, 3213 Marnat Rd., Baltimore, MD, 21208
- Glofelter, Christopher Ryan, 8310 Colesville Rd., #220, Silver Spring, MD, 29102
- Gluckman, Judah Gabriel, 2828 Connecticut Ave., N.W., #711, Washington, DC, 20008
- Glynn, Colin Patrick, 212 Longwood Road, Baltimore, MD, 21210
- Gnatt, Randall Lawrence, 2500 Q Street NW, #234, Washington, DC, 20007
- Goff, Marie-Therese Perry, 311 Thornhill Road, Baltimore, MD, 21212
- Goldberg, Yehuda Amram, 2703 Jenner Dr., Apt. F, Baltimore, MD, 21209
- Goldman, Jonathan Glenn, 118 9th Street NE, Apt. 2, Washington, DC, 20002
- Goldsmith, Jennifer Susan, 1500 Massachusetts Avenue NW, Unit 560, Washington, DC, 20005
- Goodley, James Edward, 1701 East West Hwy., Apt. 205, Silver Spring, MD, 20910
- Goodman, Rachel Miriam, 6118 Benhurst Road, Baltimore, MD, 21209
- Gordon, Brian Rinaldo, 15158 Wentwood Lane, Woodbridge, VA, 22191
- Gordon, Chaim, 3406 Hatton Road, Baltimore, MD, 21208
- Gordon, Shari Knollisia, 14600 Debenham Way, Bowie, MD, 20721
- Gormley, Joseph Michael, 17605 Princess Anne Drive, Olney, MD, 20832
- Gottshall, Adrian Barbara, 7809 Boston Avenue, Silver Spring, MD, 20910
- Gouge, Paul Michael, 5004 Snow Drive, Frederick, MD, 21703

- Goyden, Joshua Paul, 4220 River Road, N.W., Washington, DC, 20016
- Grabenstein, Sarah Maria, 9862 Bale Ct., Baltimore, MD, 21117
- Grace, Maggie Teresa, 1119 Vineyard Hill Rd., Catonsville, MD, 21228
- Grant, Steven Benjamin, P.O. Box 424, Boynton Beach, FL, 33425
- Grasso, Kent Robert, 2722 Dillon Street, Baltimore, MD, 21224
- Gray, Crystal Lee, 306 Senate Court, Herndon, VA, 20170
- Green, Alastair William, 73 Dunning Blvd., Bangor, ME, 04401
- Green, Sandina Lenina, 527 Ninth Street, N.E., 1/2, Washington, DC, 20002
- Gregory, Kevin Preston, 12044 S Piney Point Rd, Bishopville, MD, 21813
- Grier, Lark Yaa Asantewaa, 510 Fern Place, NW, Washington, DC, 20012
- Griffiths, Christopher Jack, 909 New Jersey Ave., SE, Apt. 707, Washington, DC, 20003
- Grimball, Megan Michelle, 235 Emerson St., N.W., Apt. 101, Washington, DC, 20011
- Grimm, John Robert, 400 Terrace Way, Towson, DC, 21200
- Gross Guinan, Gabriela Lucia, 3609 38th Street, N.W., #208, Washington, DC, 20016
- Grossman, Elyse Rachelle, 305 W. Fayette Street, Apt. 1705, Baltimore, MD, 21201
- Grossnickle, Jacquelyn Marie, 5780 Brownsville Pass Road, Jefferson, MD, 21755
- Groves, Matthew Michael, 729 18th St., N.E., Washington, DC, 20002
- Gruenspecht, Joshua Fraser, 6006 Princeton Ave, Glen Echo, MD, 20812
- Grzech, Erinn Frances, 20 Clubview Lane, Phoenix, MD, 21131
- Guy, Sally McMillan, 23 Stonehenge Circle, #2, Baltimore, MD, 21208
- Haake, Jack Gabriel, 100 W. 39th Street, Apt. D-1, Baltimore, MD, 21210
- Haar, Daniel Edward, 4000 Tunlaw Road, N.W., Apt. 621, Washington, DC, 20007
- Habte, Samson Fisseha, 7110 Red Horse Tavern Lane, Springfield, VA, 22153
- Haghshenas, Parisa, 26 Innisfree Drive, Durham, NC, 27707
- Hall, Andrew James, 1866 Cabrini Ct., Crofton, MD, 21114
- Hall, Bryant, 1104 Spruce St., Apt. 3R, Philadelphia, PA, 19107
- Hallmark, John Dameron, 321 Tennessee Avenue, NE, Washington, DC, 20002
- Hallmark, Sara Albert, 321 Tennessee Ave., N.E., Washington, DC, 20002
- Halyard, Tashira Shawntae, 5210 E Street SE, Unit 4, Washington, DC, 20019
- Hama, Sali, 4560 Conwell Drive, Annandale, VA, 22003
- Hampton, Kelley Anne, 4001 9th St., N., Apt. 1202, Arlington, VA, 22203
- Han, Andrew Dae-Hyuk, 7511 Whittier Blvd., Bethesda, MD, 20817
- Han, Mark Kim, 1907 4th Street, N.W., Washington, DC, 20001
- Han, Peter Kang, 723 K Street, N.E., Washington, DC, 20002
- Handelsman, Jeffrey Howard, 14201 Masterpiece Lane, North Potomac, MD, 20878
- Hansford, Eric Thomas Zbraneck, 425 Massachusetts Ave., NW, Apt. 1013, Washington, DC, 20001
- Hansford, Masha Godina, 4690 Pawnee Pl., Boulder, CO, 80303
- Hanson, Emily Rachel, 305 W. Fayette St., Apt. 1705, Baltimore, MD, 21201
- Hao, Grace, 6810 Dillon Ave., McLean, VA, 22101
- Harada, Satoko, 1501 St. Paul St., Apt. 204, Baltimore, MD, 21202
- Harbor, Benjamin, 2826 Damascus Court, Apt. C, Baltimore, MD, 21209
- Hardley, Keisha Monique, 56 Saint Adams Drive, Stafford, VA, 22556
- Haresign, David Christopher, 4701 Connecticut Ave., Apt. 109, Washington, DC, 20008
- Harman, Jason Alexander, 850 John Carlyle St., #251, Alexandria, VA, 22314
- Harmon, Michael Asher, 261 Robert St., Apt. 2, Baltimore, MD, 21217
- Harne, Kathleen Haley, 730 Hawthorne Lane, Apt 520, Charlotte, NC, 28204
- Harrell, Tiffany Noelle, 1828 Wycliffe Road, Parkville, MD, 21234
- Harris, Jonathan Fox, 104 S. Ann St., #1, Baltimore, MD, 21231
- Harris Chappell, James Lawrence, 6515 Belcrest Road, Apt 1510B, Hyattsville, MD, 20782
- Hart, Ryan Kane, 1850 Wyoming Avenue, N.W., #1, Washington, DC, 20009
- Hart Jr., John David, 9837 Rocky Ridge Rd., Rocky Ridge, MD, 21778
- Harwin, Alexandra Dianne, 11800 Old Georgetown Road, Apt. 1217, North Bethesda, MD, 20852
- Hashmi, Hera Syed, 10837 Green View Way, Columbia, MD, 21044
- Haukebo, Joshua Peter, 606 N. Eutaw St., Apt. C, Baltimore, MD, 21201
- Havivi, Daniel Ziv, 700 Bolinwood Drive, Apt. 32-F, Chapel Hill, NC, 27514
- Hawes, Christine Brittany, 7804 Turning Creek Court, Potomac, MD, 20854
- Hayes, Justin Howarth, 20 South Decker Ave, Baltimore, MD, 21224
- Haynes, Tameka Daniele, 308 Bismark Circle, North Augusta, SC, 29841
- Heide, Crystal LeiAnne, 1924 Ednor Road, Silver Spring, MD, 20905
- Herendeen, Rosalind Heyroth, 2701 Calvert St., N.W., Apt. 404, Washington, DC, 20008
- Herman, Cara Lynne, P.O. Box 381, Darlington, MD, 21034
- Hermann II, Rodney Martin, 5003 Butternut Drive, Rockville, MD, 20853
- Herring, Michael Edward, 322 A St., SE, Apt. 4, Washington, DC, 20003
- Hershey, Peter Christian, 27440 Travelers Rest Court, Easton, MD, 21601
- Higgs, Emily Alice, 103 Water Street, Severna Park, MD, 21146
- Hill, Andrew Sean, 1948 Calvert St., Apt. 3, Washington, DC, 20009
- Hindman, Stuart Aaron, 6100 Fox Run, Fairfax, VA, 22030
- Hirsch, Rachel Ann, 6611 Bonnie Ridge Drive, Apt. 201, Baltimore, MD, 21209
- Hitchcock, Ian Michael, 700 Portland Ave., First Floor, Baltimore, MD, 21230
- Hoffman, Joshua Elliott, 12151 Falls Road, Cockeysville, MD, 21030
- Hoffman, Taylor Christine, 1832 Pine Grove Court, Severn, MD, 21144
- Holness, Toni Elizabeth, 1600 South Eads Street, #736-N, Arlington, VA, 22202
- Holt, Derick George, 9011 Canberra Drive, Clinton, MD, 20735
- Holtz, Elizabeth Cabrera, 8220 Stone Trail Drive, Bethesda, MD, 20817
- Homan, Katherine Schuyler, 1530 Key Blvd., Unit 722, Arlington, VA, 22209
- Horrell, Patrick Christopher, 1320 Vermont Avenue NW, Apt. 2, Washington, DC, 20005
- Hosseinzadeh, Kristin Roya, 1200A Stevenson Lane, Towson, MD, 21286
- Hottle, Ashley Marie, 1200 N. Herndon Street, Unit 434, Arlington, VA, 22201
- Hoverman, Andrew Thomas, 4224 Hunt Club Cir., Apt. 823, Fairfax, MD, 21211

THE JUDICIARY

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- Howell, Amanda Beth, 7445 Fire Tower Road, Hebron, MD, 21830
 Hoyt, Jessica Elizabeth, 14501 Chrisman Hill Drive, Boyds, MD, 20841
 Hoyt, Justin Macfarlane, 130 Maryland Ave., Edgewater, MD, 21037
 Huang, Joanna Mengya, 6703 Asset Drive, Hyattsville, MD, 20785
 Huber, David Matthew, 7494 Sea Change, Columbia, MD, 21045
 Huber, Michael George, One East Chase Street, Apt. 712, Baltimore, MD, 21202
 Huddle, Matthew Gregory, 4524 Commons Drive, Apt. 204, Annandale, VA, 22003
 Hudson Jr, Willie Levern, 550 Radnor Ave., Baltimore, MD, 21212
 Huey, Ashanti Sartor, 300 Yoakum Pkwy., Apt. 702, Alexandria, VA, 22304
 Huggins, Alexander Christopher, 16 W. Mount Vernon Place, Apt. 3-C, Baltimore, MD, 21201
 Hughes, John Leonard, 17510 Cain Circle, S.W., Frostburg, MD, 21532
 Hughes, Scott Arthur, 2325 42nd St., N.W., #219, Washington, DC, 20007
 Hulsey, Sarah Katherine, 4801 Connecticut Ave., N.W., #601, Washington, DC, 20008
 Hung, Alice, 10853 Outpost Drive, North Potomac, MD, 20878
 Hung, Lang My, 1116 Crestfield Drive, Rockville, MD, 20850
 Hunn, Selena Nicole, 605 Mission Hills Court, Silver Spring, MD, 20905
 Hunter, April Nicole, 20203 Goshen Road, #332, Gaithersburg, MD, 20879
 Hunter, Denise Marie, 1524B 5th St., NW, Apt. B, Washington, DC, 20001
 Hunton, Bernadette Marie, 22 Farnham Way, Timonium, MD, 21093
 Huo, Ivy, 32 Silver Moon Drive, Silver Spring, MD, 20904
 Hurd, Jey Evan, 16216 Eastham Court, Bowie, MD, 20716
 Husain, Rahat, 3437 Hewitt Avenue, Silver Spring, MD, 20906
 Hussain, Hina Zehra, 705 4th Street NW, Apt. 308, Washington, DC, 20001
 Hutchison, Linda Sigillito, 10919 Rock Coast Road, Columbia, MD, 21044
 Hutson, Courtney Metz, 3000 Spout Run Pkwy., Unit D-106, Arlington, VA, 22201
 Ickes, Paul Ranson, 1 E. Chase St., Apt. 903, Baltimore, MD, 21202
 Ifill, Pierre Lamont, 8206 Gorman Ave., #352, Laurel, MD, 20707
 Imbimbo, Erica Stephanie, 1372 Rosepointe Drive, York, PA, 17404
 Ingram, Kyle Gibson, 75 Walnut Woods Ct., Gahanna, OH, 43230
 Inman, Kelley Megan, 116 E. Preston Street, Apt. A, Baltimore, MD, 21202
 Innis, Christopher James, 13016 Mimosa Farm Court, Rockville, MD, 20850
 Inspektor, Yair, 5515 Raleigh Street, Pittsburgh, PA, 15217
 Iranshad, Mehrban Pizarro, 16518 Harbour Town Drive, Silver Spring, MD, 20905
 Ito, Emi Julia Elizabeth, 3719 Martins Dairy Circle, Olney, MD, 20832
 Iwashko, Lev Ivan Gabriel, 1718 P Street, NW, Apt. 702, Washington, DC, 20036
 Izzo, Anne Nicole, 1317 Jervis Square, Belcamp, MD, 21017
 Jackson, Brett Joann, 1020 Park Ave., Apt. 404, Baltimore, MD, 21201
 Jackson, Matthew Butler, 32285 Greenfield Court, Pocomoke, MD, 21851
 Jackson, Sharonda Rakia, 1817 E. Lamley Street, Baltimore, MD, 21231
 Jacobs, Benjamin Carl, 206 N. Duke St., Apt. 132, Durham, NC, 27701
 James, Bruce Michael, 1301 Massachusetts Ave., NW, Apt. 712, Washington, DC, 20005
 James, Denesha Patrice, 3633 Dunlap Street, Temple Hills, MD, 20748
 Jaskot, Emily Catherine, 101 N. Rose St., Baltimore, MD, 21224
 Jehn, Erin Gannon, 1201 Perry St., N.E., Washington, DC, 20017
 Jenkins, Megan Marie, 3721 Double Rock Lane, Baltimore, MD, 21234
 Jewell, Elizabeth Anne, 401 Massachusetts Avenue, Apt. 602, Washington, DC, 20001
 Johnson, Anne Elizabeth, 3001 Park Center Drive, Apt. 1510, Alexandria, VA, 22302
 Johnson, Candace Renee, 3409 Manderes Place, Springdale, MD, 20774
 Johnson, Lucrecia Patrice, 7505 Vernon Square Dr., Apt. 103, Alexandria, VA, 22306
 Johnson, Peter Francis, 4402 Chesapeake Street, N.W., Washington, DC, 20016
 Johnson, Remington Jiro, 201 I Street, #1207, Washington, DC, 20002
 Johnson, Stanton Rabon, 12309 Dendron Place, Fort Washington, MD, 20744
 Jones, Amanda Carol, 623 5th St., NE, #3, Washington, DC, 20002
 Jones, Blaire Glover, 703 6th St., Apt. 7, Washington, DC, 20001
 Jones, Blake Aaron, 1412 N. Meade St., Arlington, VA, 22209
 Jones, Vonzell Dwayne, 7903 Orion Cir., Apt. 252, Laurel, MD, 20724
 Joy, Melissa Jane, 1460 Southwestern Blvd., #5, West Seneca, NY, 14224
 Joyce, Kevin Patrick, 3 Foothill Court, Timonium, MD, 21093
 Judy III, Conrad Waltermere, 1611 South Charles Street, Baltimore, MD, 21230
 Kafka, Sarah Elizabeth, 1300 Kinloch Circle, Arnold, MD, 21012
 Kahelin, Michael William, 102 Cameron Parke Court, Alexandria, VA, 22304
 Kalantar, Ebtehaj, 18650 Sage Way, Germantown, MD, 20874
 Kalinina, Maria Evgenievna, 5350 43rd Street NW, Washington, DC, 20015
 Kang, Byoung Jo, 2112 Belle View Blvd., Alexandria, VA, 22307
 Kannapel, Amanda Christine, 1707 Forest Glen Road, Silver Spring, MD, 20910
 Karr, Laura Pierson, 4849 Connecticut Ave., N.W., Apt. 207, Washington, DC, 20008
 Kaseoru, Kalev, 7004 Kingfisher Lane, Lanham, MD, 20706
 Katzenberg, Brian David, 110 W. Barre Street, Baltimore, MD, 21201
 Kaufman, Ryan Scott, 504 South Potomac Street, Baltimore, MD, 21224
 Kearns, Brendan Brian, 112 Lee Ave., Apt. 302, Takoma Park, MD, 20912
 Kearns, Elizabeth Ann, 9805 Cable Drive, Kensington, MD, 20895
 Keefe Singer, Jenilee, 2813 Blaine Drive, Chevy Chase, MD, 20815
 Keller, Nathaniel Hansford, 518 West Fayette Street, Apt. 403, Baltimore, MD, 21201
 Kelly, Aaron Lancaster, 13428 Long Green Pike, Hydes, MD, 21082
 Kelly, Leah Mary Angelica, 3300 16th St., NW, Apt. 809, Washington, DC, 20010
 Kemerer, Ashley Lynne, 12908 Brandenburg Hollow Rd., Myersville, MD, 21773
 Kennedy, Nathan James, 1110 Bingham Street, Apt. 3, Pittsburgh, PA, 15203
 Kerner, Andrew Mark, 130 Plantation Lane, Stevensonville, MD, 21666
 Kerr, Jonathan Thomas, 143 West Montgomery Street, Baltimore, MD, 21230
 Key, Candace Iman, 5210 3rd Street NE, Apt 212, Washington, DC, 20011

- Khakpouri, Amin, 11910 White Heather Road, Hunt Valley, MD, 21030
- Khanzode, Sonia Satish, 1400 East West Hwy., Apt. 925, Silver Spring, MD, 20910
- Kidd, Danielle Marie, 327 10th Street, SE, Apt. 8, Washington, DC, 20003
- Kieffer, Zachary John, 21224 Twin Springs Drive, Smithsburg, MD, 21783
- Kim, Jason Hyun Jin, 1610 16th St., N.W., #406, Washington, DC, 20009
- Kim, Jennifer Sumi, 1201 W. Mt. Royal Avenue, Apt 556, Baltimore, MD, 21217
- Kim, Kon Woo, 42 Cutter Cove Ct., Middle River, MD, 21220
- King, Brittany Leigh, 1219 Kendrick Road, Rosedale, MD, 21237
- Kirkwood, Heather Jean, 11 N. Eutaw Street, Apt. 606, Baltimore, MD, 21201
- Klein, Amy Elizabeth, 4998 Battery Lane, #505, Bethesda, MD, 20814
- Klemm, Sara Helen, 515 A Cathedral Street, Baltimore, MD, 21201
- Klicos, Nicholas George, 1112 Sleepy Dell Court, Towson, MD, 21286
- Klocko, Caroline Hancock, 2000 Connecticut Avenue NW, Apt 307, Washington, DC, 20008
- Knable, Stephen Andrew, 1400 Lancaster Street, #502, Baltimore, MD, 21231
- Knell, Rachel Elizabeth, 406 Washington St., Cumberland, MD, 21502
- Knickrehm, Eric John, 1221 N. Pierce St., Apt. 206, Arlington, VA, 22209
- Knoll, Molly Grace, 5306 Gretchen St., Kensington, MD, 20895
- Knolle, Evelyn Fay, 300 West Lombard St., Apt. 312, Baltimore, MD, 21201
- Kobrin, Daniel Michael, 737 Monroe St., #304, Rockville, MD, 20850
- Kogan, Hadass, 6421 River Run, Columbia, MD, 21044
- Kolawole, Olufolajimi Abayomi, 7517 Cedar Grove Lane, Elkridge, MD, 21075
- Kolodner, Louis Francis, 3901 Tunlaw Road, N.W., #706, Washington, DC, 20007
- Kostakos, Carly Michele, 9507 Briar Glenn Way, Montgomery Village, MD, 20886
- Kostiwi, Michael William, 4320 George Frye Circle, Woodbridge, VA, 22193
- Kotch, Kristin Marie, 205 E West Street, Baltimore, MD, 21223
- Kovler, Daniel Lansing, 2618 31st Street NW, Washington, DC, 20008
- Kozlowski, Mark Joseph, 1403 Olive Street, Baltimore, MD, 21230
- Krishna, Meera, 14010 Gorky Drive, Potomac, MD, 20854
- Krohn, Jesse Lynn, 300 W. Lombard St., Apt. 315, Baltimore, MD, 21201
- Kujda, Melissa Lauren, 221 East Churchill Street, Baltimore, MD, 21230
- Kunding, Matthew Ryan, 4432 Morningwood Drive, Olney, MD, 20832
- Kunimoto, Eric Hideo, 5100 Ilchester Woods Way, Ellicott City, MD, 21043
- Kurtz, Jessica Caryn, 5009 Dalton Road, Chevy Chase, MD, 20815
- Kutcher, Jason Tola, 2935 Macomb St., N.W., Washington, DC, 20008
- Kwansa, Victor Addo, 5011 69th Avenue, Riverdale, MD, 20737
- Kyle III, Peter Christopher, 4631 Warren St. NW, Washington, DC, 20016
- La Mell, Samantha Brooke, 2 Valley Park Ct., Damascus, MD, 20872
- Lacey, Nathan Gilchrist, 409A Emerson Street, NW, Washington, DC, 20011
- Lakhany, Sonia Fatima, 4849 Connecticut Ave., N.W., Apt. 607, Washington, DC, 20008
- Lallis, Jason Christopher, 66 New York Ave., N.W., Apt. 405, Washington, DC, 20001
- Lam, Stephanie Renee, 1330 South Fair Street, #1608, Arlington, VA, 22202
- Lamasa, Sarah Emily, 2204 Pelham Avenue, Baltimore, MD, 21213
- Lawler, Michael Sturgis, 17 Gray Squirrel Court, Timonium, MD, 21093
- Lawless, Benjamin Michael, 2112 New Hampshire Ave. NW, Apt. 207, Washington, DC, 20009
- Lawlor Jr, Jay Richard, 1111 Park Avenue, #713, Baltimore, MD, 21201
- Lawton, Katherine Jean Hanley, 814 South Bond Street, Apt. 2, Baltimore, MD, 21231
- Lazzaro Jr, Samuel Frank, 1956 Quentin Road, Baltimore, MD, 21222
- LaPier, Angela, PO Box 613, Clarksville, MD, 21029
- League, Chad Allen, 911 South Charles Street, Apt. 203, Baltimore, MD, 21230
- Lederer, Anneliese, 1131 University Blvd., #1018, Silver Spring, MD, 20902
- Lee, Peggy Po-I, 3605 Lynway Court, Ellicott City, MD, 21042
- Lee-Chun, Lillian Dee, 1000 New Jersey Avenue SE, Apt 1116, Washington, DC, 20003
- Leigh, Morgan Erin, 612 Bashford Lane, Ste 1212, Alexandria, VA, 22314
- Leighton, Ashley Marion, 9845 Bristol Square Lane, Bethesda, MD, 20814
- Leighton, Christopher Thomas, 4625 S. Chelsea Lane, Bethesda, MD, 20814
- Lemon, Thomas Oakley, 370 North Emerson Rd., Lexington, MA, 02420
- Lenahan, Maureen Catherine Meyer, 8313 Kendale Road, Parkville, MD, 21234
- Lenora, Enrica Kishani, 2208 Carter Mill Way, Brookeville, MD, 20833
- Lentini, Jerald Martin, 12013 Berry Street, Silver Spring, MD, 20902
- Leslie, Steven Robert, 2310 Washington Blvd., Arlington, VA, 22201
- Letendre, Philip George, 1706 E. Fort Ave., Baltimore, MD, 21230
- Levin, Anna Tova, 1106 General Taylor Street, New Orleans, LA, 70115
- Levine, Allison Rachel, 250 South President St., Apt. 211, Baltimore, MD, 21202
- Levine, Trevor Andrew, 3003 Van Ness Street, N.W., Apt. W1102, Washington, DC, 20008
- Levy, Katherine Heather, 8820 Howard Forest Lane, Baltimore, MD, 21208
- Levy, Lauren Fusillo, 3619 Hickory Avenue, Baltimore, MD, 21211
- Lewis, Dionna Maria, 311 19th Street, N.E., Washington, DC, 20002
- Lewis, Ryan Doyle, 139 Culver Court, North East, PA, 16428
- Lewis, Taylor Nicole, 5415 Connecticut Ave., N.W., Apt. 824, Washington, DC, 20015
- Lickstein, Eric Solomon, 7253 Conley Street, Baltimore, MD, 21224
- Licorish, Khalilah Sade, 815 Thayer Ave., Apt. 1112, Silver Spring, MD, 20910
- Lieberman, Eve Susan, 5704 Nevada Ave., N.W., Washington, DC, 20015
- Lilienfeld, Matthew Joel, 3811 Roland Avenue, Baltimore, MD, 21211
- Lindberg-Aganga, Amanda Marie, 8770 Town and Country Blvd., Apt. E, Ellicott City, MD, 21043
- Lindenbaum, Dara Sircus, 1101 New Hampshire Ave., NW, Apt. 809, Washington, DC, 20037

THE JUDICIARY

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- Linehan, John Stephen, 20101 Valley Mill Road, Freeland, MD, 21053
- Liu, Michael, 104 W. Madison Street, PH-A, Baltimore, MD, 21201
- Llera Jr., Edwin Francisco, 710 South Cherry Grove Avenue, Apt. 304, Annapolis, MD, 21401
- Locher III, Richard Brady, 14 Midvale Rd., Baltimore, MD, 21210
- Lohmann, Stacey Michele, 6913 Copperbend Lane, Baltimore, MD, 21209
- Lohmeyer, Kristen McManus, 7264 Maidstone Place, Elkridge, MD, 21075
- Loiacono Jr, Gerald Lee, 316 S. Chapel St., Baltimore, MD, 21231
- Lopez, Mara Rebecca, 4713 Tuckerman St., Riverdale, MD, 20737
- Lotterer, Paul Vincent, 1417 10th St., NW, W3, Washington, DC, 20001
- Lucchesi III, Thomas Francis, 24 Cynwyd Drive, Cape May Court House, NJ, 08210
- MacKenzie, Matthew Harker, 10 Stirrup Court, Apt. C, Cockeysville, MD, 21030
- MacVittie Kpetigo, Rebecca, 5601 Alta Vista Road, Bethesda, MD, 20817
- Maier, Gloria Kathleen, 2101 Connecticut Ave., N.W., #74, Washington, DC, 20008
- Maier, Krista Rachel, 4607 Connecticut Avenue NW, #503, Washington, DC, 20008
- Maiorino, Roz, 3033 O Street NW, Washington, DC, 20007
- Maleck, Marisa Christina, 43 Rogers Ave., West Springfield, MA, 01089
- Malick, Louis Paul, 10817 Acme Avenue, Woodstock, MD, 21163
- Malloy, Breana Michelle, PO Box 236, 13903 Rolling Oak Dr, Ellerslie, MD, 21529
- Maltese, James Lawrence, 2711 Ordway St., NW, #10, Washington, DC, 20008
- Mandir, Scott Louis, 3376 Tanterra Circle, Brookeville, MD, 20833
- Mansbach, Rebecca Eve, 300 W. Lombard Street, Apt. 411, Baltimore, MD, 21201
- Mantzaris, Nicholas Emmanuel, 323 Tennessee Ave., N.E., Washington, DC, 20002
- Manula Jr., Thomas Dale, 2714 Quarry Rd., N.W., Apt. 106, Washington, DC, 20009
- Manziona, Nicholas Philip, 1500 Arcola Court, Crofton, MD, 21114
- Marchese, Anthony Joseph, 13811 Loree Lane, Rockville, MD, 20853
- Marini, Lauren Elizabeth, 6602 Copper Ridge Drive, #201, Baltimore, MD, 21209
- Marinzel, Alexandra Jean, 811 4th St., N.W., #904, Washington, DC, 20001
- Martinez, Eduardo, 3700 Massachusetts Ave., NW, Apt. 333, Washington, DC, 20016
- Martinez Zaldana, Geovany Edmundo, P. O. Box 7366, Silver Spring, MD, 20907
- Marucci, Ashley Lynn, 4218 Graceton Road, Pylesville, MD, 21132
- Maslikova, Ioulia Sergeevna, 2207 Rogene Drive, Apt. T-3, Baltimore, MD, 21209
- Mastrogianis, Helena Christina, 11 N. Eutaw Street, Apt. 602, Baltimore, MD, 21201
- Matese, Victoria Anne, 9712 Beman Woods Way, Potomac, MD, 20854
- Mather, Andrew James, 4824 Dexter Terrace, Lower Level, Washington, DC, 20007
- Matthews, Cheryl L., 8403 Potomac Valley Court, Fort Washington, MD, 20744
- Matty, Zachary Andrew, 4110 Middlebury Court, Pasadena, MD, 21122
- Maul, Laura Louise, 2011 Q Street, NW, Washington, DC, 20009
- Mauro, Joseph Carl, 2002 Ripley Point Court, Odenton, MD, 21113
- Mayo, Natalie Nicole, 1001 Aliceanna Street, #302, Baltimore, MD, 21202
- Mayo, Nola Mondesir, 14025 Chestnut Court, Laurel, MD, 20707
- Mays, Tianna Jade, 1520 Pinewood Park, Dunbar, WV, 25064
- McCarrick, Shane Martin, 512 Wilson Place, Frederick, MD, 21702
- McCarthy, Meghan Alison, 930 South Saint Asaph Street, Alexandria, VA, 22314
- McCarthy, Michael Reid, 5803 Wilson Lane, Bethesda, MD, 20817
- McCarthy, Sean Patrick, 203 Kirkley Rd., Annapolis, MD, 21401
- McClain, Michael David, 1606 W Street, N.E., Washington, DC, 20018
- McCleary II, Enrico Artair, 16 Carrollton Road, Sterling, VA, 20165
- McCloud, Charles Luther, 519 West Pratt St., Apt. 603, Baltimore, MD, 21201
- McCoy, Joseph Edward, 1736 Willard St., N.W., Apt. 402, Washington, DC, 20009
- McCrary-Dennis, Alexandra Leonettie, 8811 Colesville Rd., Apt. 519, Silver Spring, MD, 20910
- McDermott, William Halley, 4554 Brick Kiln Rd., Snow Hill, MD, 21863
- McDougall, Courtney LeighAnn, 1130 Pointe Newport Terrace, Apt. 210, Casselberry, FL, 32707
- McDowell, Jaimee Chaveed, 10198 Further Lane, Waldorf, MD, 20601
- McFall, Collin Scott, 249 Fallsbrook Road, Timonium, MD, 21093
- McFeeley, Matthew Randolph, 1810 Ingleside Terrace, NW, Apt. #3, Washington, DC, 20010
- McGaunn, Christopher Michael, 3441 Santee Court, Nottingham, MD, 21236
- McGee, Alexander Merritt, 707 York Road, Apt. 5114, Towson, MD, 21204
- McInturff, Elizabeth Joan, 3200 16th St., N.W., Apt. 704, Washington, DC, 20010
- McIntyre, Kristen Ann, 1916 Carrollton Rd., Annapolis, MD, 21409
- McKenna, Shea Adams, 1930 New Hampshire Ave., NW, Unit 55, Washington, DC, 20009
- McKevitt, Patrick Dugan, 1207 Battery Avenue, Baltimore, MD, 21230
- McKitty-Griffin, Esther Arlene, 2199 Aberdeen Drive, Crofton, MD, 21114
- McKnight, Erica LaVerne, 1734 Poplar Lane NW, Washington, DC, 20012
- McKnight, John Wesley, 305 Flannery Lane, Silver Spring, MD, 20904
- McManus, Jennifer Caragh, 10033 Chatelaine Circle, Ellicott City, MD, 21042
- McMurray, Eric Howard, 1400 20th Street NW, Apt. 904, Washington, DC, 20036
- McNeal, Patricia Ann, 6422 Kriel Street, Baltimore, MD, 21207
- McNulty, John Michael, 400 New Jersey Ave., S.E., Washington, DC, 20003
- McQuillen, Robyn Anne, 3 Pooks Hill Road, Apt. 207, Bethesda, MD, 20814
- McTaggart, Brendan Blake, 13009 Disney Lane, Silver Spring, MD, 20906
- Medina, Melanie Ann, 1718 P Street, NW, Apt. 703, Washington, DC, 20036
- Meehan, Adam Marcus, 1004 G Street NE, Washington, DC, 20002
- Meehan, David Mark, 13316 Overbrook Lane, Bowie, MD, 20715
- Mehta, Shetal Mithani, 5151 Parcstone Lane, Apt. S, Fayetteville, NC, 28314
- Mehu, Natasha Edwine, 2305 Rogate Circle, Unit 201, Windsor Mill, MD, 21244
- Meltzer, Brian Daniel, 4101 Cathedral Avenue NW, #815, Washington, DC, 20016

- Mendiola, Sarah Catherine, 10 E. Elm Avenue, Baltimore, MD, 21206
- Meni, Anthony David, 2311 M Street, N.W., #1003, Washington, DC, 20037
- Meni, Geoffrey Avram, 13120 River Rd., Potomac, MD, 20854
- Meyer, Lauren Sydelle, 9116 Hellingly Place, Montgomery Village, MD, 20886
- Meyers, Aaron Han-Min, 2141 P Street, NW, Apt. 307, Washington, DC, 20037
- Millard, Alexandra Elisabeth, 29 E. Ostend Street, Baltimore, MD, 21230
- Miller, Gina Kristol, 1809 Palo Circle, Baltimore, MD, 21227
- Miller, Matthew Thomas, 731 Howard Rd., Pikesville, MD, 21208
- Mincher, Christopher James, 3715 Rexmere Road, Baltimore, MD, 21218
- Miranda, Christine Elizabeth, 13311 Tamworth Lane, Silver Spring, MD, 20904
- Mitchell, Alex Benjamin, 10516 Sweepstakes Road, Damascus, MD, 20872
- Mitchell, Tabitha Nicole, 8164 Orchard Glen Drive, Midland, GA, 31820
- Mobley, Brittany Monique, 3982 Brussels Way, Silver Spring, MD, 22192
- Moll, Eric Luis, 3713 Carrisa Lane, Olney, MD, 20832
- Mollock, Shakaira Simone, 3007 Woodhome Avenue, Baltimore, MD, 21234
- Montanez, Marissa Ann, 6316 Daring Prince Way, Columbia, MD, 21044
- Monteiro, Jared Stephen, 36936 Creek Haven Drive, Selbyville, MD, 19975
- Montross, Gregory Charles, 5513 Oakmont Ave., Bethesda, MD, 20817
- Moody, Anna Katherine, 124 Prince George Street, Apt. 5, Annapolis, MD, 21401
- Moore, Carlin Padraic, 850 Palmerston Avenue, Toronto, ON,
- Moore, Jennifer Marie, 7716 Hanover Parkway, Unit 102, Greenbelt, MD, 20770
- Morgan, Emily Josephine, 1239 Engleberth Road, Essex, MD, 21221
- Morgan, III, James Frederick, 100 West Windsor Avenue, Alexandria, VA, 22301
- Morhard, Ryan Charles, 414 Water Street, Suite 3101, Baltimore, MD, 21202
- Morris, Kevin Liam, 17 Cornhill Street, Annapolis, MD, 21401
- Morris, Robert Alexander, 3110 Kings Ct., Ellicott City, MD, 21042
- Morrow, Lindsay Elizabeth, 2692 Golf Island Road, Ellicott City, MD, 21042
- Morse, Theresa Catherine, 305 W. Fayette Street, Apt. 709, Baltimore, MD, 21201
- Morton, April Meredith, 211 E Mt. Royal Ave., Apt. 1, Baltimore, MD, 21202
- Moses, Jana, 5 N. Ann Street, Baltimore, MD, 21231
- Moss, Ian Creft, 532 20th Street, #314, Washington, DC, 20006
- Mount, William Edward, 2327 Duke Street, Apt. F-22, Alexandria, VA, 22314
- Moy, Laura Michelle, 7808 English Way, Bethesda, MD, 20817
- Mullen, Ashley Erin, 1431 Covington Street, Baltimore, MD, 21230
- Mullikin, Kary Alina, 5325 Westbard Ave., Apt. 613, Bethesda, MD, 20816
- Mulshine, Michael Joseph, 907 Franklin Ave., River Forest, IL, 60305
- Murphy, Brendan Charles, 314 Presway Rd., Timonium, MD, 21093
- Murphy, Pierce Christopher, 614 Coventry Road, Towson, MD, 21286
- Murray, Heather Ann, 225 I Street, N.E., #1112, Washington, DC, 20000
- Murray, William John, 324 Wesmond Dr., Alexandria, VA, 22305
- Muschett, Bonnie Michica, 131 North Broadway, Apt. 3, Baltimore, MD, 21231
- Myers, Jennifer Rachel, 4242 East West Highway, #608, Chevy Chase, MD, 20815
- Myers, Zachary Scott, 9241 Cambridge Manor Ct., Potomac, MD, 20854
- Nadeau, Craig Adam, 8560 2nd Avenue, Apt. 1506, Silver Spring, MD, 20910
- Nardone, Marc Alexander, 34 Sugar Tree Place, Cockeysville, MD, 21030
- Natoli, Kristopher Peter, 7915 Eastern Ave., #710, Silver Spring, MD, 20910
- Ndau, Orton Edgar, 77 W. 104 Street, 6B, New York, NY, 10025
- Neely, Clynnetta Kimberly Patricia, Address Confidential
- Ness, Scott Harrison, 2220 Ridge Road, Reisterstown, MD, 21136
- Newman, Megan Cunnion, 1301 15th Street NW, Apt. 614, Washington, DC, 20005
- Ng, Connie May-Ting, 14020 Wagon Way, Silver Spring, MD, 20906
- Nicklas, Andrew Rogers, 1921 Gough Street, Baltimore, MD, 21231
- Nielson, Katherine Hogan, 2721 Ordway St., NW, Apt. 3, Washington, DC, 20008
- Nnoli, Eileen Chiamaka, 208 North Lewis Street, Apt. 2, Lexington, VA, 24450
- Nonaka, Melissa Olivia, 4710 Bethesda Avenue, Apt. 311, Bethesda, MD, 20814
- Norcross, Diane Elizabeth, 14612 Gallant Fox Lane, North Potomac, MD, 20878
- Norton, Tamica Cadisha, 7920 Dunhill Village Cir., Apt. 201, Windsor Mill, MD, 21244
- Norwood, Kendra Perkins, 8043 Tanworth Court, Springfield, VA, 22152
- Nunez, Jasmin Adrienne, 510 Cathedral St., Apt. A, Baltimore, MD, 21201
- Nwankwo, Raluchukwu Eziakaeago, 3729 Castle Terrace, Silver Spring, MD, 20904
- Nyakairu, John Thomas Karubumbi, 95 Hawthorne Court, NE, Washington, DC, 20017
- O'Brien, Colleen Kennedy, 14 E. Eager St., Apt. 2-R, Baltimore, MD, 21202
- O'Brien, David Francis, 2583 Overlook Rd., #3, Cleveland Heights, OH, 44106
- O'Connor, Shakisha Ayana, 13605 Sir Thomas Way, #22, Silver Spring, MD, 20904
- O'Hara, Sean Patrick, 12758 Oak Farms Drive, Oak Hill, VA, 20171
- O'Keefe, Bryan Mark, 39 W. Lexington Street, #606, Baltimore, MD, 21201
- O'Rourke, Kevin Robert, P. O. Box 589, South Royalton, VT, 05068
- Oberhausen, Jennifer Lindsay, 1499 Massachusetts Ave., N.W., Apt. 801, Washington, DC, 20005
- Olen, Andrew Michael, 324 Drummers Lane, Phoenixville, PA, 19460
- Oliphant, Kamilah Shani, 350 G Street, SW, N607, Washington, DC, 20024
- Olive, Jessica Marie, 305 W. Fayette St., Apt. 709, Baltimore, MD, 21201
- Oliver, Essence LaToya, 3234 T Street, S.E., Apt. #2, Washington, DC, 20020
- Olsen, Jeremy John, 117 West Main St, #206, Salisbury, MD, 21801
- Olszewski, Aaron John, 6606 Cockerille Ave, Takoma Park, MD, 20912
- Onifade, Kolawole Sunday, 110 Queen Anne Road, Glen Burnie, MD, 21060

THE JUDICIARY

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- Orlando III, Michael Joseph, 2727 Ordway Street NW, Apt. 3, Washington, DC, 20008
- Orthner, Monika Frieda, 5929 Main Street, Elkridge, MD, 21075
- Overocker, John Travis, 4910 Forge Haven Dr., Perry Hall, MD, 21128
- Owen, Meredith Lauren, 707 N. Wayne St., Apt. 101, Arlington, VA, 22201
- Owens, Clarisse Ann, 3450 Toledo Terrace, #501, Hyattsville, MD, 20782
- Owens Jr., David Eugene, 1468 Harvard St., N.W., #22, Washington, DC, 20009
- Ozkirbas, John Erol, 1201 Light Street, Apt. 2, Baltimore, MD, 21230
- Pan, Rongrong, 8508 16th Street, Apt. 414, Silver Spring, MD, 20910
- Pantzer, David, 45990 Rolling Road, Lexington Park, MD, 20653
- Panza, Lucia, 2711 Ordway Street, N.W., Apt. 203, Washington, DC, 20008
- Pappas, Katherine Elizabeth, 4807 Scarsdale Road, Bethesda, MD, 20816
- Paraguya, Reena Pastrana, 8801 Hampton Station Ct., Lorton, VA, 22079
- Pardo, Anna, 12342 Field Lark Court, Fairfax, VA, 22033
- Parkman, Katherine McKenrick, 564 Melissa Court, Arnold, MD, 21012
- Parnas, Gregory, 19 Civic Center Drive, Apt #15, East Brunswick, NJ, 08816
- Parry, Caitlin Emelia, 1908 Brightleaf Ct, Silver Spring, MD, 20902
- Patanaphan, Ryan, 1 Roland Court, Towson, MD, 21204
- Patel, Nishith, 1216 Canberwell Road, Catonsville, MD, 21228
- Pateris-Miller, Nicanor Nectaros Tellis, 213 Patapsco Avenue, Apt B, Baltimore, MD, 21222
- Patterson, Gemar Tyrone, 816 Easley St., Apt. 1513, Silver Spring, MD, 20910
- Patterson, Sydney Marie, 5325 Westbard Avenue, Apt. 416, Bethesda, MD, 20816
- Paul, Kevin William, 900 Cathedral St., Apt. 501, Baltimore, MD, 21201
- Paul, Rachel Lauren, 7 Turley Court, North Potomac, MD, 20878
- Pava, Mindy Beth, 502 Lanark Way, Silver Spring, MD, 20901
- Pavlik, Mary Elizabeth, 2215 Washington Ave., Apt. 101, Silver Spring, MD, 20910
- Pearson-Moore, Samuel Francis, 6030 California Circle, Apt. 105, Rockville, MD, 20852
- Pedersen, Brendan Erik, 13529 Blymire Hollow Road, Stewartstown, PA, 17363
- Pensyl, Heather Rae, 1521 Park Avenue, Apt 2F, Baltimore, MD, 21217
- Perry, Alexander Scott, 323 5th Street, SE, Apt. A, Washington, DC, 20003
- Peters, Matthew Leroy, 2062 Druid Park Dr., Baltimore, MD, 21211
- Peters, Rebecca Nicole Bloomfield, 16013 Dusty Lane, Accokeek, MD, 20607
- Peurach, Matthew Robert, 7710 Woodmont Avenue, Apt. 813, Bethesda, MD, 20814
- Philipson, Samuel Benjamin, 5750 Bou Ave., #1002, Rockville, MD, 20852
- Phillips, Jessica Laine, 1200 S. Conkling Street, Apt. 305, Baltimore, MD, 21224
- Pike, Christopher Sean, 8944 Town & Country Blvd., Apt. F, Ellicott City, MD, 21043
- Pike, Jennifer Lindsay, 10 Longworth Ct., Gaithersburg, MD, 20879
- Pillai, Vineetha, 43778 Brownburg Place, Chantilly, VA, 20152
- Pinkrah, Jessie Ama, 5611 5th Street NW, #25, Washington, DC, 20011
- Plessner, Kevin Michael, 228 Homewood Road, Linthicum, MD, 21090
- Pollard Junior, John David, 10618 Kenilworth Avenue, Unit 103, Bethesda, MD, 20814
- Posten, Lauren Ann, 1300 Otis Place NW, Apt. 1, Washington, DC, 20010
- Pourhosseini, Sarah Mariam, 11 North Eutaw Street, #311, Baltimore, MD, 21201
- Powell, Matthew Theodore, 2806 Crest Avenue, Cheverly, MD, 20785
- Praley III, James Charles, 597 Pinedale Drive, Annapolis, MD, 21401
- Pratz, Robert Paul, 6304 Canyon Head Lane, Columbia, MD, 21045
- Prease, Lauren Carole, 1445 Meadowbank Drive, Worthington, OH, 43085
- Preston, Julia Eve, 225 I St., NE., #702, Washington, DC, 20002
- Prunka, William Joseph, 804 Trotters Ridge Ln., Apt. 1, Gaithersburg, MD, 20879
- Pugh, Catherine Lucille, 10819 Avonlea Ridge Place, Damascus, MD, 20872
- Rabinowitz, Aaron Joseph, 1805 Roland Avenue, Towson, MD, 21204
- Raffetto, John Cunningham, 4220 River Rd. N.W., Washington, DC, 20016
- Ramsey, Amy Nicole, 134 11th St., SE, Apt. 2, Washington, DC, 20003
- Ramudo, Patricia Ann, 2008 Jefferson Street, Baltimore, MD, 21205
- Randall, Lindsey Farrah, 2111 Jefferson Davis Hwy., #1202-S, Arlington, VA, 22202
- Raquin, Isabelle Roxane, 4 Leland Court, Chevy Chase, MD, 20815
- Ray, Alta Marlynn, 406 M Street NW, Unit 3, Washington, DC, 20001
- Rebarber, Jessica Ann, 29 East Ostend Street, Baltimore, MD, 21230
- Reed, Shatterra LaFaye, 10724 Whisper Trail, Collierville, TN, 38017
- Reichlyn, Jason Christopher, 1201 Mikara Ct., Bel Air, MD, 21015
- Reid, Zachary Ian, 3911 Windom Place, Washington, DC, 20016
- Rembert-Carroll, Devon Grace, 4643 N. 18th Street, Milwaukee, WI, 53209
- Rescigno, Maria Eugenia, 6 Helm Court, Towson, MD, 21286
- Resurreccion, Jamie-Lynn Alerta, 202 Park Ave., #212, Gaithersburg, MD, 20877
- Rettammel, Lia Sumitra, 219 Redland Boulevard, Rockville, MD, 20850
- Reynolds, Alison Rosholt, 5806 Kenmore Road, Baltimore, MD, 21210
- Ricci, Patricia Anne, 1708 Whitehall Drive, Silver Spring, MD, 20904
- Rice, Heather Ann, 10336 Malcolm Circle, Apt. F, Cockeysville, MD, 21030
- Richardson, Orriel LaShae, 1819 Channing Street, NE, Washington, DC, 20018
- Richter, Ena Juvarado, 704 Gleneagles Drive, Fort Washington, MD, 20744
- Rigor, Gilbert-Athens Propst, 20224 Thunderhead Way, Germantown, MD, 20874
- Ringel, Kevin Marcus, 1111 25th St., N.W., #712, Washington, DC, 20037
- Ritter Jr, Brian Wayne, 2007 Masters Drive, Baltimore, MD, 21209
- Robers, Brandon James, 12912 Goodhill Road, Silver Spring, MD, 20906
- Roberson, Sydney Elyse, 6510 Old Stage Road, Rockville, MD, 20852
- Robinson, Bruce Hart, 4124 Landover Lane, Raleigh, NC, 27616
- Robinson, Melissa Marie, 3312 Rosekemp Avenue, Baltimore, MD, 21214

- Rodabaugh, Andrew Michael, 8348 Ridgely Oak Road, Parkville, MD, 21234
- Roeser, Zeke Jeffrey, 1301 M Street NW, Apt. 702, Washington, DC, 20005
- Rogers, Matthew Bing, 12 Roland Green, Baltimore, MD, 21210
- Rohm, Emily Ann, 1603 Webster St., Baltimore, MD, 21230
- Roland, Thomas Edward, 901 Southridge Road, Catonsville, MD, 21228
- Roles, George Robert, 14569 Poplar Street, Goldsboro, MD, 21636
- Romanik, Joseph Maxwell, 101 W. Read St., #401, Baltimore, MD, 21201
- Ronzhes, Vadim David, 8507 Mountainholly Drive, Pikesville, MD, 21208
- Rose, Jonathan Daniel, 3624 Fords Ln., Apt. D, Baltimore, MD, 21215
- Rosen, Jordan Scott, 1128 Riverside Avenue, Baltimore, MD, 21230
- Ross, Daniel Adam, 101 W. Read St., Apt. 805, Baltimore, MD, 21201
- Ross, Daniel Alan, 7711 N.E. 175th St., E-306, Kenmore, WA, 98028
- Rossi-Gonzalez, Juan Ignacio, 710 S. Cherry Grove Ave., #304, Annapolis, MD, 21401
- Rothschild, Jennifer Michelle, 11100 Blockade Lane, Unit 206, Berlin, MD, 21811
- Roussis, Michael Angelo, 2065 Thomas Bishop Lane, Virginia Beach, VA, 23454
- Roy, Priya, 510 Robinhood Drive, Florence, AL, 35633
- Rozali, Jessica Wenny, 2007 Wyoming Avenue, NW, Washington, DC, 20009
- Rubin, Douglas Stuart, 654 Portland Street, Baltimore, MD, 21230
- Rubinstein, Brian Mark, 7500 Woodmont Avenue, Apt. 310, Bethesda, MD, 20814
- Rungfarsangaroon, Ann, 1020 Park Ave., Apt. 902, Baltimore, MD, 21201
- Rusin, Courtney Micole, 20001 Bucklodge Road, Boyds, MD, 20841
- Russell, Tangelia Carrie, 6724 Metropolitan Center Dr., Apt. 201, Springfield, VA, 22150
- Ruth, Justin Douglas, 708 Orley Place, Bel Air, MD, 21014
- Ruthven, Marisa Elise, 16 Meadowbrook Lane, Woodbury, CT, 06798
- Ryf, Colleen Mary, P.O. Box 2635, Winchester, VA, 22601
- Ryker, David Joseph, P.O. Box 24, Annapolis, MD, 21404
- Saba, Kaveh, 5112 Flanders Avenue, Kensington, MD, 20895
- Sabet-Sharghi, Nadine Bahia, 4740 Bradley Blvd., Apt. 115, Chevy Chase, MD, 20815
- Sakai, Laurel Mikie, 1301 U St., N.W., Apt. 616, Washington, DC, 20009
- Saladino, Julia, 2617 Garfield Street, N.W., Washington, DC, 20008
- Salomon, Michelle Amy, 4603 Brightwood Road, Olney, MD, 20832
- Samu, Dianne Zemnaan, 4206 Ulster Rd., Beltsville, MD, 20705
- Samuels, Benjamin Harry, 1203 South Ellwood Avenue, Baltimore, MD, 21224
- Sanders, Bryan Joseph, 2714 Birdseye Lane, Bowie, MD, 20715
- Sanford Jr., Michael Tony, Three West Fourth Avenue, Baltimore, MD, 21225
- Santella, Amanda McLaurin Boote, 9301 Glenville Road, Silver Spring, MD, 20901
- Santora, Alexa Ariana, 1301 20th Street, N.W., Apt. 215, Washington, DC, 20036
- Sarich, Michael Brian, 8120 Chapel Cove Dr., Laurel, MD, 20707
- Sarti, Erica Laura, 3003 Van Ness Street, N.W., Apt. S-905, Washington, DC, 20008
- Satanovsky, Katerina Dorothy, 3101 N. Hampton Drive, Apt. 1206, Alexandria, VA, 22302
- Satorsky, Leah Vivian, 5534 Willow Street, New Orleans, LA, 70115
- Saunig, Matthew, 4220 River Road, N.W., Washington, DC, 20016
- Scally, Michael Oliver, 2720 Overland Avenue, Baltimore, MD, 21214
- Schantz, Melissa Ann, 8388 Montgomery Run Road, Apt. A, Ellicott City, MD, 21043
- Schlanger, Serra Jessica, 1133 East West Hwy., Apt. 1120, Silver Spring, MD, 20910
- Schmalzbach, Brian David, 2039 Freedom Lane, Falls Church, VA, 22043
- Schmalzle, Ryan Michael, 121 West 4th Street, Frederick, MD, 21701
- Schmelzer, Eric, 2839 11th St., N., Arlington, VA, 22201
- Schmitt, Brian Christopher, 108 Whiskey Creek Circle, Frederick, MD, 21702
- Schnapp, Brian David, 915 E St., N.W., Apt. 510, Washington, DC, 20004
- Scholz, Steven David, 601 N. Eutaw Street, Apt. 709, Baltimore, MD, 21202
- Schraub, David Harrison, 9129 Redwood Avenue, Bethesda, MD, 20817
- Schuessler, Danielle Kathleen, 910 15th St., N.W., Apt. 1303, Washington, DC, 20005
- Schultz, Charles Stephen, 14 West Cross Street, Baltimore, MD, 21230
- Schulz, Matthew Joseph, 3505 Sundown Farms Way, Olney, MD, 20832
- Schuster, Margaret Frances, 118 Sudbrook Lane, Pikesville, MD, 21208
- Schwarz, Aniko Rebecca, 2012 Wyoming Ave., N.W., Apt. 102, Washington, DC, 20009
- Schwartz, Andrew Eric, 755 NE 32nd Street, Boca Raton, FL, 33431
- Schwartz, Craig Adam, 9335 Sprinklewood Lane, Potomac, MD, 20854
- Schweikert, Jay Remington, 300 N. State St., Apt. 3006, Chicago, IL, 60610
- Seifert, Elizabeth Ann, 8824 Blue Smoke Drive, Gaithersburg, MD, 20879
- Serafini Jr., Andrew Alan, 4704 Myrtle Street, Lynchburg, VA, 24502
- Shaffer, Kristin Eriika, 6415 Kenhowe Drive, Bethesda, MD, 20817
- Shaner, Elizabeth Moody, 1309 N. Calvert Street, Unit 2, Baltimore, MD, 21202
- Sharma, Arushi, 10500 Rockville Pike, Apt. 502, Rockville, MD, 20852
- Sharpe, Adam Paul, 39 West Lexington Street, Apt #810, Baltimore, MD, 21202
- Shaw, Jody Robert, 191 Angelus St., Apt. 2, Memphis, TN, 38112
- Shea, Emily Elizabeth, 7112 Eversfield Drive, Hyattsville, MD, 20782
- Shea, Katherine Baird, 6801 Bonnie Ridge Drive, Apt. 201, Baltimore, MD, 21209
- Sheckleford, Michale Alecia, 4322 Rowalt Drive, Apt. 201, College Park, MD, 20740
- Shedd, Daniel Timothy, 501 12th St., N.E., Apt. 37, Washington, DC, 20002
- Shelley, Naza Nicole, 4461 Tuscany Court, Woodbridge, VA, 22192
- Shelton, Ashley Nicole, 709 E. 34th Ave., Pine Bluff, AR, 71601
- Shen, Yi, 4012 Longfellow Street, Hyattsville, MD, 20781
- Shepley, Cara Ann, 6 Stevensgate Court, Baltimore, MD, 21212
- Sheppard, Rebecca Jean, 3116 Dillon Street, Baltimore, MD, 21224
- Sherry, Nishamarie Bose, 101 W. Read St., Apt. 401, Baltimore, MD, 21201
- Sheth, Mona Yogesh, 4607 Connecticut Ave., N.W., Apt. 122, Washington, DC, 20008

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- Shinsato, Samantha Marie, 2015 Kalorama Road, NW, Apt. 3, Washington, DC, 20036
- Shippey, Sydney Justine, 1143 Grant Hill Road, Coventry, CT, 06238
- Shovlin, Katherine Elizabeth, 8 Stowe Court, Erial, NJ, 08081
- Shue, Brandon Lee, 303 Scott Street, Baltimore, MD, 21230
- Shuman-Powell, Robert Justin, 6000 Reims Road, Houston, TX, 77036
- Shutinya, Mariel Whitney, 1230 Battery Ave., Baltimore, MD, 21230
- Sidler, Eric Donald, 2922 Aldrich Avenue South, Apt. 302, Minneapolis, MN, 55408
- Sidorova, Anastasiya, 1701 N. Kent St., Apt. 201, Arlington, VA, 22209
- Siedell, Emily Fairchild, 410 W. Lombard Street, Apt. 310, Baltimore, MD, 21201
- Sigal, Daniel Howard, 1613B Potomac Greens Drive, Alexandria, VA, 22314
- Silverman, David Joshua, 19 Beecham Ct., Owings Mills, MD, 21117
- Silverstein, May Olivia, 815 Thayer Avenue, #1432, Silver Spring, MD, 20910
- Silvestri, Kathryn Hall, 2134 E. Baltimore Street, Baltimore, MD, 21231
- Simmons, Gregory Thomas, 10907 Troy Rd., Rockville, MD, 20852
- Simmonsens, Rachel Anne, 101 W. Read Street, Apt. 402, Baltimore, MD, 21201
- Simpson, Sarah Lynne, 7611 Woodpark Lane, Apt. 301, Columbia, MD, 21046
- Singer, Daniel Seth, 2727 29th St., N.W., #315, Washington, DC, 20008
- Singleton, Crystal Melissa, 3412 Curtis Drive, Apt. 404, Suitland, MD, 20746
- Siracusa, John Alex, 421 11th Street, S.E., Washington, DC, 20003
- Sitapara, Roshni Arvind, 17817 Fraley Farm Road, Derwood, MD, 20855
- Slattery, Catelyn Elizabeth, 10205 Windsor View Drive, Potomac, MD, 20854
- Smit, Kevin William, 27 Constantine Dr., Phoenix, MD, 21131
- Smith, Amanda Leigh, 4 Crescent Rd., Unit G, Greenbelt, MD, 20770
- Smith, Gordon Philip, 3201 Harness Creek Road, Annapolis, MD, 21403
- Smith, Rachel Sarah, 1436 Meridian Place, N.W., #305, Washington, DC, 20010
- Smith, Sarah Louise, 1826 Ellinwood Road, Baltimore, MD, 21237
- Smith, Todd Christhom, 1301 M Street, N.W., Apt. 227, Washington, DC, 20005
- Smith-Scott, Arlene Adasa, 1359 Fishing Creek Road, Annapolis, MD, 21403
- Smokler, Alexia Nicole Baba, 707 N. Fayette Street, Alexandria, VA, 22314
- Smoluchowski, Jessica Anne, 1055 Norman Drive, 212, Annapolis, MD, 21403
- Snavely, Rachel Cara, 16011 Philmont Lane, Bowie, MD, 20716
- Snitzer, Micah Greynum, 1211 South Charles, Apt. 5, Baltimore, MD, 21230
- Snyder, Benjamin William, 203 South Wall St., Apt. 212, Columbus, OH, 43215
- Snyder, David Michael, 204 Preston Court, Apt B, Catonsville, MD, 21228
- Soderberg, Eve Christina, 1701 16th Street NW, Apt 726, Washington, DC, 20009
- Sofidiya, Itunu Olayemi, 3807 57th Avenue, Hyattsville, MD, 20784
- Solan, David Edwin, 960 Devon Drive, Newark, DE, 19711
- Soles, Maureen Berard, 2408 Beechnut Place, Odenton, MD, 21113
- Soliman, Amged Mohamed, 18419 Lost Knife Cir., #303, Montgomery Village, MD, 20886
- Solof, Jeffrey Marc, 911 S. Charles St., Apt. 302, Baltimore, MD, 21230
- Sorathia, Sadia Ruby, 398 Kings College Drive, Arnold, MD, 21012
- Sothoron, Turner Harrison, 1319 Dale Street, Apt 3, Raleigh, NC, 27605
- Sousa, Brandon David, 107 Heritage Street, Summerville, SC, 29485
- Southerland, Janel Asheley, 602-202 Oakland Hills Drive, Arnold, MD, 21012
- Spencer, Michael Steven, 4907 Battery Ln., Apt. 103, Bethesda, MD, 20814
- Spiering, Emily Jo, 27502 Boyce Mill Road, Goldsboro, MD, 21636
- Spillan, Steven Andrew, 1201 Braddock Place, Apt. 301, Alexandria, VA, 22314
- Spooner, Ashley Regina, 15405 Sterling Drive, Rockville, MD, 20850
- Stamm, David Michael, 45442 Steer Horn Neck Road, Hollywood, MD, 20636
- Starkey, Miranda Rae, 1809 Queens Lane, Apt. 146, Arlington, VA, 22201
- Steele, Gabriel McMurray, 509 N. Rock Glen Road, Baltimore, MD, 21229
- Stemmer, Ophir, 2122 Massachusetts Ave., N.W., Apt. 114, Washington, DC, 20008
- Stenlake, Katherine Anne, 1507 S Hanover Street, Baltimore, MD, 21230
- Stephenson, Andrea Lynn, 13601 Dover Cliffs Place, Germantown, MD, 20874
- Stern, Kevin David, 2 High Stepper Court, Unit 401, Baltimore, MD, 21208
- Stevenson, Elinor Olga, 1711 Riggs Place, N.W., Unit 3, Washington, DC, 20009
- Stewart, Ellen Renee, 1213 N. Calvert St., #4-E, Baltimore, MD, 21202
- Stief, Brian Joseph, 1033 Gaither Road, Rockville, MD, 20850
- Stokes, April Dominique, PO Box 100882, Arlington, VA, 22210
- Stone, Pamela Jill, 18 Hilltop Road, Silver Spring, MD, 20910
- Story, David Michael, 403 Murdock Rd., Baltimore, MD, 21212
- Stovall II, Joseph Thomas, 218 E. Preston Street, Apt 1B, Baltimore, MD, 21202
- Straight, Alyson Anne, 905 South Baylis Street, Baltimore, MD, 21224
- Stringer, Daniel Patrick, 120 Greenbrier Rd., Baltimore, MD, 21286
- Stringham, Shauna Lynn, 1216 Marshall St., Baltimore, MD, 21230
- Studer, Carolyn Olivia, 2460 Thistle Road, Macungie, PA, 18062
- Studt, Christina Michele, 2500 Wisconsin Ave., N.W., #711, Washington, DC, 20007
- Suh, Jinho, 192 Halpine Road, Apt. 3208, Rockville, MD, 20852
- Sullam, Jennifer Malia, 5707 Oakshire Rd., Baltimore, MD, 21209
- Sullivan, Eric Owen, 910 S. Fairfax St., Alexandria, VA, 22314
- Sullivan, Matthew, 1012 East Capitol St., NE, 3D, Washington, DC, 20003
- Surbey, Blake Alan, 2201 Wilson Blvd., Apt. 907, Arlington, VA, 22201
- Surendran, Aditya, 211 Compton Avenue, Edison, NJ, 08820
- Sussman, Sara Rebecca, 4734 Buxton Circle, Owings Mills, MD, 21117
- Sutt, Christina Marie, 944 Thompson Blvd., Essex, MD, 21221
- Swaney, Julie Marie, 7409 Flower Avenue, Takoma Park, MD, 20912
- Sweeney, Carolyn Maria, 401 Harbour Place Dr., Apt. 1204, Tampa, FL, 33602
- Sweet, Jocelyn Anna, 13113 Tamarack Rd., Silver Spring, MD, 20904

- Szafran, Tammie Louise, 713 Cedarcroft Road, Baltimore, MD, 21212
- Tachi, Godwill Chukang, 12301 Treetop Dr., Apt. 31, Silver Spring, MD, 20904
- Tait, Justin Dennett, 1200 N Herndon St., Apt. 914, Washington, DC, 22201
- Tam, Jennifer Lena, 736 Guilford Street, Silver Spring, MD, 20901
- Tanner, Michael Christopher, 207 Oak Avenue, Pikesville, MD, 21208
- Tarlecki, Michelle Lynn, 900 Blue Leaf Court, Unit K, Frederick, MD, 21701
- Taylor, Brandi Ann, 2711 Ordway St., N.W., Apt. 207, Washington, DC, 20008
- Taylor, Lisa Marie, 1533 Corkwood Trail, Williamston, MI, 48895
- Taylor, Shari Amanda, 12318 Firth of Tae Drive, Fort Washington, MD, 20744
- Taylor, Shomari Akil, 655 Portland St., Baltimore, MD, 21230
- Taylor, Jr., Vernon Louis, 431 1/2 R St., N.W., Washington, DC, 20001
- Teitel, Adriana Ruth, 11419 Commonwealth Drive, #T2, North Bethesda, MD, 20852
- Tellock, Michelle Maria, 36 High Street, Apt. 401, New Haven, CT, 06510
- Temple III, James Jacob, 2306 Quilting Bee Road, Catonsville, MD, 21228
- Terrell, Mark Thomas, 11403 Jordan Lane, Great Falls, VA, 22066
- Terrill, Katherine Alice, 723 K Street, N.E., Washington, DC, 20002
- Terry Sr, Samuel Bennett, 14302 Kenlon Lane, Accokeek, MD, 20607
- Testa, Matthew McCord, 670 Tram Way, Westminster, MD, 21158
- Theodore, Elisabeth Susan, 1301 20th St., N.W., Apt. 706, Washington, DC, 20036
- Thomas, Charles Louis, 119 Harry S. Truman Drive, Apt. 44, Largo, MD, 20774
- Thomas, Laura Lynn, 10208 Hickory Ridge Rd., Apt. 104, Columbia, MD, 21044
- Thomas, Patrick Ryan, 1380 Ft. Stevens Drive NW, Apt. 305, Washington, DC, 20011
- Thompson, Blair Erin, 1606 Eton Way, Crofton, MD, 21114
- Thompson, Eric MacKenzie, 780 Boylston St., 7i, Boston, MA, 02199
- Thompson, Lauren Nicole, 1420 New Hope Rd., S.W., Atlanta, GA, 30331
- Thompson, Savannah Elizabeth Schram, 5631 Ridge View Drive, Alexandria, VA, 22310
- Tilburg, William Christopher, 1202 Saint Paul Street, Apt. 4-F, Baltimore, MD, 21202
- Tiv, Prachin Sam, 414 Water St., Apt. 1811, Baltimore, MD, 21202
- Todt, Jonathan Harold, 3621 38th St., NW, Apt. 301, Washington, DC, 20016
- Tolman, Neal Michael, 38 W. Dodridge St., Apt. C, Columbus, OH, 43202
- Torain II, Tony William, 9 Hard Spring Ct., Owings Mills, MD, 21117
- Tourgee, Von William Frederick, 11321 Newport Bay Drive, Berlin, MD, 21811
- Townsend, Todd Micheal, 130 M St., NE, Apt. 1010, Washington, DC, 20002
- Traini, Cecilia Grace, 730 East Central Avenue, Edgewater, MD, 21037
- Travanty, Constance Elizabeth, 1410 North Scott St., Apt. 971, Arlington, VA, 22209
- Tricchinelli, Robert John, 1732 Gunwood Place, Crofton, MD, 21114
- Troost, John Thomas, 513 West Broad Street, Apt. 404, Falls Church, VA, 22046
- Tsui, Daniel Daw, 9412 Althea Court, Potomac, MD, 20854
- Tung, Mary Beth, 6467 Galway Drive, Clarksville, MD, 21029
- Turner, Frederick Harter, 6208 Wedgewood Road, Bethesda, MD, 20817
- Turner, James Austin, 2047 Park Rd., N.W., Washington, DC, 20010
- Turner, Lauren Ashley, 1101 North Calvert Street, Apt. 611, Baltimore, MD, 21201
- Tway, Alexander Charles, 508 Fairview Ave., Penndel, PA, 19047
- Tyrone, Erick Renard, 131 Warwickshire Lane, H, Glen Burnie, MD, 21061
- Udondom, Okon Jacob, 8 Musicmaster Court, Silver Spring, MD, 20904
- Ulrich, Michael Richard, 7406 Parkwood Street, Landover Hills, MD, 20784
- Valle, Diana Carolina, 2302 Hildarose Drive, Silver Spring, MD, 20902
- Van der Schalie, James Francis, 1809 Greysens Ferry Court, Point of Rocks, MD, 21777
- Van Derslice, Kurt Andrew, 802 Dominion Drive, Bel Air, MD, 21014
- Venkatesh, Soumya, 1545 18th St., N.W., Apt. 211, Washington, DC, 20036
- Vest, Ayanna Nikia, 2817 7th Street, NE, Apt 2, Washington, DC, 20017
- Vetter, Andrew Gerard, 11 N. Milton Ave., Baltimore, MD, 21224
- Vigil, Daniel, 3300 16th St., NW, #616, Washington, DC, 20010
- Virtue, Ashley Allison, 9829 Woodbridge Court, Ellicott City, MD, 21042
- Vlasova, Anna Alexandrovna, 11821 Enid Drive, Potomac, MD, 20854
- Voegeli, Bradford Paul, 6833 Piney Branch Rd., N.W., Washington, DC, 20012
- Volke, Nathan Edward, 1879 Poplar Ridge Road, Pasadena, MD, 21122
- Von Lindern, Ryan Harrington, 4602 West Virginia Avenue, Bethesda, MD, 20814
- Walker, Brady Alan, 3718 Nassawango Hills Drive, Snow Hill, MD, 21863
- Wallace, Jason Allen, 1750 P ST., NW, Apt. 501, Washington, DC, 20036
- Wallace, Lauren Elizabeth, 7809 Boston Avenue, Silver Spring, MD, 20910
- Walter Jr., Michael Joseph, 9522 Midaro Court, Nottingham, MD, 21236
- Walters, Caitlyn Kelly, 13504 Spinning Wheel Drive, Germantown, MD, 20874
- Walters, Reeve Michaela, 253 Lower Country Dr., Gaithersburg, MD, 20877
- Ward, Ernestine Jallaya Zahir, 6606 Georgia Avenue NW, Unit 1C, Washington, DC, 20012
- Ward, Matthew Alexander, 305 West Fayette Street, #511, Baltimore, MD, 21201
- Wargo, Amanda Lynn, 13633 Colgate Way, Apt. 935, Silver Spring, MD, 20904
- Warner, Blair Christina, 2000 S. Eads St., Apt. 922, Arlington, VA, 22202
- Wassel, Jordan Michael, 12108 Long Lake Dr., Owings Mills, MD, 21117
- Watson, Leah Monique, 1003 Rolling Forest Dr., Jonesboro, AR, 72404
- Weagley, Michael Allen, 7707 Wisconsin Ave, Apt. 504, Bethesda, MD, 20814
- Weaver, Janee Claressa, 2021 Kelbourne Rd., Apt. 101, Rosedale, MD, 21237

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- Weaver, Thomas Kiernan, 8723 C Street, Chesapeake Beach, MD, 20732
- Webb, Tiffany Louise, 15411 Oak Orchard Rd., New Windsor, MD, 21776
- Weber, Joy Kenawell, 115 Moonlight Drive, Greencastle, PA, 17225
- Weeks-Titus, Makeda Maria, 145 Century Dr., Apt. 5420, Alexandria, VA, 22304
- Westholm, Alexander Christian, 57 Shaw St., Annapolis, MD, 21401
- Wezik Jr., Raymond Lee, 7 Durkee Farm Road, Reisterstown, MD, 21136
- Wheaton, David Sandino Knickerbocker, 413 S. Chapel Street, Baltimore, MD, 21231
- Whiston, Thomas Lee, 1404 Foshall Rd., N.W., Washington, DC, 20007
- White, Danielle Frances, 3871 Porter Street, N.W., #B-290, Washington, DC, 20016
- White, Emily Elise, 10207 Parkwood Drive, Kensington, MD, 20895
- White, Matthew Macklin, 2805 18th Street, N.W., Washington, DC, 20009
- Whitehead, Randal Keith, 3601 Chesapeake St., N.W., Washington, DC, 20008
- Whiteman, Allison Lee, 1551 Marlborough Court, Crofton, MD, 21114
- Whitney, Caroline Elizabeth, 701 Stoney Spring Drive, Baltimore, MD, 21210
- Wickwar, Amanda Jill, 623 Pullman Place, Gaithersburg, MD, 20877
- Wielkopolski, Ronald Raymond, 1647 Anderson Road, Apt. 8, McLean, VA, 22102
- Wiest, Samuel Holbrook, 327 St. Mary's Ave, Apt. F, La Plata, MD, 20646
- Wilcox, Kara Michelle, 13725 Mills Ave., Silver Spring, MD, 20904
- Wilkinson, Ashley Ann, 911 North Chattanooga Street, LaFayette, GA, 30728
- Wilkinson, Justin Patrick, 1640 Jackson Street, Baltimore, MD, 21230
- Willcox, Kathleen Carolyn, 201 I Street, NE, Apt. 511, Washington, DC, 20002
- Williams, Arkuie Anthwain, 1809 Greysens Ferry Court, Point of Rocks, MD, 21777
- Williams, Heather Leigh, 707 President St., #1022, Baltimore, MD, 21202
- Williams, Keisha Elaine, 11 S. Eutaw Street, Apt. 1517, Baltimore, MD, 21201
- Williamson, Andrew Michael, 12901 Pinnacle Drive, #401, Germantown, MD, 20874
- Williamson, Danielle Antoinette, 2305 Calverton Heights Avenue, Baltimore, MD, 21216
- Williamson, Jonas Matthew, 911 North Chattanooga Street, LaFayette, GA, 30728
- Willis, LaRita Mae, 2745 29th Street, NW, Apt. 301, Washington, DC, 20008
- Wilson, Jennifer Lynn, 1166 Bayview Vista Dr., Annapolis, MD, 21409
- Wilson, Jennifer Marie, 2242 Cambridge St., Baltimore, MD, 21231
- Wilson, Kristen Nicole, 1313 Kingsbury Drive, Mitchellville, MD, 20721
- Wilson, Nichole Catherine, 8310 Colesville Rd., 2-220, Silver Spring, MD, 20910
- Winter, Justin Michael, 154 Gibbs St., Apt. 314, Rockville, MD, 20850
- Wittich, Nicholas Christoph, 6030 Cartagena Street, Houston, TX, 77035
- Wolf, Ariel Seth, 1325 Iris St., NW, Washington, DC, 20012
- Wolf, Eli Jacob, 1963 Greenberry Rd., Baltimore, MD, 21209
- Wolf, Megan Louise, 3680 38th Street, N.W., Apt. F-246, Washington, DC, 20016
- Wolfsheimer, Amy Beth, 1200 N. Veitch St., Apt. 1226, Arlington, VA, 22201
- Wolsh, Michael James, 100 Harborview Drive, Unit 613, Baltimore, MD, 21230
- Wolson, Max Samuel, 2500 Q Street, N.W., Apt. 246, Washington, DC, 20007
- Won, Bumsuk, 3308 Honey Bee Ct., Ellicott City, MD, 21043
- Wood, Portia Marguerite, 14 Southfield Place, Baltimore, MD, 21212
- Woods, Jessica Kathleen, 119 Spot Club Road, Arnold, MD, 21012
- Wooten, David Michael, 4910 43rd Place, N.W., Washington, DC, 20016
- Worrall, Colin Alexander, 803 1/2 McHenry St., Baltimore, MD, 21230
- Wright, Sarah Christine, 363 Ethan Allen Ave., #203, Colchester, VT, 05446
- Wu, Rutao, 4210 Telfair Rd., Suitland, MD, 20746
- Wyman, Christine Glendenning, 1765 1/2 U Street, N.W., Washington, DC, 20009
- Yaeger, Stephen Patrick, 9440 Tiller Drive, Ellicott City, MD, 21043
- Yang, Fankai, 105 Tintern Court, Charlottesville, VA, 22901
- Yankov, Tihomir Nikolaev, 2125 14th St., N.W., #311-W, Washington, DC, 20009
- Yates, Brittany Danielle, 3 Arden Valley Court, Sparks, MD, 21152
- Yeshua, Etan Joseph, 900 North Randolph Street, Apt 1002, Arlington, VA, 22203
- Yeung, Cheung Fu, 11 North Eutaw Street, Baltimore, MD, 21201
- Yohannes, Sidon Yemane, 314 Mill Pond Ln., Apt. 616, Salisbury, MD, 21804
- Yook, Christopher Chan, 4921 Virginia Street, Alexandria, VA, 22312
- Yoon, Jay Hyun, 2819 Comet Court, Silver Spring, MD, 20904
- Yordanova, Milena Stefanova, 1200 South Arlington Ridge Rd, .Apt. 101, Arlington, VA, 22202
- Yost, Adam Bryant, 9762 June Flowers Way, Laurel, MD, 20723
- Young, Benjamin Samuel, 2801 Quebec Street, N.W., #723, Washington, DC, 20008
- Young, Katherine Alice, 2924 Wyman Parkway, Baltimore, MD, 21211
- Young, Terrence Proud, 715 Dill Road, Severna Park, MD, 21146
- Youngblood, Charlotte Megan, 8107 Eastern Ave., Apt. D-412, Silver Spring, MD, 20910
- Zacchetti, Jason Andrew, 242 Foster Knoll Drive, Joppa, MD, 21085
- Zaslavsky, Sergei Boris, 10101 Grosvenor Pl., #411, Rockville, MD, 20852
- Zeltser, Alex Michael, 3500 Englemeade Road, Baltimore, MD, 21208
- Zhang, Ngai Bing, 300 W. Lombard St., Apt. 403, Baltimore, MD, 21201
- Zhu, Zi-Heng, 1501 Ednor Road, Silver Spring, MD, 20905
- Zidanic, Michael, 2600 Insulator Drive, Baltimore, MD, 21230
- Ziegler, Lauren Banaszewski, 2 Wilfred Ct., Towson, MD, 21204
- Zubair, Isma Rani, 1021 N. Garfield Street, Unit 639, Arlington, VA, 22201
- Zubair, Sarah Meagan, 1130 5th Street, N.W., Apt. 3, Washington, DC, 20001
- Zwa, Amen, 10101 Grosvenor Place, #2005, North Bethesda, MD, 20852

[11-25-26]

Emergency Action on Regulations

Symbol Key

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

Emergency Regulations

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

Title 14

INDEPENDENT AGENCIES

Subtitle 01 STATE LOTTERY AGENCY

Notice of Emergency Action

[11-319-E]

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

- (1) Regulation **.04** under **COMAR 14.01.11 Video Lottery Facility Operation License**; and
- (2) Regulation **.03** under **COMAR 14.01.18 Violations, Civil Penalties, and Sanctions**.

Emergency status began: November 14, 2011.

Emergency status expires: May 11, 2012.

Editor's Note: The text of this document will not be printed here because it appeared as a Notice of Proposed Action in 38:23 Md. R. 1459 — 1460 (November 4, 2011), referenced as [11-319-P].

STEPHEN L. MARTINO
Director
State Lottery Agency

Final Action on Regulations

Symbol Key

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

Title 08 DEPARTMENT OF NATURAL RESOURCES

Subtitle 04 BOATING

08.04.03 Certificate of Boat Number

Authority: Natural Resources Article, ~~[[§§8-704(b)]]~~ §§8-704(c), 8-710.2, and 8-712, Annotated Code of Maryland

Notice of Final Action

[11-251-F]

On October 25, 2011, the Secretary of Natural Resources adopted amendments to Regulations **.01—05**, the repeal of existing Regulations **.06—11** and **.13**, and amendments to and the recodification of existing Regulations **.12** and **.14—18** to be Regulations **.06** and **.07—11** under **COMAR 08.04.03 Certificate of Boat Number**. This action, which was proposed for adoption in 38:19 Md. R. 1151—1153 (September 9, 2011), has been adopted with the nonsubstantive changes shown below.

Effective Date: December 12, 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:

Corrected authority citation and retracted deletions in Regulations .01 and .18 were requested by Natural Resources Police.

.01 Vessel Numbering.

A. (proposed text unchanged)

B. *Display.*

(1) ~~[[The number shall conform to the requirements of 33 CFR §174.23 as amended.]]~~ The number shall conform to the requirements of 33 CFR §174.23 as amended.

(a) The first part shall consist of the letters "MD";

(b) The second part shall consist of not more than four Arabic numerals;

(c) The third part shall consist of not more than two letters;

(d) The parts shall be separated by a hyphen or an equivalent space, for example: MD-1-A, MD-1234-AA, MD 56 AA; and

(e) Letters "I", "O" and "Q" may not be used in the suffix.

(2) Each number shall be displayed pursuant to 33 CFR §173.27 as amended.

~~[[[]]]~~(a) ~~[[Be painted]]~~ Painted on or permanently attached to each side of the forward half of the vessel except as allowed by ~~[[§A(3)]]~~ §B(3), of this regulation, or required by ~~[[§A(4)]]~~, §B(4) of this regulation;

(b) ~~[[Be in plain]]~~ Plain vertical block characters ~~[[of]]~~ not less than 3 inches ~~[[in height]]~~ high;

(c) Contrast with the color of the background and be distinctly visible and legible; and

(d) Read from left to right.~~[[[]]]~~

(3) A manufacturer or dealer, *but not a broker, may apply to the Department for the issuance of certificates of number to be used for testing or demonstrating vessels.*

~~[[(4)]]~~ (a) (proposed text unchanged)

~~[[(5)]]~~ (b) (proposed text unchanged)

(c) The number may be painted on or attached to removable plates that are temporarily but firmly attached to the side of the forward half of the vessel.

~~[[[]]]~~(4) On vessels so configured that a number on the hull or superstructure would not be easily visible, the number shall be painted on or attached to a backing plate that is attached to the forward half of the vessel so that the number is visible from each side of the vessel.

(5) Other numbers may not be carried on the forward half of the vessel.

~~[[B.]]~~ C. Except as provided in Regulation .04, a person may not use a vessel unless:

(1) It has a number issued on a certificate of number by the Department or the issuing authority in the state where the vessel is principally used; and

(2) The number is displayed as required by ~~[[regulation §A,]]~~ §B of this regulation.

~~[[C.]]~~ D. This regulation does not apply to a vessel for which a valid temporary certificate has been issued to its owner by the issuing authority in the state in which the vessel is principally used.~~[[[]]]~~

.18 Hull Identification Numbers.

A. (proposed text unchanged)

B. ~~[[The hull identification number shall be displayed on the vessel pursuant to 33 CFR §181.29 as amended.]]~~ The hull identification number shall be displayed on the vessel pursuant to 33 CFR §181.29 as amended.

(1) Carved, burned, stamped, embossed, molded, bonded or otherwise permanently affixed so that alteration would be obvious;

(2) Primary hull identification number affixed to the starboard outboard side of the transom within two inches of the top of the transom, gunwale, or hull/deck joint, whichever is lowest;

(3) Duplicate hull identification number affixed in an unexposed location on the interior of the boat or beneath a fitting or item of hardware; and

(4) Characters must be no less than one-fourth of an inch high.

C. — D. (proposed text unchanged)

JOHN R. GRIFFIN
Secretary of Natural Resources

Subtitle 04 BOATING

08.04.09 Boat Dealer License

Authority: Natural Resources Article §§1-104, [[8-704(b),] 8-704(a), 8-710, 8-710.1, and 8-712; State Government Article, §10-206; Annotated Code of Maryland

Notice of Final Action

[11-252-F]

On October 25, 2011, the Secretary of Natural Resources adopted amendments to Regulation .01 under **COMAR 08.04.09 Boat Dealer License**. This action, which was proposed for adoption in 38:19 Md. R. 1153—1154 (September 9, 2011), has been adopted with the nonsubstantive changes shown below.

Effective Date: December 12, 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:

Corrected authority citations and retracted deletion of Regulation .01B(2).

.01 Boat Dealer License.

A. (proposed text changed)

B. Cancellation or Denial of License. The Department may cancel or refuse to issue a license for any violation of the State Boat Act including any of the following:

(1) — (3) (proposed text changed)

[[[]](2) Before cancelling, revoking, or refusing to renew a license, the Department shall provide a contested case hearing conducted in accordance with State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland, and COMAR 08.01.04.[]]]

C. — E. (proposed text unchanged)

JOHN R. GRIFFIN
Secretary of Natural Resources

Title 09 DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 19 COMMISSION OF REAL ESTATE APPRAISERS AND HOME INSPECTORS — REAL ESTATE APPRAISERS

09.19.07 Fees

Authority: Business Occupations and Professions Article, §§16-216, 16-304(d), and 16-506(d), Annotated Code of Maryland

Notice of Final Action

[11-217-F]

On October 11, 2011, the Commission of Real Estate Appraisers and Home Inspectors adopted amendments to Regulation .01 under **COMAR 09.19.07 Fees**. This action, which was proposed for

adoption in 38:17 Md. R. 1028 (August 12, 2011), has been adopted as proposed.

Effective Date: January 1, 2012.

PATRICIA SCHOTT
Administrator
Commission of Real Estate Appraisers and Home Inspectors

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.09 Medical Laboratories

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

Notice of Final Action

[11-269-F-I]

On November 14, 2011, the Secretary of Health and Mental Hygiene adopted amendments to Regulation .07 under **COMAR 10.09.09 Medical Laboratories**. This action, which was proposed for adoption in 38:20 Md. R. 1215—1216 (September 23, 2011), has been adopted as proposed.

Effective Date: December 12, 2011.

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

Subtitle 44 BOARD OF DENTAL EXAMINERS

10.44.21 Practice of Dental Hygiene Under General Supervision in a Facility or Long-Term Care Facility

Authority: Health Occupations Article, §4-308, Annotated Code of Maryland;
Ch. 733, Acts of 2010

Notice of Final Action

[11-138-F]

On November 14, 2011, the Secretary of Health and Mental Hygiene adopted amendments to Regulations .01, .02, .04, and .05, new Regulation .10, and the recodification of existing Regulation .10 to be Regulation .11 under **COMAR 10.44.21 Practice of Dental Hygiene Under General Supervision in a Facility or Long-Term Care Facility**. This action, which was proposed for adoption in 38:11 Md. R. 674 — 676 (May 20, 2011) and repropoed in 38:18 Md. R. 1086 — 1087 (August 26, 2011), has been adopted as proposed.

Effective Date: December 12, 2011.

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

Subtitle 44 BOARD OF DENTAL EXAMINERS

10.44.33 Temporary Licenses for Volunteer Dentists and Dental Hygienists and Temporary Dental Clinic Permits

Authority: Health Occupations Article, §§4-101, 4-304, 4-306, and 4-308, Annotated Code of Maryland

Notice of Final Action
[11-256-F]

On November 14, 2011, the Secretary of Health and Mental Hygiene adopted new Regulations .01—.06 under a new chapter, **COMAR 10.44.33 Temporary Licenses for Volunteer Dentists and Dental Hygienists and Temporary Dental Clinic Permits**. This action, which was proposed for adoption in 38:19 Md. R. 1164—1167 (September 9, 2011), has been adopted as proposed.

Effective Date: December 12, 2011.

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

Title 11 DEPARTMENT OF TRANSPORTATION

Subtitle 11 MOTOR VEHICLE ADMINISTRATION — ADMINISTRATIVE PROCEDURES

Notice of Final Action
[11-274-F]

On November 8, 2011, the Administrator of the Motor Vehicle Administration adopted amendments to:

- (1) Regulation .03 under **COMAR 11.11.05 Motor Vehicle Fees**;
- (2) Regulation .02 under **COMAR 11.11.11 Ignition Interlock Vehicle Exemption for Financial Hardship**; and
- (3) Regulations .01, .03, .05, and .07 under **COMAR 11.11.13 Ignition Interlock Program**.

This action, which was proposed for adoption in 38:20 Md. R. 1220—1222 (September 23, 2011), has been adopted as proposed.

Effective Date: December 12, 2011.

JOHN T. KUO
Administrator
Motor Vehicle Administration

Title 13A STATE BOARD OF EDUCATION

Subtitle 12 CERTIFICATION

13A.12.03 Specialists

Authority: Education Article, §§2-205, 2-303(g), 6-101—6-104, and 6-701—6-706; Health Occupations Article, §2-301; Annotated Code of Maryland

Notice of Final Action
[11-214-F]

On November 3, 2011, the Professional Standards and Teacher Education Board adopted amendments to Regulations .02, .03, and .11 under **COMAR 13A.12.03 Specialists**. This action, which was proposed for adoption in 38:17 Md. R. 1038 (August 12, 2011), has been adopted as proposed.

Effective Date: December 12, 2011.

BERNARD J. SADUSKY
Interim State Superintendent of Schools

Title 21 STATE PROCUREMENT REGULATIONS

Subtitle 11 SOCIOECONOMIC POLICIES

21.11.03 Minority Business Enterprise Policies

Authority: State Finance and Procurement Article, §§12-101 and 14-303, Annotated Code of Maryland; *Chs. 252, 253, and 254, Acts of 2011*

Notice of Final Action
[11-276-F]

On November 16, 2011, the Board of Public Works adopted amendments to Regulations .01, .08, .09, and .12, new Regulation .12-1, and the repeal of Regulation .14 under **COMAR 21.11.03 Minority Business Enterprise Policies**. This action, which was proposed for adoption in 38:20 Md. R. 1247—1249 (September 23, 2011), has been adopted as proposed.

Effective Date: December 12, 2011.

SHEILA McDONALD
Executive Secretary
Board of Public Works

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

Subtitle 03 EMS OPERATIONAL
PROGRAMS

30.03.05 Protocol Development

Authority: Education Article, §13-516, Annotated Code of Maryland

Notice of Final Action

[11-263-F]

On November 8, 2011, the Maryland Emergency Medical Services Board adopted amendments to Regulation .02 under **COMAR 30.03.05 Protocol Development**. This action, which was proposed for adoption in 38:19 Md. R. 1172—1173 (September 9, 2011), has been adopted with the nonsubstantive changes shown below.

Effective Date: December 12, 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 .02D(1): The change maintains representation of the Maryland Chapter of ACEP but reflects the fact that there is no EMS subcommittee.

.02 Protocol Development.

A. — C. (proposed text unchanged)

D. MIEMSS shall appoint the protocol review committee which shall be composed of:

(1) *One representative from each of the following groups:*

(a) — (m) (proposed text unchanged)

(n) *[[EMS subcommittee of]] The Maryland Chapter of ACEP;*

(o) — (p) (proposed text unchanged)

(2) (proposed text unchanged)

E. — I. (proposed text unchanged)

ROBERT R. BASS, M.D.
 Executive Director
 Maryland Institute for Emergency
 Medical Services Systems (MIEMSS)

Withdrawal of Regulations

Title 05

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Subtitle 05 RENTAL HOUSING PROGRAMS

05.05.07 Maryland Housing Rehabilitation Program — Multifamily Rehabilitation Program

Authority: Housing and Community Development Article, §2-111 and Title 4, Subtitle 9, Annotated Code of Maryland
Executive Orders 01.01.1992.27C and 01.01.1998.04

Notice of Withdrawal

[10-267-W]

Pursuant to State Government Article, §10-116(b), Annotated Code of Maryland, notice is given that the proposal to repeal existing Regulations .01—.31 and adopt new Regulations .01—.29 under **COMAR 05.05.07 Maryland Housing Rehabilitation Program — Multifamily Rehabilitation Program**, which was published in 37:20 Md. R. 1398—1406 (September 24, 2010), has been withdrawn by operation of law.

BRIAN MORRIS
Acting Administrator
Division of State Documents

Title 09

DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 15 STATE BOARD OF HEATING, VENTILATION, AIR- CONDITIONING, AND REFRIGERATION CONTRACTORS

09.15.02 General Regulations

Authority: Business Regulation Article, §§9A-103(3) and 9A-205, Annotated Code of Maryland

Notice of Withdrawal

[10-313-W]

Pursuant to State Government Article, §10-116(b), Annotated Code of Maryland, notice is given that the proposal to amend to Regulation .12 under **COMAR 09.15.02 General Regulations**,

which was published in 37:23 Md. R. 1614—1616 (November 5, 2010), has been withdrawn by operation of law.

BRIAN MORRIS
Acting Administrator
Division of State Documents

Title 10

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.81 Third Party Liability

Authority: Health-General Article, §§2-104(b), 15-103, 15-120—15-121.3, Annotated Code of Maryland

Notice of Withdrawal

[10-276-W]

Pursuant to State Government Article, §10-116(b), Annotated Code of Maryland, notice is given that the proposal to adopt new Regulations .01—.07 under **COMAR 10.09.81 Third Party Liability**, which was published in 37:20 Md. R. 1409—1411 (September 24, 2010), has been withdrawn by operation of law.

BRIAN MORRIS
Acting Administrator
Division of State Documents

Title 13A

STATE BOARD OF EDUCATION

Subtitle 07 SCHOOL PERSONNEL

13A.07.04 Evaluation of Professionally Certified Personnel

Authority: Education Article, §§2-205(b), (e), and (g), 4-205 (c), and 6-202, Annotated Code of Maryland

Notice of Withdrawal

[10-228-W]

Pursuant to State Government Article, §10-116(b), Annotated Code of Maryland, notice is given that the proposal to adopt new Regulations .01, .05, and .06 and recodify existing Regulation .01 to be Regulation .01-1 under **COMAR 13A.07.04 Evaluation of Professionally Certified Personnel**, which was published in 37:16 Md. R. 1082—1083 (July 30, 2010), has been withdrawn by operation of law.

BRIAN MORRIS
Acting Administrator
Division of State Documents

Proposed Action on Regulations

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

Symbol Key

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

Promulgation of Regulations

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

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

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

Title 07

DEPARTMENT OF HUMAN RESOURCES

Subtitle 02 SOCIAL SERVICES ADMINISTRATION

07.02.07 Child Protective Services — Investigation of Child Abuse and Neglect

Authority: Family Law Article, §5-701 et seq.; Human Services Article, §§1-202, 4-202, and 4-207; Annotated Code of Maryland; *Chs. 398 and 399, Acts of 2011*

(Agency Note: 42 U.S.C. 5106a(b)(2); 45 CFR §1340.20)

Notice of Proposed Action

[11-352-P]

The Secretary of Human Resources proposes to amend Regulations .04—.07, .09, .14, and .19—.21 under **COMAR 07.02.07 Child Protective Services — Investigation of Child Abuse and Neglect**.

Statement of Purpose

The purpose of this action is to alter procedures for reporting suspected child neglect, receiving and responding to reports of child neglect, investigating reports of child neglect, processing reports of completed investigations, and developing procedures for joint investigations of suspected child neglect. The action also updates and amends references to the State agency responsible for child care from the Child Care Administration to the Office of Child Care of the State Department of Education.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Andrea Shuck, Acting Regulations Coordinator, Department of Human Resources, 311 West Saratoga Street, Baltimore, MD 21201, or call 410-767-7193, or email to regulations@dhr.state.md.us, or fax to 410-333-0637. Comments will be accepted through January 3, 2012. A public hearing has not been scheduled.

.04 Reporting Suspected Child Abuse or Neglect.

A. Except as provided in §§B — E of this regulation, an individual who has reason to believe that a child has been abused or neglected shall immediately[, in a case of:

(1) Abuse,] notify a local law enforcement agency or a local department [; and

(2) Neglect, notify a local department].

B. Mandated Reporters.

(1) — (2) (text unchanged)

(3) An individual required to submit a written report:

(a) May use the Administration form described in §B(2) of this regulation; *and*

(b) Shall send the written report to the local department[;]

and

[(c) In the case of suspected child abuse, shall send] a copy [of the report] to the local State's Attorney's office.

C. — E. (text unchanged)

.05 Receiving Reports of Suspected Child Abuse or Neglect.

A. — C. (text unchanged)

D. If a local department receives a report of suspected child abuse or neglect alleged to have occurred in Maryland, it shall:

(1) (text unchanged)

(2) Indicate that the local department will take appropriate action; [and]

[(3) In the case of a report of suspected child abuse:]

[(a)] (3) Immediately notify the local law enforcement agency of a report accepted for [Investigation] *investigation*; and

[(b)] (4) (text unchanged)

E. — H. (text unchanged)

.06 Initial Response to a Report of Suspected Child Abuse or Neglect.

A. — F. (text unchanged)

G. Report Concerning Child Care. If a report of suspected child abuse or neglect concerns a child care center or family day care home, the local department shall:

(1) Promptly notify the [Child Care Administration's] *Office of Child Care of the State Department of Education's* regional manager; and

(2) Conduct an investigation of the report in accordance with procedures agreed upon by the local department and the [Child Care Administration] *Office of Child Care of the State Department of Education.*

H. Report Concerning Foster Home. If a report of suspected abuse or neglect concerns a foster home licensed by a local department or a licensed child placement agency, the local department, under COMAR [07.02.11.21] *07.02.11.23*, shall:

(1) — (3) (text unchanged)

I. — J. (text unchanged)

K. Investigations Across Jurisdictional Lines in Maryland.

(1) (text unchanged)

(2) The local department investigating a report is responsible for:

(a) — (b) (text unchanged)

(c) Requesting that the local department or appropriate social service agency where the child lives conduct the relevant interviews and assess the child's and family's need for services; [and]

(d) [In cases of suspected child abuse:

(i)] Forwarding the results of interviews conducted in other jurisdictions to the State's Attorney's office and the local law enforcement agency; [or] *and*

[(ii)] (e) If a local department or social services agency in a jurisdiction where the child resides conducts a substantial part of an investigation, requesting that the local department or agency forward its report directly to the State's Attorney's office, with copies to the local department and law enforcement agency in the jurisdiction where the abuse is alleged to have taken place.

(3) (text unchanged)

(4) A local department responsible for investigating a report of child abuse or neglect may request that a local department in another jurisdiction investigate the report and make a *recommended* finding if the:

(a) — (b) (text unchanged)

L. (text unchanged)

.07 Investigation of Suspected Child Abuse and Neglect — General.

A. — B. (text unchanged)

C. If the local department is denied entry to a child care center or family day care home to conduct an on-site investigation, the local department shall contact the [Child Care Administration's] *Office of Child Care of the State Department of Education's* regional manager in an attempt to gain entry under COMAR 07.04.01 and 07.04.02.

D. — F. (text unchanged)

.09 Completion of Investigation of Suspected Abuse or Neglect.

A. All Investigations.

[(1) Within 10 days of receiving a report, the local department or, where applicable, law enforcement shall report preliminary findings to the local State's Attorney's office.]

[(2)] (1) — [(5)] (4) (text unchanged)

B. (text unchanged)

.14 Reports, Service Decisions, and Plans.

A. The local department or, where applicable, law enforcement shall notify the State's Attorney's office of its preliminary findings in an abuse investigation within 10 days of receipt of the report of suspected child abuse.

B. Written Report.

(1) — (2) (text unchanged)

(3) *In the case of a neglect investigation, the local department may make a final report to the State's Attorney's office upon completion of the written report.*

C. (text unchanged)

.19 Confidentiality — Investigations of Child Abuse or Neglect.

A. — B. (text unchanged)

C. To the extent relevant to the purpose of the following exceptions to the confidentiality of case records, a local department may disclose a record or report concerning a child abuse or neglect investigation to:

(1) — (8) (text unchanged)

(9) The [Child Care Administration] *Office of Child Care* of the State Department of Education for disclosure to an operator of a child care center that is required to be licensed or to hold a letter of compliance under Family Law Article, Title 5, Subtitle 5 Part VII, Annotated Code of Maryland, or to a family day care provider who is required to be registered under Family Law Article, Title 5, Subtitle 5 Part V, Annotated Code of Maryland, for the purpose of:

(a) — (b) (text unchanged)

(10) — (12) (text unchanged)

D. — K. (text unchanged)

.20 Multidisciplinary Case Consultation Teams.

A. (text unchanged)

B. Purpose and Composition of Other Multidisciplinary Case Consultation Teams.

(1) (text unchanged)

(2) Reports Concerning Child Care Centers or Family Day Care Homes.

(a) If a report concerns child abuse or neglect in a child care center or family day care home, the local department shall assist the [Child Care Administration's] *Office of Child Care of the State Department of Education's* regional manager in convening a multidisciplinary case consultation team to coordinate investigation procedures consistent with the written agreement developed under Family Law Article, §5-706(e), Annotated Code of Maryland.

(b) The multidisciplinary case consultation team shall be chaired by the [Child Care Administration's] *Office of Child Care of the State Department of Education's* regional manager and include representatives from the:

(i) — (iii) (text unchanged)

(3) (text unchanged)

.21 Development of Procedures for Joint Investigations.

A. The local department shall collaborate to develop a written agreement that specifies standard operating procedures for the investigation and prosecution of reported cases of suspected abuse and neglect with:

(1) — (2) (text unchanged)

(3) The [Child Care Administration's] *Office of Child Care of the State Department of Education's* regional manager; and

(4) (text unchanged)

B. (text unchanged)

THEODORE DALLAS
Secretary of Human Resources

**Subtitle 02 SOCIAL SERVICES
ADMINISTRATION**

07.02.11 Out-of-Home Placement Program

Authority: Family Law Article, §§5-501, 5-504, 5-524—5-534; 5-701, and 5-709; Courts and Judicial Proceedings Article, §§3-801, 3-802, 3-815, 3-816.1, 3-817, 3-819.1, 3-819.2, 3-820, and 3-823; Human Services Article, §9-101 et seq.; and Education Article, §15-106.1; Annotated Code of Maryland

Notice of Proposed Action

[11-337-P]

The Secretary of Human Resources proposes to amend Regulations **.02—, .08, .11—, .13, .15—, .17, .25, .29, .30, and .39** under **COMAR 07.02.11. Out-of-Home Placement Program.**

Statement of Purpose

The purpose of this action is to amend the Out-of-Home Placement chapter for compliance with newly enacted federal law and standards. These new requirements were established through the enactment of the Fostering Connections to Success and Increasing Adoptions Act of 2008. Amendments include the expansion of the definition of “child” for participation in out-of-home placement to include ages 18 to 21, when the child meets certain criteria; changes to adoption subsidy eligibility and payment; establishment of a guardianship assistance program to provide limited continued support to relatives who accept full custody and guardianship of children in out-of-home placement; and increased services to youth transitioning from out-of-home care, including the establishment of a transitional plan. The submitted changes to the chapter are a requirement for compliance with Title IV-E and IV-B, which are the conduit of federal funds for child welfare services. Maryland has received approval of its Title IV-E State Plan dependent upon these regulatory changes.

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 Jeanette Ortiz, Assistant Director, Department of Human Resources, 311 West Saratoga Street, Baltimore, MD 21201, or call 410-767-7193, or email to regulations@dhr.state.md.us, or fax to 410-333-0637. Comments will be accepted through January 3, 2012. A public hearing has not been scheduled.

.02 Goals of Out-of-Home Placement.

The goals of out-of-home placement include:

A. —B. (text unchanged)

C. Improving outcomes for children by [increasing the number of reunifications achieved within 12 months of entry into an out-of-home placement.]:

(1) Increasing the number of reunifications achieved within 12 months of entry into an out-of-home placement; and

(2) Decreasing the number of children in out-of-home placement over 24 months.

.03 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(23) (text unchanged)

(24) “Guardianship to agency” means guardianship with the right to consent to adoption or long-term care short of adoption as defined in Family Law Article, §5-301(e), Annotated Code of Maryland, and:

(a) Is conferred by the court on the executive head of a child placement agency; and

(b) Terminates the rights, duties, and obligations of the birth parents.

[(24)] (25)—[(34)] (35) (text unchanged)

[(35)] (36) Parent or Parents.

(a) “Parent” means [the birth or adoptive mother or father of the child.]:

(i) The birth or adoptive mother or father of the child; and

(ii) Includes by reference both the individual mother and father as applicable.

(b) “Parents” means the birth or adoptive mother and father of the child.

[(36)] (37)—[(40)] (41) (text unchanged)

[(41)] (42) “Recoupment” means a process used by local departments to recover overpaid amounts by withholding from foster care payments an amount determined appropriate, as provided in Regulation [.30-1] .35 of this chapter.

[(42)] (43)—[(58)] (59) (text unchanged)

(60) Termination of Parental Rights means the legal process of obtaining guardianship and ending the rights and responsibilities of the parents.

[(59)] (61)—[(68)] (70) (text unchanged)

.04 Eligibility.

A. (text unchanged)

B. A child in out-of-home placement is eligible to remain in out-of-home placement until the end of the month in which the child becomes 18 years old, except that a child 18 to 21 years old may remain in out-of-home placement up to the 21st birthday so long as the child is:

[(1)] In school;

(2) In vocational or job training and:

(a) In transition to independent living, and

(b) Has a service agreement with the local department designed to enable the child to achieve independence; or

(3) Disabled and has special needs which can only be met through the Out-of-Home Placement Program.]

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

(2) Enrolled in an institution that provides post-secondary or vocational education;

(3) Participating in a program or activity designed to promote or remove barriers to employment;

(4) Employed for at least 80 hours per month; or

(5) Incapable of doing any of the activities in §§B(1)—(4) of this regulation due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child.

C.—D. (text unchanged)

.05 Local Department Responsibility for Out-of-Home Placement.

A.— B. (text unchanged)

C. A local department with responsibility for a child’s case shall:

(1)—(2) (text unchanged)

(3) Immediately initiate a search for relatives and the absent parent, if applicable;

(a) *Within 30 days after removal of a child from the custody of the child's parent or legal guardian, subject to exceptions due to family or domestic violence, notify any found relatives of the child that the child has been removed from the parent's custody; and*

(b) *Include in the notice:*

(i) *Options to participate in the care and placement of the child;*

(ii) *Options that may be missed by failure to respond to the notice;*

(iii) *Requirements to become a resource family home; and*

(iv) *Services and supports available for the child if placed in the home.*

(4)—(5) (text unchanged)

(6) Whenever possible:

(a) (text unchanged)

(b) [Includes] *Include* a visitation plan as part of the service agreement;

(c)—(d) (text unchanged)

(7)—(16) (text unchanged)

.06 Voluntary Placement.

A. (text unchanged)

B. Children with Disabilities Voluntary Placement.

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

(a)—(e) (text unchanged)

(f) [The local department has no bona fide allegation that the parent or legal guardian has maltreated the child, and there is] *There are no [finding] findings or pending [investigation] investigations that the parent or legal guardian has maltreated the child; and*

(g) (text unchanged)

(2)—(7) (text unchanged)

(8) Local Department Administrative Responsibilities for Children with Disabilities Voluntary Placement.

(a)—(b) (text unchanged)

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

.07 Parental Rights and Responsibilities.

A.—E. (text unchanged)

F. *Services to Birth Parent.*

(1) *The local department shall make services available to the birth parent requesting services, irrespective of the age of the birth parent, to help the birth parent assess parental roles and responsibilities. These services include, but are not limited to:*

(a) *Counseling;*

(b) *Referral to job training; and*

(c) *Financial assistance information.*

(2) *When an expectant birth parent who is considering placing a child with the local department for adoption requests services, the local department shall provide counseling and other appropriate services before the child is born and during any termination of the parental rights process.*

(3) *The local department shall help the birth parent gain access to the services necessary to accomplish the mutually agreed upon goals. While the child is in care, the local department shall assist the*

birth parent with resolving the problems that brought about the request for adoption planning.

(4) *The local department shall inform the birth parent of the:*

(a) *Parent's right to visit the child during the period before guardianship is granted;*

(b) *Parent's right to withdraw consent as set forth in Family Law Article, §5-321(c)(1), Annotated Code of Maryland;*

(c) *Search rights of birth parents and adoptees as set forth in Family Law Article, Title 5, Subtitles 4B and 4C, Annotated Code of Maryland; and*

(d) *Parent's right to file a disclosure veto as set forth in Family Law Article, §5-3A-05(a), Annotated Code of Maryland.*

(5) *When the birth parent decides to place the child for adoption, the local department shall prepare a written placement agreement, which shall:*

(a) *Set forth the placement plan; and*

(b) *Include any special conditions, such as the preferred religion or race of the adoptive family, which the agency and birth parent mutually agree upon.*

.08 Medical Care.

A.—H. (text unchanged)

I. Initial health care screenings and comprehensive health examinations of children in the custody or care of a local department shall be provided by a primary care physician who is certified by the Maryland [Health] *Healthy Kids [EPSDT] Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program.*

J.—Y. (text unchanged)

Z. The local department shall provide the child who has exited out-of-home placement with a copy of the child's personal health records *at no cost* when:

(1) The child is 18 to 21 years old and exits out-of-home placement; or

(2) The child, who is younger than 18 years old [when exiting] *at the time of exiting* out-of-home placement, [or] becomes 18 years old and requests the child's personal health records.

.11 Out-of-Home Placement.

A.—G. (text unchanged)

H. If the siblings are not placed together, the caseworker shall document in the record the reasons the siblings are placed apart[.], *and include whether such a joint placement would be contrary to the safety or well-being of any of the siblings.*

I.—L. (text unchanged)

.12 Education for the Child in Out-of-Home Placement.

A.—I. (text unchanged)

J. Tuition Waiver.

(1) The Maryland tuition waiver provides a waiver of tuition for a Maryland public institution of higher education and is applicable to certain youth in, or formerly in, out-of-home care. In order to qualify for the tuition waiver, the youth shall be placed by a local department of social services in an out-of-home placement within the State:

(a)—(b) (text unchanged)

(c) If the youth is the younger sibling of a youth, as described in §J(1)(b) of this regulation *and is concurrently adopted from an out-home-placement by the same adoptive family.*

(2) The youth may be exempted from paying tuition at a Maryland public institution of higher education, if the youth:

(a) Is enrolled as a candidate for an associate's degree or a bachelor's degree at a Maryland public institution of higher education on or before age [21] 25; and

(b) (text unchanged)

(3)—(8) (text unchanged)

K. Federal Education Training Vouchers Program.

- (1)—(2) (text unchanged)
- [(2)] (3) The ETV program is available to:
 - (a)—(b) (text unchanged)
 - (c) Youth who were adopted *or enter guardianship* from out-of-home placement [following] *after* their 16th birthday.
- [(3)] (4)—[(5)] (6) (text unchanged)

.13 Case Planning for Permanency.

A. Within 60 days after [placement] *removal*, the local department, together with the child’s parent or legal guardian, shall develop a written case plan for each child in out-of-home placement. The case plan shall include concurrent permanency plans, except as provided in §B of this regulation, and shall:

- (1) (text unchanged)
- (2) State with whom the child was living before placement and their relationship to the child; *and*
- (3) Describe the efforts that were made but were unsuccessful in preventing or eliminating the need for removal from the child’s home including the consideration of both in-State and out-of-State placement options, or why such efforts were not possible[.].

[B. In the first 120 days of a child coming into out-of-home care, the local department shall:

- (1) Have a single plan of reunification, unless:
 - (a) The court has granted the local department’s request for a waiver of reunification services; *or*
 - (b) The child is voluntarily placed for the purpose of adoption;
- (2) Deliver and document reunification services offered and time-limited reunification funds utilized; *and*
- (3) Insure an intense concentration is made on the family.

C. After 120 days, the local department shall assess the family for progress toward reunification and inform the family whether, based on their progress, the plan may be changed from reunification or that a concurrent plan will be instituted.

D.] B. The local department shall:

- (1)—(2) (text unchanged)
- (3) [In prioritizing] *Prioritize* permanency plan options [, the local department’s order of preference shall be] *using the following order of preference*:
 - (a)—(e) (text unchanged)
 - (4)—(7) (text unchanged)
 - (8) Include consideration of the least restrictive setting appropriate to the child’s *safety and care* needs and when determining a permanency plan consider the following in descending order of priority:
 - (a)—(b) (text unchanged)
 - (9) (text unchanged)
 - (10) Describe the type of home or institution in which the child has been, or is to be, placed, and discuss the *safety and appropriateness* of the placement with documentation describing how the placement is:
 - (a)—(b) (text unchanged)
 - (11) (text unchanged)
 - (12) Include a plan for ensuring that the child receives *safe and appropriate care*;
 - (13) Include a plan for working to ensure that services are provided to the child [and], parents or legal guardian, *and resource parents* to improve the conditions in the parents’ or legal guardian’s home and to facilitate [reunification or other permanency plan] *the child’s return to his or her own safe home or other safe and appropriate permanent placement*;
 - (14)—(16) (text unchanged)

(17) To the extent available and accessible, [contain] *include* the most recent health and education records of the child, including:

- (a) The names and addresses of the child’s health and educational providers[.];
 - (b) The child’s grade-level performance[.];
 - (c) The child’s school record[.];
 - (d) Assurances that the child’s placement in out-of-home placement takes into account the *appropriateness of the current educational setting and the proximity* to the school in which the child is enrolled at the time of placement;
 - (e) *Assurances that the child who is 5 years old or older*:
 - (i) *Is enrolled, or in the process of enrolling, in a full-time elementary or secondary school program*;
 - (ii) *Has completed secondary school*;
 - (iii) *Is participating in, or scheduled to participate in, an independent study program administered by a local school district*; *or*
 - (iv) *If a child is incapable of attending school on a full-time basis due to a medical condition, the incapacity must be documented and regularly updated in the case plan*;
 - (f) A record of the child’s immunizations[.];
 - (g) The child’s known medical problems[.];
 - (h) The child’s medications[.]; *and*
 - (i) Any other relevant health and education information required by Regulations .08 and .12 of this chapter[.]; *and*
 - (18) *Deliver and document reunification services offered and time-limited reunification funds utilized.*
- [E.] C.—[H.] F. (text unchanged)

.15 Service Agreements.

A. As appropriate to each case, the local department shall develop a written service agreement:

- (1) With the child’s parents or legal guardian, within 60 days of [placement] *removal* if the plan is to return the child to the parents or legal guardian;
 - (2)—(3) (text unchanged)
- B. (text unchanged)
- [C. After 120 days, the local department shall assess the family for progress toward reunification and inform the family whether, based on their progress, the plan shall be changed from reunification or that a concurrent plan will be instituted.]
- [D.] C.—[K.] J. (text unchanged)

.16 Decision to Make the Permanency Plan Other than Reunification.

- A.—C. (text unchanged)
- D. The local department shall pursue termination of parental rights [(TPR)] for a child who has been in out-of-home placement for 15 of the most recent 22 months unless:
 - (1)—(3) (text unchanged)
- E. When *the local department is required to pursue termination of parental rights as required in §D of this regulation or the permanency plan is changed to adoption, except as noted in [§G] §I of this regulation, the local department shall*:
 - (1) Ask the parents or legal guardian if they will consent to adoption; *and*
 - (2) Refer the case to the local department’s attorney within [60] 30 days of the date the plan is changed.
- F. When the case is referred to the attorney, the attorney shall, within [60] 30 days, petition the court for guardianship with the right to consent to adoption.
- G. *Adoption Services to Child.*
 - (1) *Criteria. Adoption services shall be available to any child*:
 - (a) *Whose birth parent voluntarily relinquishes the child for adoption*;

(b) Whose birth parent is considering relinquishing the child for adoption because of an inability to sustain adequate parental responsibilities;

(c) For whom the decision to pursue permanency planning through adoption is considered by the local department to be in the best interest of the child; or

(d) For whom there has been a referral from another service program for local department adoption planning.

(2) Decision.

(a) When an application for adoption services on behalf of a child is received, the local department and the birth parents shall make a decision regarding the appropriate case plan after the local department ascertains the facts and determines the need for the service.

(b) Before guardianship is awarded, children accepted for adoption services may be placed in preadoptive resource family homes, or other residential child care facilities approved by or under the supervision of the local department.

(3) Preadoptive Foster Care Placement.

(a) Eligibility for preadoptive foster care is set forth in Regulation .04 of this chapter.

(b) For a Native American child receiving permanency planning services, the local department shall:

(i) Comply with the federal Indian Child Welfare Act of 1978, 25 U.S.C. §1901 et seq.; and

(ii) Notify the Administration's adoption or out-of-home placement program staff when the local department decides on adoption as the permanency plan.

(4) Responsibility in Preadoptive Foster Care.

(a) The child in preadoptive foster care shall receive services as set forth in this chapter and the local department shall retain ultimate responsibility for:

(i) Providing the child with appropriate physical care, emotional security, and intellectual stimulation; and

(ii) Observing and recording the child's developmental progress.

(b) The local department shall assist the child and the foster family in understanding the child's history in order to facilitate the child's separation from the child's birth family and attachment to an adoptive family.

(c) Significant social, biographical, medical, developmental, and educational information shall be immediately documented in the child's record for use in assessing the child's special needs and selecting the most appropriate adoptive family for the child.

(d) For a child in preadoptive foster care who is separated from siblings, the local department shall ensure the provision of sibling visitation as appropriate in the best interests of the siblings as set forth in Family Law Article, §5-525.2, Annotated Code of Maryland.

(5) Upon receipt of a report of a suspected child abuse or neglect related fatality or a fatality in an open service case, the local department shall comply with the Department's protocol for child fatalities, available from the Administration.

(6) For a child who is eligible for early intervention and special education services and whose parents are unknown, unavailable, or deceased, the local department shall request surrogate parents to secure the provision of those services.

H. Court-Ordered Termination of Parental Rights.

(1) Parental rights may only be terminated by court order.

(2) Only the executive head of a child placement agency or the attorney for the child may file a petition to grant guardianship to the agency.

(3) When a court determines that a child is an abandoned infant, the petition to grant guardianship to the agency must be filed

within 60 days of the court's determination that the child is an abandoned infant.

(4) The petition to grant guardianship to the agency must be filed within 60 days of the court's determination that reasonable efforts to reunify the child and parent are not required according to §§ A(1)—(4) of this regulation.

(5) When the local department decides that adoption is the appropriate permanency plan for the child:

(a) The local department shall refer the case to the local department's attorney within 30 days of making that decision, with or without the consent of the parents; and

(b) The attorney shall file the termination of parental rights petition within 30 days of receipt of the referral.

[G.] I. (text unchanged)

.16-1 Guardianship Notice Requirements.

A. Notice to Birth Parent of Petition for Guardianship.

(1) When a local department decides to petition the court for guardianship, the local department shall advise both birth parents, regardless of marital status, of that decision and that unless waived, they shall receive the types of notices described in this section, whether or not they are consenting to the court action.

(2) The local department shall notify a birth parent who is consenting to the termination of parental rights that the birth parent has the right to revoke the consent at any time within 30 days after the consent is filed.

(3) The local department shall notify the following of the filing of the petition:

(a) The birth parent, unless the birth parent waived, in writing, the right to be notified of that action as a part of the consent; and

(b) The attorney who represented the birth parent in a prior juvenile proceeding in which the child was adjudicated to be a child in need of assistance, a neglected child, or an abused child.

(4) The local department shall notify a birth parent of the right, unless waived in writing, to be notified of the child's status when:

(a) Placement for adoption has not been made within 9 months of the date of the decree of guardianship;

(b) Placement for adoption has been made within 9 months of the date of the decree of guardianship, but before an adoption decree was issued, the adoption placement discontinued and the local department has not made a new placement for adoption within 120 days of the removal from the adoptive home; or

(c) Decree of adoption has not been issued by the court within 2 years of placement for adoption.

(5) In the case of a missing birth parent, the local department shall:

(a) Make reasonable efforts to locate the birth parent to explain the plan for the child and to attempt to obtain the birth parent's consent; and

(b) Document those efforts in the case record.

(6) Within the 6 months preceding the filing of the petition, the local department shall make reasonable efforts to locate a missing birth parent, which shall include an inquiry of the following:

(a) The State Motor Vehicle Administration;

(b) Maryland local departments of social services;

(c) The State Department of Public Safety and Correctional Services;

(d) The State Division of Parole and Probation;

(e) The detention center for the local jurisdiction in which the petition is filed;

(f) The records of the juvenile court for the jurisdiction in which the petition is filed;

(g) A particular social services agency, if the local department is aware that the parent has received benefits from that

social services agency within 9 months preceding the filing of the petition;

(h) A detention facility, if the local department is aware that the parent has been confined to that facility within 9 months preceding the filing of the petition;

(i) Each of the following individuals that the local department is able to locate and contact:

(i) The other parent of the child,

(ii) Known members of the parent's immediate family,

and

(iii) The parent's current or last known employer;

(j) The Federal Parent Locator Service; and

(k) Certified letters to last known address of missing parent.

(7) Efforts to locate a missing parent shall be by personal contact, a search of the computer files of the agencies listed and the Federal Parent Locator Service, or by written inquiry by regular mail. If there is no response to a written inquiry within 30 days after it is mailed, the failure to respond is to be considered a negative response.

(8) When the local department completes its inquiry of the agencies and individuals listed in §A(6) of this regulation and does not locate the missing parent, the local department staff shall:

(a) Refer the case to counsel for filing of a petition for termination of parental rights; and

(b) Verify by affidavit or testimony that these inquiries have been made and that they were made within the 6 months preceding the filing of the petition.

(9) The local department shall comply with the order of the court requiring publication of the show cause order in at least one or more newspapers of general circulation published in the county in which the petition is filed. The petition must show notice of filing that the Department has on its website for guardianship and mutual consent adoption.

B. Local Department Responsibilities After Award of Guardianship.

(1) Once the local department has been awarded guardianship, the local department shall make every effort to locate an adoptive family for the child, as stated in COMAR 07.02.12, through:

(a) The Maryland Adoption Resource Exchange;

(b) Local department and central office recruitment efforts;

and

(c) Registration with regional and national exchanges.

(2) When any of the conditions set forth in §A(4) of this regulation occur, the local department shall file a written report with the circuit court and forward a copy to Administration, which shall:

(a) State the reasons for the delay in placement; and

(b) Include a summary of the efforts to locate an adoptive home for the child and a report of the child's placement status.

(3) The local department shall notify birth parent at their last known address:

(a) In all cases when guardianship was awarded on or after July 1, 1982; and

(b) When the birth parent did not waive the right to notice of the child's status as set forth in §A(4) of this regulation.

(4) Once the legal rights of the birth parent of a child in out-of-home placement have been terminated by the court, the child's caseworker shall notify the appropriate office of child support enforcement that termination of parental rights has been achieved, unless an arrangement exists by which the court makes the notification.

.17 Visitation with the Child in Out-of-Home Placement.

A. (text unchanged)

B. For a child placed in a [foster] resource family home, [in] group care [in] a residential treatment facility, or [in] a semi-independent living arrangement, the following apply:

(1) The caseworker shall have a face-to-face visit with the child within [1 week] 5 working days of placement, and subsequently at least once a month;

(2)—(3) (text unchanged)

C. A child placed out-of-State in a [placement other than in a residential treatment facility] foster home or a kinship home shall:

(1) Be visited monthly by the local department when geographically [and] or fiscally feasible; or

(2) [Otherwise be visited quarterly; or

(3)] Be visited monthly by the receiving state when placed in accordance with an approved Interstate Compact For the Placement of Children, and the receiving state shall provide Maryland with quarterly visitation reports.

D. [For a child placed in a residential treatment facility within the State, the following apply:

(1) The caseworker shall visit the child as described §B of this regulation; and

(2) Every 6 months, the caseworker shall request the facility to provide a written report of the child's status.

E.] For a child placed in an out-of-State group home or residential treatment facility, the following apply:

(1) The caseworker shall visit the child at the facility [at least once every 6 months;] monthly if geographically or fiscally feasible; or

(2) [If the cost of visiting the facility is prohibitive, the caseworker may arrange for the child to be visited on behalf of the local department by a worker from an agency other than the one that provides the child's placement; however, the caseworker shall personally visit the facility at least once a year] If it is not geographically or fiscally feasible for monthly visits, the caseworker shall visit the child in the placement quarterly.

[(3) The local department shall request in writing that the receiving state visit with the child monthly and submit quarterly reports to the caseworker indicating whether the placement continues to be safe and stable for the child.

(4) If the receiving state's visitation policy is less frequent than the visitation policy of this chapter, the local department caseworker shall obtain in writing the visitation policy from the receiving state and place a copy of the policy in the child's case record.]

[F.] E.—[G.] F. (text unchanged)

[H.] G. Every visit with the child shall be documented as immediately as possible in the case record [within 48 hours after the visit occurs, if possible, but not later than 7] but not later than 5 business days after the visit occurs.

.25 Aftercare Services.

A.—F. (text unchanged)

G. Independent [Living Aftercare Services] living aftercare services shall be made available to youth 18 to 21 years old as set forth in COMAR 07.02.10.

[(1) Independent living aftercare services shall be made available to youth 18 to 21 years old who:

(a) Have left out-of-home placement;

(b) Meet eligibility requirements for the services according to the federal Chafee Independent Living Services guidelines;

(c) Receive services from the local department where the youth resides;

(d) Complete the intake screening process to determine that aftercare services are appropriate; and

(e) Complete a service agreement for aftercare services.

(2) Independent living aftercare services are services that support the transition of youth to independence and self-sufficiency after leaving out-of-home placement and include:

- (a) Financial assistance to purchase goods and services to support the youth's efforts;
- (b) Counseling;
- (c) Employment assistance;
- (d) Educational assistance and information regarding completion of secondary education and post-secondary education and vocational training;
- (e) Medical assistance and health care information;
- (f) Security deposits;
- (g) Room and board; and
- (h) Utilities or other appropriate services for self-sufficiency.

(3) A youth may apply and reapply for aftercare services up to the youth's 21st birthday.

(4) The local department shall contact the youth every 60 days, at a minimum, when aftercare services are being provided and shall collect outcome information including:

- (a) Funds expended;
- (b) Achievement of goals during aftercare services; and
- (c) The availability of aftercare services to meet the youth's needs.]

.29 Child Support and Other Resources for Reimbursement Towards Cost of Care.

A.—L. (text unchanged)

M. If excess funds saved for the child have not been spent before the child is discharged from out-of-home placement, the funds shall be:

- (1) (text unchanged)
- (2) If the child is younger than 18 years old, transferred to the [legal parent or] *parent or legal guardian* with whom the child will reside.

.30 Title IV-E Eligibility and Reimbursability. (Agency Note: Federal Regulatory Reference—45 CFR 1355 and 1356)

A. (text unchanged)

B. Definitions.

- (1) (text unchanged)
- (2) Terms Defined.
 - (a)—(k) (text unchanged)
 - (l) "Redetermination" is a case review completed every 12 months, at which time factors subject to change, [such as continued deprivation of parental support and care and the child's financial need,] are reconsidered and documented.
 - (m)—(n) (text unchanged)

C.—E. (text unchanged)

F. Initial Eligibility. A child is initially eligible for IV-E funding only if all of the following requirements are met:

(1) The child meets the AFDC eligibility criteria in effect in the IV-A State Plan as of July 16, 1996, if:

- (a) The child was living in the home of a relative specified in §B(2)(n) of this regulation and one of the following is true:
 - (i) The child would have received AFDC *in that home in the month of the voluntary placement agreement or initiation of court proceedings*, if an application had been made; or
 - (ii) (text unchanged)

(b) The child lived with a specified relative from whom custody was removed at some time within the 6-month period before the month of the voluntary placement agreement or initiation of court proceedings; and

(c) *The child would have been AFDC eligible in that month, if the child had still been living in the home; and*

- (2) (text unchanged)

G. (text unchanged)

H. If the initial court order does not contain the required finding that reasonable efforts [where] *were* made to prevent placement:

(1) The child may still meet the legal status for initial eligibility if a judicial finding of reasonable efforts to prevent placement is made within 60 days of the date the child is removed from the home; [and]

(2) The child's IV-E eligibility will begin the first day of the month in which the judicial finding of reasonable efforts to prevent removal is made[.];*and*

(3) *If the determination concerning reasonable efforts to prevent removal is not made, the child is not eligible under IV-E for the duration of the stay in foster care.*

I. A child who is initially eligible for IV-E funding shall continue to be eligible as long as the child remains in out-of-home placement. The child becomes ineligible [when:

(1) The child becomes 18 years old, unless the child is still in secondary school or in the equivalent level of vocational or technical training and is expected to graduate before the child becomes 19 years old; or]:

(1) *At the end of the month in which the child becomes 18 years old, except that a child 18 to 21 years old who remains in out-of-home placement is eligible up to the 21st birthday so long as the child is:*

- (a) *Completing secondary education or a program leading to an equivalent credential;*
- (b) *Enrolled in an institution that provides post-secondary or vocational education;*
- (c) *Participating in a program or activity designed to promote or remove barriers to employment;*
- (d) *Employed for at least 80 hours per month; or*
- (e) *Incapable of doing any of the activities in §§ 1.(1)(a)—(d) of this regulation due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child; or*

(2) [The] *When the child comes into care as the result of a time limited or children with disabilities voluntary placement agreement and the local department fails to acquire court-ordered custody with a judicial finding of best interests of the child to remain in placement within 180 calendar days of placement rendering the child ineligible on the 181st calendar day.*

J.—K. (text unchanged)

L. The child's care is reimbursable for any given month when all of the following conditions are met for that month:

- (1) (text unchanged)
- (2) The child is in a IV-E reimbursable placement as defined in [§M] §N of this regulation; *and*
- (3) The child continues to meet the AFDC eligibility requirements of deprivation and financial need; and
- (4) The child is one of the following:
 - (a) Younger than 16 years old;
 - (b) Between 16 and 18 years old and is a full-time student;

or

(c) Younger than 19 years old and enrolled full-time in high school or the equivalent, and is reasonably expected to graduate before the child's 19th birthday.]

(3) *The local department has placement and care responsibility for the child.*

M. (text unchanged)

N. Only the following are reimbursable placements:

- (1) A *fully* licensed or approved [foster] *resource* family home meeting the standards as prescribed in COMAR 07.02.25;
- (2) A private, nonmedical group home or residential child care facility licensed by the State; [or]

(3) A public nonmedical group home or child care facility which [has a licensed capacity of 25 beds or less] *accommodates not more than 25 children; or*

(4) *A supervised independent living setting in which the child who is 18 years old is living independently.*

O. (text unchanged)

.39 Schedules.

Schedule A
Family Foster Care Rates

Type of Care	Monthly Board	Per Diem	Monthly Clothing Allowance	Total
Regular Care:				
Regular Care				
Infant through Age 11	\$775	\$27.45	\$60	\$835
Age 12 and older	775	27.94	75	850
Intermediate Care				
Infant through Age 11	890	31.23	60	950
Age 12 and older	890	31.72	75	965
Respite		30		
Treatment Foster Care (Specialized Care):				
Infant through Age 11	775	27.45	60	835
Age 12 and older	775	27.94	75	850
Respite		50		
Emergency Care:				
Per Diem		30		
Retainer Fee for Emergency Foster Home Shelter Care				100
[Subsidized Guardianship Schedule B (text unchanged)]				585]

THEODORE DALLAS
Secretary of Human Resources

**Subtitle 02 SOCIAL SERVICES
ADMINISTRATION**

07.02.29 Guardianship Assistance Program

Authority: Family Law Article, §5-525; and Courts and Judicial Proceedings Article, §3-819.2, Annotated Code of Maryland

Notice of Proposed Action

[11-336-P]

The Secretary of Human Resources proposes to adopt new Regulations .01—.14 under a new chapter, **COMAR 07.02.29 Guardianship Assistance Program.**

Statement of Purpose

The purpose of this action is to set forth new regulations for the Guardianship Assistance Program that are consistent with the federal Guardianship Assistance Program established through the enactment

of the Fostering Connections to Success and Increasing Adoptions Act of 2008. The program will provide limited continued support to relatives who accept full custody and guardianship of children in out-of-home placement. This program not only strengthens the bond and support of family for the child, but also increases the opportunity of a permanent placement for a number of children in out-of-home care.

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 Jeanette Ortiz, Assistant Director, Department of Human Resources, 311 West Saratoga Street, Baltimore, MD 21201, or call 410-767-7193, or email to regulations@dhr.state.md.us, or fax to 410-333-0637. Comments will be accepted through January 3, 2012. A public hearing has not been scheduled.

.01 Purpose.

A. *The purpose of the guardianship assistance program is to provide legal stability for a child who is in the custody or guardianship of a local department of social services by allowing relative caregivers to take full legal responsibility for the child.*

B. *The goals of the guardianship assistance program are to:*

(1) *Encourage relative caregivers to become legal guardians of a child who has been placed in their home by a local department of social services by removing financial barriers; and*

(2) *Provide a permanent, safe, nurturing environment for a child that supports a familial cultural background.*

.02 Definitions.

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

B. *Terms Defined.*

(1) *“Case plan” has the meaning stated in COMAR 07.02.11.*

(2) *“Child” means an individual:*

(a) *Younger than 18 years old; or*

(b) *18 to 21 years old if the court retains jurisdiction over the child and the child meets the eligibility requirements established in COMAR 07.02.11.*

(3) *“Court” means the circuit court for a county or Baltimore City sitting as a juvenile court.*

(4) *“Guardianship” means that a court has granted physical and legal custody that includes legal authority, and responsibility for a child, to an individual to provide for a child’s needs.*

(5) *“Guardianship assistance agreement” means the written and binding agreement between the local department of social services and the relative caregiver.*

(6) *“Guardianship Assistance Program” means a program whereby the State, under qualifying circumstances, contributes financial assistance and medical assistance to help in the care of a child.*

(7) *“Kinship care” means continuous 24-hour care and supportive services provided for a minor child placed by a child placement agency in the home of a relative related by blood or marriage within the fifth degree of consanguinity or affinity as set*

forth in the Estates and Trusts Article, §1-203, Annotated Code of Maryland.

(8) "Local department" means a local department of social services in a county or Baltimore City, and the Montgomery County Department of Health and Human Services.

(9) "Parent" means the birth or adoptive mother or father of the child and includes by reference both mother and father as applicable.

(10) "Regular care rate" means the rate paid for all children in foster care who require routine care and supervision.

(11) "Relative" means an adult who is at least 21 years old, or is at least 18 years old and married to an adult who is at least 21 years old, and who is:

(a) Related by blood, marriage or adoption within the fifth degree of consanguinity or affinity as set forth in the Estates and Trusts Article, §1-203, Annotated Code of Maryland; or

(b) An individual who makes up the family support system, including:

(i) Adults related beyond the fifth degree of consanguinity or affinity;

(ii) Godparents;

(iii) Friends of the family; or

(iv) Other adults who have a strong familial bond with the child.

(12) "Relative caregiver" means a relative, or relatives as is applicable, of a child who is in the care, custody, or guardianship of a local department and who has been designated by the local department as a temporary 24-hour caregiver of that child.

(13) "Relative guardian" means a relative caregiver whom the court has designated as guardian.

(14) "Resource home" means an individual or family approved by a local department as described in COMAR 07.02.25.

(15) "Sibling" means a child that shares at least one parent with another child through blood relation, adoption or marriage of a parent.

(16) "Voluntary placement" means the placement of a child into foster care voluntarily by the parent or legal guardian who is unable to care for the child, and is either time-limited or for children with disabilities as defined in COMAR 07.02.11.

(17) "Youth" means a child 14 to 21 years old who is still in the custody of the State.

.03 General Requirements.

A. Both the child and the relative caregiver shall meet the eligibility requirements stated in Regulations .04 and .05 of this chapter, respectively; and

(1) The child shall be placed with the relative caregiver for at least 6 consecutive months prior to the establishment of a guardianship assistance; and

(2) The relative caregiver home shall be approved as a resource home or kinship home for 6 consecutive months in which the child resided with the relative caregiver.

B. The local department shall negotiate and enter into a binding guardianship assistance agreement with the proposed relative caregiver prior to the court decree of custody and guardianship to the relative caregiver.

C. The effective date of the guardianship assistance payment shall be the date the court awards custody and guardianship to the relative caregiver.

D. Guardianship assistance program participation may not be:

(1) Transferred to a person who is not a party to the guardianship assistance agreement including the spouse of the relative guardian who has chosen not to be a party to the agreement or the guardianship; or

(2) Applied retroactively to a time prior to the execution of the guardianship assistance agreement and guardianship decree of the court.

.04 General Eligibility Requirements for Child.

A. A child committed to a local department or under a voluntary placement agreement with a local department shall be eligible for consideration to participate when:

(1) As a result of a judicial determination that continuation in the home would be contrary to the welfare of the child or the child has been removed from the home pursuant to a voluntary placement agreement;

(2) The child has resided with the relative caregiver for 6 consecutive months;

(3) The local department of social services has established that return home and adoption have been ruled out;

(4) The child demonstrates a strong attachment to the relative caregiver;

(5) The child is under the age of 18 years old, at the time of the court hearing to award custody and guardianship; and

(6) The school age child under 18 years old, is a full-time elementary or secondary school student, or is incapable of attending school due to a documented medical condition.

B. A youth shall be consulted and be in agreement with the guardianship arrangement.

.05 General Eligibility Requirements for Relative Caregiver.

A. To be eligible for the guardianship assistance program, the relative caregiver shall:

(1) Successfully complete the application requirements as set forth in §B of this regulation;

(2) Be an approved resource or formal kinship home with the child in the placement for six consecutive months; and

(3) Demonstrate a strong commitment to permanently care for the child.

B. The relative caregiver shall:

(1) Complete a signed written application;

(2) Complete a physical assessment and a mental health history;

(3) Meet all the requirements of approval for a resource home or kinship home as set forth in COMAR 07.02.25.

C. Refusal by the relative caregiver or any adult member of the household to consent to any of the requirements of §B of this regulation shall be grounds for denial of the guardianship assistance request.

D. The spouse of a relative guardian shall be encouraged to participate as a relative guardian for the agreement and the court determined guardianship.

.06 Title IV-E Guardianship Assistance Eligibility Criteria.

A. To be eligible for the Title IV-E guardianship assistance payment, both the child and the relative caregiver shall meet the eligibility requirements of this regulation.

B. Child Eligibility.

(1) To be eligible for the Title IV-E guardianship assistance payment, the child shall be under 18 years old, except as stated in §B(2) or (3) of this regulation, and the child shall:

(a) Meet the requirements for eligibility as stated in Regulation .04 this chapter; and

(b) Have been eligible for Title IV-E foster care maintenance payments for a 6 consecutive month period during which the child resided in the home of the relative caregiver.

(2) The child or youth who has a documented mental or physical disability, which the local department determines warrants the continuation of assistance shall be eligible until 21 years old.

(3) A youth who was at least 16 years old at the time the guardianship assistance agreement became effective shall be eligible until 21 years old as long as the youth is:

- (a) Completing secondary education or a program leading to an equivalent credential;
- (b) Enrolled in or attending, subsequent to the youth's 18th birthday a:
 - (i) Maryland Higher Education Commission institution of higher learning or an equivalent;
 - (ii) Vocational training program;
- (c) Participating in a program or activity designed to promote, or remove barriers to, employment;
- (d) Employed for at least 80 hours per month; or
- (e) Incapable of doing any of the above described activities due to a medical condition.

(4) If an eligible youth receiving guardianship assistance payments upon reaching 18 to 21 years old is not eligible under §B(2) or (3) of this regulation, the youth's guardianship assistance payment may be converted to the State guardianship assistance payment as detailed in Regulation .07 of this chapter.

C. Siblings.

(1) All siblings of a Title IV-E eligible child are eligible for guardianship assistance payment if:

- (a) The sibling is committed to the local department and placed with the same relative caregiver at the same time or after the eligible child is placed;
- (b) The local department, after monitoring the sibling in the placement for a minimum of 6 months with the relative caregiver, agrees that the placement of the siblings together is appropriate; and
- (c) The relative caregiver agrees that the placement of the siblings together in the placement is appropriate.

(2) The sibling who meets the criteria of §C(1) of this regulation and is placed in the home of the same relative caregiver, as the eligible child shall be included in:

- (a) The original guardianship assistance agreement for the eligible child or a separate guardianship agreement identifying the child as a sibling of an eligible child, if at the time of execution of the agreement the sibling meets the criteria of §C(1) of this regulation; or
- (b) An amended or separate guardianship assistance agreement identifying the child as a sibling of an eligible child, if placed with the relative after the time of execution of the original guardianship assistance agreement, which shall be executed prior to the court decree of guardianship of the sibling to the relative caregiver.

D. Relative caregiver eligibility.

(1) The relative caregiver shall meet the requirements for eligibility as set forth in Regulation .05 this chapter; and

(2) The home of the relative caregiver shall be fully approved as a resource home for 6 consecutive months during which the child resided with the relative caregiver.

.07 State Guardianship Assistance Eligibility Criteria.

A. To be eligible for the State guardianship assistance payment, both the child and the relative caregiver shall meet the eligibility requirements of this regulation.

B. Child Eligibility.

(1) Except as stated in §B(2) of this regulation, the child shall be under the age of 18 years old and shall:

- (a) Meet the requirements for eligibility as set forth in Regulation .04 of this chapter; and
- (b) Have resided with the relative caregiver in a kinship care placement as set forth in COMAR 07.02.25 for 6 consecutive months.

(2) A youth that has been determined to be eligible and receiving guardianship payment under §B or C of Regulation .06 of this chapter for the Title IV-E guardianship assistance payment shall be deemed eligible for the State guardianship payment beginning at the age of 18 if:

- (a) The youth does not qualify for the Title IV-E guardianship assistance payment as set forth in §B(2) or B(3) of Regulation .06 of this chapter;
- (b) The youth remains the financial responsibility of the relative guardian; and
- (c) The youth meets the criteria for continued participation as delineated in Regulation .11 of this chapter.

C. Relative Caregiver Eligibility.

(1) The relative caregiver shall meet the requirements for eligibility as stated in Regulation .05 of this chapter; or

(2) The relative caregiver who is approved as a kinship parent and not a resource home:

- (a) Shall meet the requirements of Regulation .05B of this chapter; and
- (b) Shall be an approved kinship care home as delineated in COMAR 07.02.25 for a period of at least 6 consecutive months during which the child resided with the kinship parent.

.08 Responsibilities of the Local Department.

A. The local department shall ensure:

- (1) The child is under the age of 18 years old prior to being considered for the Guardianship Assistance Program; and
- (2) The child and relative caregiver are in agreement with the custody and guardianship recommendation.

B. The local department shall negotiate and enter into a guardianship assistance agreement with the relative caregiver.

(1) The agreement shall specify:

- (a) The amount of and manner in which the monthly assistance shall be paid;
- (b) The assistance payment shall be paid monthly as a per diem rate and will fluctuate month to month;
- (c) Any additional services and assistance that the child and relative caregiver will be eligible for under the agreement, if any;
- (d) The procedure by which the relative caregiver may apply for additional services as needed;
- (e) That the State shall pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child, not to exceed \$2,000;

(f) The manner in which the payment may be adjusted periodically, in consultation with the relative guardian, based on the circumstances of the relative guardian and the needs of the child;

(g) That the relative guardian shall report any changes in the child or relative guardian eligibility;

(h) The continuation of the agreement up to the age of 21 years old when specific criteria are met;

(i) That an annual or periodic reconsideration shall be held to ascertain any changes;

(j) The reasons for suspension or discontinuation of payment;

(k) The reasons for termination of the agreement; and

(l) That the agreement shall remain in effect without regard to the State residency of the relative guardian.

(2) The agreement shall be signed prior to the court granting the guardianship decree.

(3) The local department shall provide the relative caregiver with a copy of the signed agreement.

(4) The effective date of the assistance payment shall be the date the court awards custody and guardianship to the relative caregiver.

C. The local department shall not make custody and guardianship recommendations to the court until:

- (1) All aspects of the home study have been completed;
- (2) The relative caregiver is found eligible; and
- (3) A guardianship assistance agreement has been negotiated and signed by all parties.

D. The local department shall notify birth parents of the intended action to transfer legal guardianship to the relative caregiver.

(1) The written notification shall contain information that their parental rights are not being terminated and that parents or any other party in the case may petition the court to review the custody and guardianship order at any time in the future.

(2) The notification shall be by certified mail to the last known address.

E. The local department shall ensure that:

(1) The guardianship assistance agreement is signed prior to the finalization of the guardianship;

(2) The guardianship assistance payment begins after the court awards custody and guardianship to the relative guardian; and

(3) The child's case plan has been changed to reflect the new permanency plan of custody and guardianship and the case record contains the necessary documentation including:

(a) Determination that reunification or adoption is not appropriate for the child;

(b) If siblings are not placed in the same home, the reason for separation of the siblings and the efforts made by the local department for visitation;

(c) Justification that custody and guardianship with the relative caregiver is in the child's best interest;

(d) Details of the child's eligibility;

(e) Documentation that adoption was discussed with the relative caregiver as the more permanent option and the list of reasons not to pursue adoption;

(f) Documentation of the efforts made by the local department to discuss the plan of relative guardianship with the child's parent; and

(g) If the child is at least 14 years old, documentation that the child has been consulted regarding the kinship guardianship arrangement.

F. The local department shall maintain a separate case record and medical assistance card for each sibling included in the guardianship assistance agreement.

G. Once the court grants guardianship to the relative caregiver:

(1) The legal responsibility of the local department is terminated; and

(2) The local department maintains responsibility for the guardianship assistance payment until the assistance is terminated according to Regulation .13 of this chapter.

.09 Relative Guardian Responsibilities.

A. The relative guardian shall agree to:

(1) Exercise primary care and supervision of the child or youth until the child or youth reaches 18 years old or up to 21 years old with continued eligibility as set forth in Regulation .11 of this chapter;

(2) Inform the local department if the child's birth parent plans to reside with the relative guardian;

(3) Apply to become the payee for social security benefits, supplemental security income or child support on behalf of the child; and

(4) Notify the local department of any change in the placement, including:

(a) Reunification of the child with a parent;

(b) Extenuating circumstances such as:

(i) A need for temporary housing; or

(ii) Participation in rehabilitation due to prior substance abuse issues.

B. The following circumstances shall affect the eligibility status of the relative guardian, or the continued eligibility status of the relative guardian:

(1) The relative guardian may not voluntarily return the child to the birth parent's care and custody; and

(2) If the child is no longer living with the relative guardian, the guardianship assistance shall be:

(a) Suspended immediately; and

(b) Terminated if the child is not returned to the physical custody of the relative guardian within 60 days.

C. Relocation Out-of-State.

(1) The relative guardian shall notify the local department in writing of plans to relocate out of the State:

(a) 30 days prior to relocation; and

(b) Include the relocation address in the notification.

(2) Guardianship assistance payments shall continue in the new location with receipt of notice as long as the child and the relative guardian remain eligible.

(3) The child's eligibility for medical assistance:

(a) For the IV-E eligible child, shall continue, as the child is categorically eligible regardless of relocation to another state as long as the child is receiving a monthly guardianship assistance payment of at least \$1; or

(b) For the State eligible child, may continue in the new location if the child is determined to be eligible for medical insurance by state of residence.

.10 Guardianship Assistance Benefits.

A. The local department shall negotiate the monthly assistance amount for each eligible child or sibling.

(1) The monthly guardianship assistance payment may not exceed 100 percent of the regular care board rate based on the child's age as set forth in COMAR 07.02.11, which would have been paid on behalf of the child if the child had remained or was placed in a resource family home.

(2) The assistance amount shall be based upon an assessment of the child's special needs, which may include:

(a) Child's age;

(b) Documented medical diagnosis;

(c) Documented mental or emotional diagnosis; or

(d) A need for childcare.

(3) The monthly assistance may be adjusted periodically in consultation with the relative guardian, based on the circumstances of the relative guardian and the needs of the child.

B. Medical Assistance.

(1) The child who is eligible for the Title IV-E guardianship assistance is categorically eligible for the federal Medicaid program available in the state of residence if the child is receiving Title IV-E guardianship assistance on an ongoing basis of at least \$1 per month.

(2) The child who is eligible for the state guardianship assistance:

(a) Who resides with the relative guardian in the State shall be eligible for state medical assistance for a period of 1 year, and be evaluated annually thereafter for continued State medical assistance; and

(b) Who resides with the relative guardian out-of-State shall apply for medical assistance in the State of residence.

C. The local department shall provide a one-time only payment for nonrecurring expenses related to cost associated with obtaining legal guardianship up to a maximum of \$2,000.

(1) Nonrecurring expenses include:

(a) Legal fees for guardianship of an eligible child; or

(b) Assistance with legal fees needed for guardianship of an ineligible sibling placed in the same household.

(2) Other expenditures made necessary by the transfer of guardianship may also be included in the one-time payment, such as:

(a) Transportation;

(b) Criminal background check; and

(c) Reasonable cost of lodging and food for the child and relative caregiver residing out-of-State.

(3) Nonrecurring expense payments may not include expenditures for legal fees unrelated to guardianship of a child.

(4) All requests for nonrecurring expenses shall be approved by the Social Services Administration prior to the signing of the guardianship assistance agreement and finalization of the guardianship by the court.

(5) Documentation supporting non-recurring expenses shall be submitted by the relative caregiver to the local department 30 days prior to the date of the court hearing for custody and guardianship.

D. The guardianship assistance agreement shall remain in effect without regard to the state of residence of the relative guardian.

E. Consideration of Other Financial Resources Available to Child.

(1) The local department shall:

(a) Notify the Family Investment Administration in writing of the guardianship assistance;

(b) Recommend the closing of the Temporary Cash Assistance case for the child only recipient grant as a result of custody and guardianship being awarded to the relative guardian and the assistance negotiated; and

(c) Request confirmation from the Family Investment Administration of the termination of the child only recipient grant.

(2) Social Security benefits shall be considered resources for determining and negotiating the assistance payment.

(a) Receipt of guardianship assistance may reduce the child's supplemental security income benefits.

(b) The local department shall inform the Social Security Administration of the assistance payment.

(c) The relative guardian shall apply to become the representative payee for Social Security benefits on behalf of the child and shall disclose the guardianship assistance payment to the Social Security Administration.

(3) Child Support.

(a) The local department shall consider a child support award as a resource when negotiating the assistance payment.

(b) The assistance payment shall be reduced by the child support amount received by the relative guardian on behalf of the child.

(c) The relative guardian shall apply to become the payee for child support on behalf of the child upon finalization of the guardianship.

(d) The local department shall notify the Child Support Enforcement Administration of the guardianship assistance payment.

.11 Continued Participation.

A. The local department shall conduct a reconsideration of the guardianship assistance at least once every year until the guardianship assistance is terminated.

B. The local department shall provide written notice to the relative guardian 60 days prior to the due date of the required annual reconsideration, which shall include:

(1) A copy of the current guardianship assistance agreement;

(2) A list of information or documentation required to be submitted by the relative guardian for reconsideration of the guardianship assistance including:

(a) A signed written statement that the child continues to reside with and be in the care of the relative guardian;

(b) Documentation that the child:

(i) Is a full-time student, which shall be in the form of a copy of the report card or third party documentation;

(ii) Is incapable of attending school due to a documented medical condition and therefore not enrolled in school; or

(iii) Is 18 years old or older and is in compliance with §E of this regulation; and

(c) A copy of the child's immunization record documenting regular health care if the child is not school age or not enrolled in school;

(3) Notice that the guardianship assistance may be reduced as a result of the reconsideration; and

(4) A request that the relative guardian contact the local department to schedule a consultation for reconsideration of the guardianship assistance.

C. Consultation with the relative guardian shall include discussion of:

(1) Continued eligibility and participation of the child in the guardianship assistance program;

(2) Continued eligibility and participation of the relative guardian in the guardianship assistance program; and

(3) Any additions or modifications to the guardianship assistance agreement including:

(a) Payment amounts;

(b) Termination time frame; and

(c) Requirement that all parties must agree to any change or amendment.

D. Following the reconsideration, the local department shall provide to the relative guardian:

(1) 30 days written notice of any planned reduction of the guardianship assistance amount as a result of the reconsideration; and

(2) A copy of any proposed amendments to the guardianship assistance agreement as a result of the reconsideration.

E. Continuation of Title IV-E guardianship assistance for youth age 18 to 21 years old.

(1) A youth who was at least 16 years old at the time the guardianship assistance agreement became effective shall be eligible for Title IV-E guardianship assistance payments until 21 years old as long as the youth is:

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

(b) Enrolled in or attending, subsequent to the youth's 18th birthday, a:

(i) Maryland Higher Education Commission institution of higher learning or an equivalent; or

(ii) Vocational training program;

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

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

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

(2) A youth with a documented physical or mental disability warranting continuance of assistance shall remain eligible for Title IV-E or State guardianship payments until attaining 21 years old provided the relative guardian provides documentation of the physical or mental disability to the local department 30 days prior to the youth attaining age 18, and provides documentation showing disability at each annual reconsideration.

(3) A youth who is not eligible for continued participation according to §E(1) or (2) of this regulation remains eligible for State guardianship assistance payments until age 21, provided the youth is:

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

(b) Enrolled in or attending, subsequent to the youth's 18th birthday, a:

- (i) Maryland Higher Education Commission institution of higher learning or an equivalent; or
- (ii) Vocational training program;
- (c) Participating in a program or activity designed to promote, or remove barriers to, employment;
- (d) Employed for at least 80 hours per month; or
- (e) Incapable of doing any of the above described activities due to a medical condition.

(4) The local department shall request in writing 60 days prior to the child attaining 18 years old, and at each subsequent annual reconsideration, from the relative guardian documentation of the child's continued need for guardianship assistance as required in §B and §C(1)–(3) of this regulation.

.12 Suspension of Assistance.

A. The local department shall suspend the guardianship assistance when the:

- (1) Child is placed in foster care or another out of home setting with a plan of return home to the relative guardian;
- (2) Child is returned to the care of the birth parent with a plan of return home to the relative guardian;
- (3) Relative guardian fails to comply with the guardianship assistance agreement within a specified length of time;
- (4) Relative guardian notifies the local department that the child temporarily lives outside of the home and the relative guardian is no longer assuming responsibility for the child; or
- (5) Subsequent to the child's 18th birthday, the child no longer meets conditions described in Regulation .11E of this chapter for continued assistance.

B. The local department shall provide 30 days written notification to the relative guardian via a letter of intended action prior to any suspension of the assistance.

.13 Termination of Assistance.

A. The local department shall terminate the guardianship assistance for the following reasons:

- (1) The youth reaches 18 years old and does not meet the continued eligibility criteria as set forth in Regulation .11 of this chapter;
- (2) The relative guardian requests termination of the assistance;
- (3) The local department determines the relative guardian is not legally responsible for the child;
- (4) The child is returned to the custody of the birth parent;
- (5) The child or relative guardian dies;
- (6) The child attains 21 years old;
- (7) The child becomes an emancipated minor;
- (8) The child marries;
- (9) The child enlists in the military;
- (10) The local department determines the relative guardian is not providing any financial support for the child; or
- (11) Assistance has been suspended according to Regulation .12 of this chapter for 60 days.

B. Guardianship assistance shall be terminated upon written request from the relative guardian.

C. Guardianship assistance is not transferable to a relative that is not a party to both the guardianship assistance agreement and the applicable decree of custody and guardianship.

D. The local department shall provide 30 days written notification to the relative guardian prior to termination.

.14 Appeal Rights.

The local department, in accordance with COMAR 07.01.04, shall provide the opportunity for a fair hearing if guardianship assistance is:

- A. Denied;
- B. Suspended;
- C. Reduced; or
- D. Terminated for reasons other than:
 - (1) The child reaches age 21;
 - (2) The child dies; or
 - (3) All relative guardians who are party to both the assistance agreement and the court decree for custody and guardianship die.

THEODORE DALLAS
Secretary of Human Resources

Title 08 DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.11 Fishing in Nontidal Waters

Authority: Natural Resources Article, §4-602, Annotated Code of Maryland

Notice of Proposed Action

[11-344-P]

The Secretary of Natural Resources proposes to amend Regulation .01 under **COMAR 08.02.11 Fishing in Nontidal Waters**.

Statement of Purpose

The purpose of this action is to add Boonsboro Pond located in Washington County to the list of trout fishing areas limited to fishing by persons younger than 16 years old, 65 years old or older, and blind persons. Boonsboro Pond is located behind the new Boonsboro Free Library on MD Route 34. The pond was built in 2006 and is currently open to everyone, but has been used extensively for children's fishing rodeos and Backyard Fishing events for area young people. Boonsboro officials requested this action. This will provide an additional angling opportunity for area youth, senior citizens, and blind anglers.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has an impact on individuals with disabilities as follows:
The proposed action will provide an additional angling opportunity for blind anglers.

Opportunity for Public Comment

Comments may be sent to Fishing in Nontidal Waters, Regulatory Staff, Fisheries Service, B-2, 580 Taylor Avenue, Annapolis, MD 21401, or call 410-260-8300, or email to fisheriespubliccomment@dnr.state.md.us, or fax to 410-260-8310. Comments will be accepted through January 3, 2012. A public hearing has not been scheduled.

.01 Trout Fishing and Management Areas.

- A. — D. (text unchanged)
- E. Areas Limited to Fishing by Persons [under] *Younger than 16 Years Old, Persons 65 Years Old [and] or Older, and Blind Persons.*
 - (1) (text unchanged)
 - (2) Areas subject to provisions of this section:
 - (a) — (f) (text unchanged)
 - (g) *Boonsboro Pond, Washington County.*
- F. — H. (text unchanged)

JOHN R. GRIFFIN
Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.19 Nuisance and Prohibited Species

Authority: Natural Resources Article, §4-205.1, Annotated Code of Maryland

Notice of Proposed Action

[11-343-P]

The Secretary of Natural Resources proposes to amend Regulation **.02** under **COMAR 08.02.19 Nuisance and Prohibited Species.**

Statement of Purpose

The purpose of this action is to define felt in order to clarify the current ban on felt-soled waders for enforcement purposes. “Felt sole” is defined to include felt or any other natural or synthetic porous material capable of absorbing liquid to ensure diseases or invasive species such as didymo are not transported on materials that are ideal habitats for them.

Didymo, (*Didymosphaeria germinata*) or “Rock Snot” is an invasive alga of cold flowing waters. Individual didymo organisms are microscopic, but infestations include enormous numbers, and each individual produces a long stalk from the stream bottom. The resulting mass is a yellow-brown slime layer that can dominate the rivers and streams. Didymo infestations in North America are sufficiently new that scientists can only guess at the long-term ecological consequences. Dramatic changes in stream biology have been verified. Didymo is extremely unsightly and makes waterways unattractive to recreational users.

Tragically, the list of places infected in the rapid spread of didymo reads like a catalog of the finest fly-fishing waters on the planet. Resources managers in North America, and especially in New Zealand, guessed early on that the felt-soled waders of traveling fly fishermen were the pathway for its spread. Subsequent field and laboratory demonstrated that the felt sole is an almost perfect medium for its spread.

Many fly-fishermen are aware of the risk and have switched from felt soles (if indeed they ever used them) to rubber-soled waders. Rubber soled-waders are readily available and some manufacturers (including Orvis and Simms) have stopped or have announced plans to stop offering felt soles because of their potential to ruin rivers and devastate fly fishing—both as an industry and as a tradition.

A regulation banning the use of felt-soled waders in Maryland became effective on March 21, 2011.

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 Felt Sole Definition, Regulatory Staff, Fisheries Service B-2, 580 Taylor Avenue, Annapolis, MD 21401, or call 410-260-8300, or email to fisheriespubliccomment@dnr.state.md.us, or fax to 410-260-8310. Comments will be accepted through January 3, 2011. A public hearing has not been scheduled.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (2) (text unchanged)

(3) “Felt sole” means a sole to which felt or any other natural or synthetic porous material capable of absorbing liquid is attached.

[(3)] (4) — [(13)] (14) (text unchanged)

C. (text unchanged)

JOHN R. GRIFFIN
Secretary of Natural Resources

Subtitle 18 BOATING — SPEED LIMITS AND OPERATION OF VESSELS

08.18.02 Personal Watercraft

Authority: Natural Resources Article, §8-704, Annotated Code of Maryland

Notice of Proposed Action

[11-185-P]

The Secretary of Natural Resources proposes to adopt new Regulation **.07** under **COMAR 08.18.02 Personal Watercraft.**

Statement of Purpose

The purpose of this action is to ensure safe boating on the waterway.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michael Grant, Regulations Coordinator, Department of Natural Resources — Boating Services Unit, 580 Taylor Avenue, E-4, Annapolis, Maryland 21401, or call 410-260-8013, or email to mgrant@dnr.state.md.us, or fax to 410-260-8453. Comments will be accepted through January 3, 2012. A public hearing has not been scheduled.

Editor’s Note: The text of this document will not be printed here because it appeared as a Notice of Emergency Action in 38:16 Md. R. 942 — 943 (July 29, 2011), referenced as [11-185-E].

JOHN R. GRIFFIN
Secretary of Natural Resources

Subtitle 18 BOATING — SPEED LIMITS AND OPERATION OF VESSELS

08.18.21 Potomac River

Authority: Natural Resources Article, §8-704, Annotated Code of Maryland

Notice of Proposed Action
[11-351-P]

The Secretary of Natural Resources proposes to amend Regulation .03 under **COMAR 08.18.21 Potomac River**.

Statement of Purpose
The purpose of this action is to ensure safe boating on the waterway.

Comparison to Federal Standards
There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact
The proposed action has no economic impact.

Economic Impact on Small Businesses
The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities
The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment
Comments may be sent to Michael Grant, Regulations Coordinator, Department of Natural Resources — Boating Services, 580 Taylor Avenue, E-4, Annapolis, MD 21401, or call 410-260-8013, or email to mgrant@dnr.state.md.us, or fax to 410-260-8453. Comments will be accepted through January 3, 2012. A public hearing has not been scheduled.

.03 Potomac River North Shore.
A.—H. (text unchanged)

I. Smoot Cove encompasses all of the area east of a line beginning at the southerly tip of Rosalie Island, at or near Lat. 38°47.458'N., Long. 77°1.339'W.; then running [189°] 181° True to a point *at or near* Lat. 38°47.099'N., Long. 77°1.350'W., then running 199° True to a point on the shore at the southern entrance of Smoot Cove, at or near Lat. 38°46.825'N., Long. 77°1.473'W. Within this area, a person operating a vessel may not create a wake or exceed minimum/no wake speed in an area marked by the Department with no wake buoys.

JOHN R. GRIFFIN
Secretary of Natural Resources

Subtitle 18 BOATING — SPEED LIMITS AND OPERATION OF VESSELS

08.18.39 Chesapeake and Delaware Canal

Authority: Natural Resources Article, §8-704, Annotated Code of Maryland

Notice of Proposed Action
[11-281-P]

The Secretary of Natural Resources proposes to adopt new Regulation .01 under a new chapter, **COMAR 08.18.39 Chesapeake and Delaware Canal**.

Statement of Purpose

The purpose of this action is to ensure safe boating on the waterway.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michael Grant, Regulations Coordinator, Department of Natural Resources — Boating Services Unit, 580 Taylor Avenue, E-4, Annapolis, Maryland 21401, or call 410-260-8013, or email to mgrant@dnr.state.md.us, or fax to 410-260-8453. Comments will be accepted through January 3, 2012. A public hearing has not been scheduled.

Editor's Note: The text of this document will not be printed here because it appeared as a Notice of Emergency Action in 38:21 Md. R. 1274 (October 7, 2011), referenced as [11-281-E].

JOHN R. GRIFFIN
Secretary of Natural Resources

**Title 09
DEPARTMENT OF LABOR,
LICENSING, AND
REGULATION**

Subtitle 10 RACING COMMISSION

09.10.03 Prohibited Acts

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

Notice of Proposed Action
[11-340-P]

The Maryland Racing Commission proposes to amend Regulations .01, .04, and .08 under **COMAR 09.10.03 Prohibited Acts**. This action was considered by the Maryland Racing Commission at a public meeting held on October 18, 2011, 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 prohibit the administration of adjunct medications to a horse on a race day.

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 J. Michael Hopkins, Executive Director, Maryland Racing Commission, 300 East Towsontown Boulevard, Towson, MD 21286, or call 410-296-9682, or email to mhopkins@dllr.state.md.us, or fax to 410-296-9687. Comments will be accepted through January 3, 2012. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Maryland Racing Commission during a public meeting to be held on January 17, 2012, at 12:30 p.m., at Laurel Park, Laurel, MD 20725.

.01 Definitions.

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

- (1) Drug.
 - (a) (text unchanged)
 - (b) Except as provided in §B(1)(c) of this regulation, “drug”

does not include:

- (i) — (iv) (text unchanged)
- [(v) A substance administered as an adjunct to Lasix in accordance with Regulation .08 of this chapter:]
- [(vi)] (v)— [(x)] (ix) (text unchanged)

- (c) (text unchanged)
- (2) — (3) (text unchanged)

.04 Drug Prohibition — Horses.

- A. — D. (text unchanged)
- D-1. The presence of a drug, as defined in Regulation .01B(1)[(a)(i)] of this chapter, in a prerace blood sample taken from a horse that participated in a race, is prima facie evidence that the:

- (1) — (2) (text unchanged)

[E.] (proposed for repeal)

[F.] E. (text unchanged)

[G.] F. Enforcement.

- (1) The stewards or judges may order the:

- (a) (text unchanged)
- (b) Prerace taking of blood samples for testing purposes from any horse entered in a race to determine the presence of a drug, as defined in Regulation .01B(1)[(a)(i)] of this chapter;
- (c) — (d) (text unchanged)

- (2) (text unchanged)

[H.] G. (text unchanged)

.08 Bleeders.

- A. (text unchanged)
- [A-1.] (proposed for repeal)

B. — E. (text unchanged)

F. Race Day Administration of Lasix.

- (1) — (2) (text unchanged)

(3) Reports.

(a) The veterinarian who administers Lasix to a horse scheduled to race shall prepare a written certification indicating *that Lasix was administered*;

- (i) That Lasix was administered; and
- (ii) If applicable, each adjunct medication that was administered].

- (b) — (c) (text unchanged)

G. (text unchanged)

H. Program Notice.

(1) Of the horses scheduled to race, the official program shall denote the horses which have been administered:

- (a) Lasix; and

- (b) Lasix for the first time[]; and
- (c) Lasix and one or more adjunct medications].

(2) If the official program contains past performance lines, each past performance line shall indicate if the horse was administered *Lasix*;

- (a) Lasix; or
- (b) Lasix and an adjunct medication].

[I.] (proposed for repeal)

J. MICHAEL HOPKINS
Executive Director
Maryland Racing Commission

Subtitle 10 RACING COMMISSION

09.10.04 General

Authority: Business Regulation Article, §11-210; State Government Article, §9-1A-29; Annotated Code of Maryland

Notice of Proposed Action

[11-339-P]

The Maryland Racing Commission proposes to adopt new Regulation .25 under **COMAR 09.10.04 General**. This action was considered by the Maryland Racing Commission at public meeting held on October 18, 2011, 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 provide guidelines for the use of the revenue generated from the video slot facilities for the Race Track Facility Renewal Account and a process for application for the grants by racetrack licensees.

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 J. Michael Hopkins, Executive Director, Maryland Racing Commission, 300 East Towsontown Boulevard, Towson, MD 21286, or call 410-296-9682, or email to mhopkins@dllr.state.md.us, or fax to 410-296-9687. Comments will be accepted through January 3, 2012. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Maryland Racing Commission during a public meeting to be held on January 17, 2012, at 12:30 p.m., at Laurel Park, Laurel, MD 20725.

.25 Racetrack Facility Renewal Account.

A. *Eligibility.* A racetrack licensee may receive a grant from the Racetrack Facility Renewal Account, established under State Government Article, §9-1A-29, Annotated Code of Maryland, for racetrack facility capital construction and racetrack facility improvements if the racetrack licensee is in compliance with the

applicable eligibility requirements of State Government Article, §9-1A-09, Annotated Code of Maryland, including:

(1) The development and submittal to the Commission of a multiyear plan to improve the quality and marketing of horse racing at racetrack locations owned or operated by the racetrack licensee; and

(2) The development with other industry representatives in both the thoroughbred and harness racing industries of a multiyear plan to improve the quality and marketing of the horse racing industry in Maryland.

B. Qualifications. To qualify for a grant from the Racing Facility Renewal Account, a racetrack licensee shall:

(1) Submit to the Commission for approval a capital construction plan and a plan for improvements at the racetrack facility for capital construction and improvements at the racetrack facility that were commenced after October 1, 2010, including specific time frames for implementation; and

(2) Except for the owners of the racecourse at Timonium, provide and expend a matching fund equal to the amount of the grant.

C. Content. A capital construction plan and a plan for improvements at a racetrack facility for each project shall include:

(1) A general description of the capital construction and racetrack facility improvements;

(2) The estimated time frame for completion of each project;

(3) A complete set of applicable capital construction plans; and

(4) A listing of all costs associated with each project including materials and labor.

D. Monitoring. If a grant is provided to a racetrack licensee for capital construction, the Commission shall:

(1) In consultation with the Department of General Services, monitor the implementation of the approved plans for capital construction; and

(2) Unless the Commission grants an extension upon a written request of a racetrack licensee, direct the racetrack licensee to refund the applicable grant monies if the capital construction is not completed within the time frame approved by the Commission.

E. Types. At a minimum, the types of capital construction and improvements at a racetrack facility shall include:

(1) Projects that cause the racetrack facility to be in compliance with all laws, regulations, and ordinances regarding safety, environmental, and public health concerns;

(2) Projects that ensure that the condition of a part of the racetrack where individuals reside, commonly known as the "backstretch", is satisfactory for human habitation and meets minimum housing and sanitation standards for the jurisdiction in which the racetrack facility is located; and

(3) Projects that affect:

(a) Racetrack surfaces;

(b) Stabling facilities;

(c) Pari-mutuel operations or equipment;

(d) Food and beverage amenities or equipment;

(e) Spectator seating and other patron-oriented improvements;

(f) Security systems; and

(g) Racing-related equipment.

F. Allocation of Funds.

(1) Except as provided in §F(2) of this regulation, if two or more racetrack licensees that conduct live racing of the same breed submit plans for capital construction and improvements at a racetrack facility that are approved by the Commission, the funds shall be distributed to the competing racetrack licensees based upon the number of live racing days at each racetrack facility.

(2) For calendar year 2011, the monies accrued in the Racetrack Facility Renewal Account for Rosecroft Raceway and Ocean Downs, from the inception of the Racetrack Facility Renewal Account to the date a racetrack license is issued for the operation of Rosecroft Raceway, shall be available only to the racetrack licensee at Ocean Downs, provided the racetrack license at Ocean Downs is otherwise eligible for these funds.

(3) Upon the approval by the Commission of a plan for capital construction and improvements at a racetrack facility, a racetrack licensee may expend its matching funds prior to the receipt of grant monies from the Racetrack Facility Renewal Account.

(4) Each competing racetrack licensee shall agree in writing to return any funds allocated to the racetrack licensee in a particular calendar year to the Racetrack Facility Renewal Account in the event the racetrack licensee does not run the scheduled number of live racing days for any reason other than weather, acts of God, or other circumstances beyond the control of the racetrack licensee.

J. MICHAEL HOPKINS

Executive Director

Maryland Racing Commission

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 Proposed Action

[11-350-P]

The Commissioner of Labor and Industry proposes to adopt through incorporation by reference under **COMAR 09.12.31 Maryland Occupational Safety and Health Act — Incorporation by Reference of Federal Standards** amendments and revisions relating to Standards Improvement Project—Phase III, 29 CFR Parts 1910, 1926, and 1928, excluding Parts 1915, 1917, 1918, and 1919, published in 76 FR 33590—33612 (June 8, 2011).

This action was considered by the Maryland Occupational Safety and Health Advisory Board pursuant to a meeting held on August 3, 2011, notice of which was given in accordance with State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to remove or revise individual requirements within OSHA standards that are confusing, outdated, duplicative, or inconsistent. Revisions include changes to the respiratory protection and lead standards, changes to definitions in the sanitation and bloodborne pathogens standards, and a host of other miscellaneous revisions. Phase III of the Standards Improvement Project is the third in a series of rule-making actions to improve and streamline OSHA standards.

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 Debbie Stone, Regulations Coordinator, Department of Labor, Licensing, and Regulation, Division of Labor and Industry, 1100 N. Eutaw Street, Room 606, Baltimore, Maryland 21201, or call 410-767-2225, or email to dstone@dlr.state.md.us, or fax to 410-767-2986. Comments will be accepted through January 3, 2012. A public hearing has not been scheduled.

J. RONALD DEJULIIS
Commissioner of Labor and Industry

**Subtitle 38 STATE BOARD OF
INDIVIDUAL TAX PREPARERS**

09.38.01 General Regulations

Authority: Business Occupations and Professions Article, §§21-101, 21-203, 21-205, 21-207, and 21-301 — 21-304, Annotated Code of Maryland; Section 6, Ch. 623, Acts of 2008

Notice of Proposed Action

[11-341-P]

The State Board of Individual Tax Preparers proposes to amend Regulations .01 and .02 and adopt new Regulation .05 under **COMAR 09.38.01 General Regulations**. This action was considered at a public meeting of the Board held on September 26, 2011, notice of which was given pursuant to the State Government Article §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to amend COMAR 09.38.01.01 by adding the definition of “client” to the terms applicable to the chapter, and to amend Regulation .02 by repealing language that will be transferred to a new chapter, COMAR .09.38.02, in which the regulations for continuing education will apply to all individual tax preparers, and not only those who qualify for Waiver of Examination under COMAR 09.38.01.02. The action promulgating COMAR 09.38.02 will be proposed separately at the same time as this action. This action also provides a correction to references in COMAR 09.38.01.02(B)(1) and (D)(1).

This action also adds a Code of Professional Conduct under COMAR 09.38.01.05. A Code of Professional Conduct is a necessary element of any professional occupation. It not only sets standards by which the profession must govern its activities, but it serves as a guide for members of the public as to what they can expect from their choice of individual tax preparer.

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 Douglas Blackstone, Executive Director, Board of Individual Tax Preparers, 500 N. Calvert Street, Baltimore, MD 21202, or call 410-230-6244, or email to

dblackstone@dlr.state.md.us, or fax to 410-333-6314. Comments will be accepted through January 3, 2012. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the State Board of Individual Tax Preparers during a public meeting to be held on January 23, 2012, at 500 N. Calvert Street, Third Floor, Baltimore, MD 21202.

.01 The Board.

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

(1) (text unchanged)

(2) “Client” means a person for whom an individual tax preparer performs individual tax preparation services.

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

B. — C. (text unchanged)

.02 Waiver of Examination.

A. (text unchanged)

B. Qualifying Experience.

(1) In order to meet the requirements of [§A(1)] §A(3) of this regulation, an applicant shall have completed:

(a) — (b) (text unchanged)

(2) — (3) (text unchanged)

C. Continuing Education.

[(1) Programs Which Qualify. The overriding consideration in determining whether a specific program qualifies is that it shall be a formal program of learning which contributes directly to the professional competence of the individual.] *Qualifying continuing education programs shall comply with the requirements set forth in COMAR .09.38.02.03.*

[(2) Group Continuing Education Programs.

(a) Group continuing education programs will qualify only if §C(1) of this regulation is met and:

(i) An outline is prepared in advance and preserved for review by the Board, if required;

(ii) The program is at least 1 hour (50-minute period) in length;

(iii) The program is conducted by a qualified instructor;

(iv) A record of attendance is preserved; and

(v) The sponsor agrees to admit a member of the Board on request to monitor the program.

(b) These programs would include:

(i) Professional development programs of recognized national and state tax preparation organizations;

(ii) Technical sessions at meetings of recognized national and state tax preparation organizations;

(iii) Non-credit short courses at universities and colleges;

(iv) Formal, organized in-firm education programs; and

(v) Programs offered by other recognized professional or industrial organizations.

(3) University and college courses taken for academic credit will qualify only if §C(1) of this regulation is met. Credit towards the continuing education requirement will be calculated at 15 hours for each semester hour credit and 10 hours for each quarter hour credit.

(4) Other Programs. A program other than a group program will qualify only if:

(a) The program meets the requirements of §C(1) of this regulation;

(b) An outline is prepared in advance and preserved for review by the Board, if required;

(c) The program is at least 1 hours (50-minute period) in length; and

(d) The program provides evidence of satisfactory completion.

(5) Teacher, Lecturer or Discussion Leader.

(a) Services as a teacher, lecturer, or discussion leader in subjects qualifying for continuing education credit will be included to the extent that it contributes to the applicant's professional competence. Repetitious presentation, that is, those that are substantially the same subject material, may be included only once each reporting period.

(b) A teacher, lecturer, or discussion leader of a qualifying continuing education program shall receive:

(i) 3 hours of continuing education credit for every hour of presentation for a first-time presentation of a program; and

(ii) 1 hour of continuing education credit for every hour of presentation for all subsequent presentations of a program.

(6) Subject Matter. The following general subject matter areas are acceptable to the extent that they contribute directly to the expertise of individual income tax preparation:

- (a) Taxation;
- (b) Practitioner ethics;
- (c) Accounting and payroll theory;
- (d) Estate, tax, or investment planning;
- (e) Computer technology; and
- (f) Others, if the applicant can demonstrate a direct relationship between the course and individual income tax preparation.

(7) Documentation. The following minimum information concerning each continuing education course shall be maintained by the applicant:

- (a) Sponsoring organization;
- (b) Course location;
- (c) Program title;
- (d) Topical course outline;
- (e) Content description;
- (f) Dates attended;
- (g) Hours claimed;
- (h) Information reflecting the expertise of the instructor in the subject matter.]

D. Reporting and Controls.

(1) An applicant for waiver of the examination shall certify under penalty of perjury that the applicant meets the requirements set forth in [§A(1)—(3)] §A of this regulation.

(2) — (3) (text unchanged)

.05 Code of Professional Conduct.

A. Responsibilities and Practices.

(1) An individual tax preparer may not commit any act that reflects adversely on the individual tax preparer's fitness to provide individual tax preparation services.

(2) An individual tax preparer may not permit others to perform acts on the individual tax preparer's behalf, either with or without compensation, which, if performed by the individual tax preparer, would constitute a violation of the Code of Professional Conduct.

(3) An individual tax preparer may not knowingly misrepresent facts while providing individual tax preparation services. An individual tax preparer may resolve doubt in favor of a client if there is reasonable support for the position.

(4) An individual tax preparer who finds that a client has made an error or omitted information or related material required on an income tax return shall promptly advise the client of such error or omission.

(5) An individual tax preparer may not permit a client's individual income tax refund check to be made payable to the individual preparer.

B. Client records.

(1) An individual tax preparer shall provide, make available, or return to a client or former client, upon written request and within a reasonable time:

- (a) A copy of the client's tax return;
- (b) Personal papers or source material in the manner furnished by the client; and
- (c) A copy of any depreciation schedule associated with a client's tax return.

(2) An individual tax preparer may charge a fee in connection with the requirements of §B(1) of this regulation.

C. Contingent Fees. An individual tax preparer may not provide individual tax preparation services under an arrangement where the fee is contingent upon the findings or result of the services rendered.

D. Conflict of Interest.

(1) An individual tax preparer shall notify a client or potential client of any conflict of interest known to the individual tax preparer.

(2) An individual tax preparer with a conflicting interest to a client may not represent the client without the client's express written consent.

E. Communications with the Board.

(1) An individual tax preparer shall respond in writing to any communications from the Board requesting a response within 30 days of the mailing of these communications, by registered or certified mail, to the last address furnished to the Board by the individual tax preparer.

(2) An individual tax preparer shall notify the Board in writing within 15 days after any change in the individual tax preparer's:

- (a) Business address;
- (b) Home address;
- (c) Business telephone number;
- (d) Home telephone number; or
- (e) E-mail address.

F. Competence and Technical Standards.

(1) An individual tax preparer shall provide individual tax preparation services in accordance with applicable professional standards.

(2) An individual tax preparer may not provide individual tax preparation services to a client if the individual tax preparer cannot reasonably expect to perform the services in accordance with applicable professional standards.

G. Advertising and Solicitation.

(1) An individual tax preparer may not solicit clients by the use of coercion, duress, compulsion, intimidation, threats, overreaching, or vexatious or harassing conduct.

(2) An individual tax preparer may not use or participate in the use of any form of communication having reference to the individual tax preparer's services that contains a false, fraudulent, misleading, deceptive, or unfair statement or claim.

(3) A false, fraudulent, misleading, deceptive, or unfair statement or claim includes but is not limited to a statement or claim which:

- (a) Contains a misrepresentation of fact;
- (b) Is likely to mislead or deceive because it fails to make full disclosure of relevant facts;
- (c) Is intended or likely to create false or unjustified expectations of favorable results;
- (d) Implies educational or professional attainments or other recognition not supported in fact;
- (e) Represents that professional services can or will be competently performed for a stated fee when this is not the case, or makes representations with respect to fees for professional services that do not disclose all variables that reasonably may be expected to affect the fees that will in fact be charged; or

(f) Contains other representations or implications that in reasonable probability will cause those of ordinary prudence to misunderstand or be deceived.

DOUGLAS BLACKSTONE
Executive Director
State Board of Individual Tax Preparers

Subtitle 38 STATE BOARD OF INDIVIDUAL TAX PREPARERS

09.38.02 Continuing Education

Authority: Business Occupations and Professions Article, §§21-205, 21-308, and 21-309, Annotated Code of Maryland

Notice of Proposed Action

[11-342-P]

The State Board of Individual Tax Preparers proposes to adopt new Regulations .01—.05 under a new chapter, **COMAR 09.38.02 Continuing Education**. This action was considered at a public meeting of the Board held on September 26, 2011, notice of which was given pursuant to the State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to ensure that Maryland registered tax preparers maintain a level of education directly related to their profession in order to provide competent service to the public and as a prerequisite to the renewal of registration.

Comparison to Federal Standards

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

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed regulation will impact individual tax preparers in that they will incur the cost of courses to fulfill the 16-hour requirement over 2 years. However, all but 4 hours of the 16-hour Maryland requirement (over 2 years) can be satisfied by the continuing professional education (CPE) hours approved by the IRS in order to satisfy the IRS yearly requirement of 15 hours. Therefore, the additional hours to satisfy the Maryland requirement will not add a substantial burden to the tax preparer. The regulation has a positive impact, in that the knowledge attained by the tax preparer will add value to his or her professional ability.

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

Benefit (+) Cost (-)	Magnitude
-------------------------	-----------

D. On regulated industries or trade groups:	NONE	
(1) Income generated from course registrations	(+)	\$50—\$450 per course
(2) Tuition costs	(-)	Est. \$500 per employee
(3) Value added	(+)	Subjective/indeterminable
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

D(1). The average range of the cost to individuals for 2—8 hours of a CPE course offered, for example, by the MACPA.

D(2). Tax Preparer firms may wish to reimburse their employees for the cost of CPE. Reimbursement to the employee tax preparer, however, is voluntary to the business.

D(3). Knowledge gained from taking CPE courses will add value to the business itself.

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 may find it problematic to attend CPE courses; however, many courses today are offered online allowing for minimal impact.

Opportunity for Public Comment

Comments may be sent to Douglas Blackstone, Executive Director, State Board of Individual Tax Preparers, 500 N. Calvert Street, Baltimore, MD 21202, or call 410-230-6244, or email to dblackstone@dllr.state.md.us, or fax to 410-333-6314. Comments will be accepted through January 3, 2013. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the State Board of Individual Tax Preparers during a public meeting to be held on January 23, 2012, at 500 North Calvert Street, Third Floor, Baltimore, MD 21202.

.01 Citation of Regulations, Applicability, and Purpose.

A. These regulations may be cited and referred to as the “Individual Tax Preparers Continuing Education Regulations”. The continuing education requirement applies to all persons registered under Business Occupations and Professions Article, Annotated Code of Maryland, to provide individual tax preparation services in this State.

B. The public interest requires that individual tax preparers provide competent service to the public. The General Assembly has determined that it is in the public interest to require individual tax preparers to comply with the continuing education requirements as a prerequisite to the renewal of a registration.

.02 Basic Requirement.

A. A renewal applicant shall complete at least 16 hours of qualifying continuing education for each 2-year registration term.

B. A minimum of 4 hours of the continuing education for each 2-year registration term shall be in Maryland tax-related subjects.

C. The Board may accept continuing education hours approved by the Internal Revenue Service.

D. Continuing education hours earned in excess of the 16 hours for a 2-year registration term shall not be credited towards the continuing education requirement for a subsequent 2-year registration term.

.03 Programs Which Qualify.

A. The overriding consideration in determining whether a specific program qualifies is that it shall be a formal program of learning which contributes directly to the professional competence of the individual.

B. Group Continuing Education Programs.

(1) Group continuing education programs will qualify only if §A of this regulation is met and:

(a) An outline is prepared in advance and preserved for review by the Board, if required;

(b) The program is at least 1 hour (50-minute instruction period) in length;

(c) The program is conducted by a qualified instructor;

(d) A record of attendance is preserved; and

(e) The sponsor agrees to admit a member of the Board on request to monitor the program.

(2) These programs include:

(a) Professional development programs of recognized national and state tax preparation organizations;

(b) Technical sessions at meetings of recognized national and state tax preparation organizations;

(c) Noncredit short courses at universities and colleges;

(d) Formal, organized, in-firm education programs; and

(e) Programs offered by other recognized professional or industrial organizations.

C. University and college courses taken for academic credit will qualify only if §A of this regulation is met. Credit towards the continuing education requirement will be calculated at 15 hours for each semester hour credit and 10 hours for each quarter hour credit.

D. Other Programs. A program other than a group program will qualify only if:

(1) The program meets the requirements of §A of this regulation;

(2) An outline is prepared in advance and preserved for review by the Board, if required;

(3) The program is at least 1 hour (50-minute instruction period) in length; and

(4) The program provides evidence of satisfactory completion.

E. Teacher, Lecturer, or Discussion Leader.

(1) Services as a teacher, lecturer, or discussion leader in subjects qualifying for continuing education credit will be included to the extent that it contributes to the applicant's professional competence. Repetitious presentation, that is, those that are substantially the same subject material, may be included only once each reporting period.

(2) A teacher, lecturer, or discussion leader of a qualifying continuing education program shall receive:

(a) 3 hours of continuing education credit for every hour of presentation for a first-time presentation of a program; and

(b) 1 hour of continuing education credit for every hour of presentation for all subsequent presentations of a program.

F. Subject Matter. The following general subject matter areas are acceptable to the extent that they contribute directly to the expertise of individual income tax preparation:

(1) Taxation;

(2) Practitioner ethics;

(3) Accounting and payroll theory;

(4) Estate, tax, or investment planning;

(5) Computer technology; and

(6) Others, if the applicant can demonstrate a direct relationship between the course and individual income tax preparation.

G. Documentation. The following minimum information concerning each continuing education course shall be maintained by the renewal applicant for 4 years from the date of renewal:

(1) Sponsoring organization;

(2) Course location;

(3) Program title;

(4) Topical course outline;

(5) Content description;

(6) Dates attended;

(7) Hours claimed; and

(8) Information reflecting the expertise of the instructor in the subject matter.

.04 Controls and Reporting.

A. A renewal applicant shall provide a certification of compliance with renewal requirements, under Business Occupations and Professions Article, §§21-308 and 21-309, Annotated Code of Maryland, under penalty of perjury, in an appropriate form specified by the Board.

B. The Board, at its discretion, may verify the information and documentation supporting a renewal applicant's certification of continuing education credit. Upon request, the renewal applicant shall submit to the Board, or its designee, copies of the original documentation supporting the certification provided under §A of this regulation.

.05 Exceptions.

The Board may issue a registration to a renewal applicant who has not fully complied with the continuing education requirements in cases when failure by the applicant to fulfill this requirement has been caused by reason of any of the following:

A. Health as certified by a medical doctor;

B. Military service on extended active duty with the armed forces of the United States; or

C. Other good and valid causes, as determined and approved by the Board.

DOUGLAS BLACKSTONE
Executive Director
State Board of Individual Tax Preparers

**Title 10
DEPARTMENT OF HEALTH
AND MENTAL HYGIENE**

**Subtitle 09 MEDICAL CARE
PROGRAMS**

**10.09.12 Disposable Medical Supplies and
Durable Medical Equipment**

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

Notice of Proposed Action

[11-357-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .03 under **COMAR 10.09.12 Disposable Medical Supplies and Durable Medical Equipment**.

Statement of Purpose

The purpose of this action is to require DMS/DME providers to be Medicare-accredited providers as a condition of Medicaid enrollment.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 512, Baltimore, Maryland 21201, or call 410-767-6499 (TTY 800-735-2258), or email to regs@dhmh.state.md.us, or fax to 410-767-6483. Comments will be accepted through January 3, 2012. A public hearing has not been scheduled.

.03 Conditions for Participation.

To participate in the Program, the provider:

A. *Shall, unless exempt from Medicare accreditation requirements:*

(1) *Be an accredited Medicare provider of disposable medical supplies and durable equipment;*

(2) *Effective November 1, 2011, provide documentation of:*

(a) *Accreditation; or*

(b) *Having submitted an application for accreditation; and*

(3) *Effective April 1, 2012, be accredited or terminated from the Program;*

[A.] B.—[G.] H. (text unchanged)

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

**Subtitle 09 MEDICAL CARE
PROGRAMS**

**10.09.18 Oxygen and Related Respiratory
Equipment Services**

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

Notice of Proposed Action

[11-356-P]

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

Statement of Purpose

The purpose of this action is to require oxygen providers to be Medicare-accredited providers as a condition of Medicaid enrollment.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 512, Baltimore, Maryland 21201, or call 410-767-6499 (TTY 800:735-2258), or email to regs@dhmh.state.md.us, or fax to 410-767-6483. Comments will be accepted through January 3, 2012. A public hearing has not been scheduled.

.03 Conditions for Participation.

To participate in the Program, the provider shall:

A. *Unless exempt from Medicare accreditation requirements:*

(1) *Be an accredited Medicare provider of oxygen;*

(2) *Effective November 1, 2011, provide documentation of:*

(a) *Accreditation; or*

(b) *Having submitted an application for accreditation; and*

(3) *Effective April 1, 2012, be accredited or terminated from the Program;*

[A.] B.—[P.] Q. (text unchanged)

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

Subtitle 26 BOARD OF ACUPUNCTURE

10.26.02 General Regulations

Authority: Health Occupations Article, §§1A-306 and 1A-307, Annotated Code of Maryland

Notice of Proposed Action

[11-354-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .05 under **COMAR 10.26.02 General Regulations**. This action was considered at a public meeting held on September 13, 2011, notice of which was given on the Board of Acupuncture website, <http://www.dhmh.state.md.us/bacc/boardmeetings.htm>, since January 1, 2011, pursuant to State Government Article, §10-506(c)(1), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to:

- (1) Revise the list of organizations through which formally organized continuing education may be obtained;
- (2) Allow 10 hours of continuing education units (CEUs) to be obtained through published writing or articles on acupuncture or Oriental medicine;
- (3) Clarify how CEUs for pro bono work may be obtained; and
- (4) Clarify what a licensee whose license has expired must do to reinstate their license.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 W. Preston St., Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to regs@dhmh.state.md.us, or fax to 410-767-6483. Comments will be accepted through January 3, 2012. A public hearing has not been scheduled.

.05 Term, Renewal, Reinstatement, and Inactive Status.

A.—C. (text unchanged)

D. Reinstatement. Thirty days after the expiration date of a license, a licensee whose license has expired without seeking inactive status may have the license reinstated upon *meeting all of the following*:

- (1) [Submitting to the Board] *Submission of a completed reinstatement application on a form required by the Board;*
- [(2) Meeting the requirements of §B(2)(b) and (c) of this regulation for every year the license is lapsed;]
- [(3)] (2) (text unchanged)
- [(4) Providing documentation of continuing education established under §F of this regulation.]
- (3) *One of the following*:
 - (a) *Forty hours of continuing education for each renewal period the license has lapsed, not to exceed 80 hours; or*

(b) *Passage of the acupuncture exam given by the NCCAOM within 4 years from the date of reinstatement.*

E. Inactive Status.

- (1) (text unchanged)
- (2) To reactivate a license from inactive status, the applicant shall [meet the]:

(a) [Renewal] *Satisfy the renewal requirements in §B(2)(a) and (b) of this regulation that exist at the time the individual changes from inactive to active status; and*

(b) [Continuing education requirements for every year the license was inactive.] *Complete 40 hours of continuing education as specified under §F of this regulation.*

F. Continuing Education.

(1) A licensee applying for renewal shall complete 40 hours of relevant continuing education during the 2-year period preceding the expiration of the license which include the following:

(a) At least 25 hours in formally organized programs which are relevant to the practice of acupuncture and *Oriental medicine and* are approved by the Board or sponsored by, but not limited to, the following organizations and their member organizations:

- (i) [The] American Academy of Medical [Acupuncturists] *Acupuncture*;
- (ii) [The] American Association of Acupuncture and Oriental Medicine (AAAOM);
- (iii) [The] Council of Colleges of Acupuncture and Oriental Medicine (CCAOM);
- (iv) [The] *Colleges and universities accredited by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM)*;
- (v) [The] National Commission for the Certification of Acupuncture and Oriental Medicine (NCCAOM);
- [(vi) The National Academy of Acupuncture and Oriental Medicine (NAAOM);]
- [(vii)] (vi) [The] Society for Acupuncture Research; *or*
- [(viii) Center for Oriental Medical Research and Education (COMRE);]
- [(ix)] (vii) The National Acupuncture Detoxification Association; *or*
- [(x) The National Acupuncture Teachers Association.]

(b) Not more than 15 hours of formally organized training programs in Western science and medical practices, medical ethics, medical research, or cardiopulmonary resuscitation which are relevant to the practice of acupuncture and are sponsored by, but not limited to, organizations listed in §F(1)(a) of this regulation and the following organizations:

- (i)—(ii) (text unchanged)
- [(iii) The National Institutes of Health Office of Alternative Medicine (NIHOAM);]
- [(iv)] (iii)—[(vi)] (v) (text unchanged)
- [(vii) American Hospital Association (AHA);]
- [(viii) American Lung Association (ALA);]
- [(ix)] (vi)—[(xi)] (viii) (text unchanged)

(c) Not more than 15 hours of training in [accredited] *approved* programs which will assist a licensee to carry out the licensee's professional responsibilities, including, but not limited to:

- (i)—(iii) (text unchanged)
- (d) Not more than 15 hours teaching acupuncture and related [oriental] *Oriental* medical therapies in an accredited school or in a program approved for acupuncture continuing education; *[or]*
- (e) Not more than 10 hours of pro bono work as outlined in §F(3) of this regulation[.]; *or*
- (f) *Not more than 10 hours in published writing or articles in acupuncture and Oriental medicine that are*:
 - (i) *Peer-reviewed research or peer-reviewed clinically relevant articles in acupuncture and Oriental medicine; and*

- (ii) Limited to 5 hours per article.
- (2) (text unchanged)
- (3) Pro Bono Work.
 - (a) (text unchanged)
 - (b) Pro bono work shall be for the provision of acupuncture services provided through an organization offering humanitarian services such as, but not limited to:
 - (i) Domestic or international victims in an emergency situation or disaster area;
 - (ii) Low income or underserved areas or populations;
 - (iii) Special needs populations; or
 - (iv) United States military personnel.
- [(b)] (c) (text unchanged)
- (4) (text unchanged)
- (5) Licensees shall maintain the documentation of their continuing education credits for 4 years from the date of their acupuncture renewal.
- (6) (text unchanged)

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

Subtitle 26 BOARD OF ACUPUNCTURE

10.26.04 Rules of Procedure for Board Hearings

Authority: Health Occupations Article, §§1-606, 1A-309, and 1A-403, Annotated Code of Maryland

Notice of Proposed Action

[11-355-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .01 and .02, adopt new Regulation .10, and recodify existing Regulations .10—,13 to be Regulations .11—,14 under COMAR 10.26.04 Rules of Procedure for Board Hearings. This action was considered at a public meeting held on September 13, 2011, notice of which was given by publication on the Board of Acupuncture website, <http://dhmh.maryland.gov/bacc/boardmeetings.htm>, since January 1, 2011, pursuant to State Government Article, §10-506(c)(1), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to define certain terms and establish sanctioning guidelines for disciplining a licensee for a violation of COMAR 10.26 or of the Maryland Acupuncture Act.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele A. Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to regs@dhmh.state.md.us, or fax to 410-767-6483. Comments will be accepted through January 3, 2012. A public hearing has not been scheduled.

.01 Scope.

This chapter governs procedures for disciplinary matters and hearings before the State Acupuncture Board and establishes the standards for use as a guide for the imposition of disciplinary sanctions against any Maryland licensed acupuncturist or any registered auricular detoxification specialist if, after a hearing, the Board finds that there are grounds under Health Occupations Article, §1A-309, Annotated Code of Maryland, to place a licensee or registered auricular detoxification specialist on probation, reprimand, suspend, fine, or revoke a license. The Board may consider aggravating and mitigating factors in determining sanctions.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(23) (text unchanged)

(24) “Licensee” means an individual who is licensed to practice acupuncture in Maryland.

[(24)] (25)—[(34)] (35) (text unchanged)

(36) “Registered auricular detoxification specialist” means an individual who has been registered by the Board for the purpose of assisting an individual who is undergoing detoxification to remove addictive substances from the body and to restore health.

[(35)] (37)—[(44)] (46) (text unchanged)

.10 Sanctioning Guidelines.

A. General Application.

(1) This regulation shall be used by the Board as a guide for sanctioning licensees pursuant to its authority under Health Occupations Article, §§1A-205 and 1A-309, Annotated Code of Maryland, for violations of the Acupuncture Act and the Board’s regulations.

(2) The Board is not required to make findings of fact with respect to any of the factors for determining the sanction indicated by the sanctioning guidelines.

(3) A departure from the sanctioning guidelines alone is not a ground for any hearing or appeal of a Board action.

(4) Notwithstanding these sanctioning guidelines, in order to resolve a disciplinary matter, the Board and the licensee or registered detoxification specialist may agree to surrender a license or registration or to a Consent Order with terms, conditions, and sanctions agreed upon.

(5) In a case where there are multiple and distinct violations, the Board may impose a sanction greater than the maximum indicated by the sanctioning guidelines for each individual violation.

(6) If probation is imposed, the Board may impose appropriate terms and conditions of probation, and, if a licensee or registration holder violates the terms or conditions of probation, the Board may take further disciplinary action against the individual.

(7) In the event a violation does not fall within the sanction range, the Board shall so indicate and use its best judgment to determine the appropriate sanction and shall consider, to the extent possible, the factors in the sanctioning guidelines.

PROPOSED ACTION ON REGULATIONS

1610

B. Range of Sanctions.

<i>VIOLATION</i>	<i>MINIMUM SANCTION</i>	<i>MAXIMUM SANCTION</i>	<i>MINIMUM PENALTY</i>	<i>MAXIMUM PENALTY</i>
<i>(1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;</i>	<i>Reprimand</i>	<i>Revocation/denial of license</i>	<i>\$0</i>	<i>\$5,000</i>
<i>(2) Fraudulently or deceptively: (a) Uses a license; or (b) Solicits or advertises;</i>	<i>Reprimand</i>	<i>Revocation</i>	<i>\$0</i>	<i>\$5,000</i>
<i>(3) Is guilty of immoral or unprofessional conduct in the practice of acupuncture;</i>	<i>Reprimand</i>	<i>Revocation</i>	<i>\$0</i>	<i>\$5,000</i>
<i>(4) Incompetent. (a) Is professionally incompetent; or (b) Is physically, or mentally incompetent;</i>	<i>Probation 6 months</i> <i>Reprimand</i>	<i>Revocation</i> <i>Revocation</i>	<i>\$0</i> <i>\$0</i>	<i>\$5,000</i> <i>\$5,000</i>
<i>(5) Provides professional services while under the influence of alcohol or any narcotic or controlled; dangerous substance;</i>	<i>Probation 6 months with education</i>	<i>Revocation</i>	<i>\$0</i>	<i>\$5,000</i>
<i>(7) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude;</i>	<i>Probation 3 months or denial of license</i>	<i>Revocation/denial of license</i>	<i>\$0</i>	<i>\$5,000</i>
<i>(8) Practices acupuncture with an unauthorized person or assists an unauthorized person in the practice of acupuncture;</i>	<i>Reprimand</i>	<i>Revocation</i>	<i>\$0</i>	<i>\$5,000</i>
<i>(10) Willfully makes or files a false report or record in the practice of acupuncture;</i>	<i>Reprimand</i>	<i>Revocation</i>	<i>\$0</i>	<i>\$5,000</i>
<i>(11) Willfully fails to file or record any report as required by law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;</i>	<i>Reprimand</i>	<i>Revocation</i>	<i>\$0</i>	<i>\$5,000</i>
<i>(12) Submits a false statement to collect a fee;</i>	<i>Reprimand</i>	<i>Revocation/denial of license</i>	<i>\$100</i>	<i>\$5,000</i>
<i>(13) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the person is licensed and qualified to render because the individual is HIV positive;</i>	<i>Reprimand</i>	<i>Suspension 2 years</i>	<i>\$0</i>	<i>\$5,000</i>
<i>(15) Fails to cooperate with a lawful investigation conducted by the Board;</i>	<i>Suspension 1 month</i>	<i>Revocation</i>	<i>\$100</i>	<i>\$5,000</i>
<i>(16) Commits any act of gross negligence, incompetence, or misconduct in the practice of acupuncture;</i>	<i>Reprimand</i>	<i>Revocation</i>	<i>\$0</i>	<i>\$5,000</i>

(17) Engages in a course of conduct that is inconsistent with generally accepted professional standards in the practice of acupuncture; or	Reprimand	Revocation	\$0	\$5,000
(18) Fails to comply with any Board order.	Suspension 1 year	Revocation	\$0	\$5,000

C. *Mitigating and Aggravating Factors.* Depending on the facts and circumstances of each case, and to the extent that they apply, the Board may consider the following mitigating and aggravating factors in determining whether the sanction in a particular case should fall outside of the range of sanctions established by the guidelines. These factors may include, but are not limited to the following:

(1) *Mitigating Factors:*

- (a) *Absence of a prior disciplinary record;*
- (b) *The licensee reported the violation to the Board;*
- (c) *The licensee voluntarily admitted violation, provided full disclosure to the Board, and cooperated during Board proceedings;*
- (d) *The licensee implemented remedial measures to correct or mitigate harm arising from the violation;*
- (e) *The licensee made a timely good-faith effort to make restitution or otherwise rectify the consequences of the violation;*
- (f) *Evidence of rehabilitation or potential for rehabilitation;*
- (g) *Absence of premeditation to commit the violation;*
- (h) *Absence of potential harm to or adverse impact on the public;*
- (i) *Isolated incident and not likely to recur; and*
- (j) *The licensee's prior community service and present value to the community.*

(2) *Aggravating Factors:*

- (a) *Previous criminal or administrative disciplinary history;*
- (b) *The violation was committed deliberately or with gross negligence or recklessness;*
- (c) *The violation had the potential for, or caused, serious patient harm;*
- (d) *The violation was part of a pattern of detrimental conduct;*
- (e) *The licensee was motivated to perform the violation by his or her financial gain;*
- (f) *The vulnerability of the patient;*
- (g) *The licensee attempted to conceal the violation, falsified or destroyed evidence, or presented false testimony or evidence;*
- (h) *The licensee failed to cooperate with the Board's investigation; and*
- (i) *Previous attempts at rehabilitation were unsuccessful.*

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

Subtitle 34 BOARD OF PHARMACY

10.34.28 Automated Medication Systems

Authority: Health Occupations Article, §§12-205(a) and 12-605, Annotated Code of Maryland

Notice of Proposed Action

[11-358-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .01, .02, .04, and .09—.11, repeal existing Regulations .05—.08, adopt new Regulations .05—.08 and .12, amend and recodify existing Regulation .12 to be Regulation .13, and recodify existing Regulation .13 to be Regulation .14 under **COMAR 10.34.28 Automated Medication Systems**.

At this time, the Secretary of Health and Mental Hygiene is also withdrawing:

(1) Amendments to Regulations .01, .02, .04, and .09—.12, the repeal of existing Regulations .05—.08, and the adoption of new Regulations .05—.08, and .11-1 under **COMAR 10.34.28 Automated Medication Systems** as originally proposed in 36:25 Md. R. 1965—1969 (December 4, 2009); and

(2) Amendments to Regulations .01, .02, .04, and .09—.11, the repeal of existing Regulations .05—.08, adoption of new Regulations .05—.08 and .12, amendments to and the recodification of existing Regulation .12 to be Regulation .13, and the recodification of existing Regulation .13 to be Regulation .14 under **COMAR 10.34.28 Automated Medication Systems** as repropoed in 38:2 Md.R. 93—94 (January 14, 2011).

This action was considered by the Board of Pharmacy at a public meeting held August 17, 2011, notice of which was given by publication on the Board of Pharmacy website, www.dhnh.maryland.gov/pharmacyboard, from August 1, 2011, through August 17, 2011, pursuant to the State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to revise the regulations to accommodate remote automated medication systems. The definition of "health care facility" is being added from H.B. 1387 of 2008 and a definition of "responsible pharmacist" is added for clarification. Regulations .05 — .08 are repealed because they restricted the use of remote automated medication systems and do not accommodate the recent uses of automated medication systems. The remainder of the revisions reflects the language of S.B. 767/H.B. 1387 of 2008, Health Occupations — Board of Pharmacy — Remote Automated Medication Systems. Regulations .03 and .13 are not revised.

The Board of Pharmacy is proposing these regulations anew, after a previously published proposal and reproposal, to reflect additional input from the pharmaceutical community. Those revisions include:

- (1) Exclusions for supply towers;
- (2) Verification of a pharmacy technician selection of medications by a pharmacist;
- (3) Return of unused medications;
- (4) The inclusion of group model health maintenance organizations; and
- (5) Clarification that decentralized and remote automated medication systems are designed for the distribution of medications.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The revisions proposed will have no economic impact on the Board of Pharmacy, the Department of Health and Mental Hygiene, other State agencies, or local governments. Pharmacies will continue to be inspected by the Board in the same manner. The inspection forms, which are periodically revised, will be revised pursuant to these changes. There may be an unquantifiable benefit to some pharmacies that choose to use remote automated medication systems. The public may benefit because there may be a decrease in medication errors where these machines are utilized.

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

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

- D. There may be an unquantifiable benefit to some pharmacies that choose to use remote automated medication systems, making access to medications more efficient in some settings.
- F. The public may benefit because there may be a minimal decrease in medication errors where these machines are utilized.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 512, Baltimore, Maryland 21201, or call 410-767-6499 (TTY 800-735-2258), or email to regs@dhmh.state.md.us, or fax to 410-767-6483. Comments will be accepted through January 3, 2012. A public hearing has not been scheduled.

.01 Scope.

This chapter defines the parameters under which a permit holder may allow the use of automated medication systems [for the] to facilitate the dispensing and distribution of medication.

.02 Definitions.

- A. (text unchanged)
- B. Terms Defined.
 - (1) “Automated medication system” means a *centralized, decentralized, or remote* robotic or computerized device and that device’s components designed to:
 - (a) Distribute medications in a licensed health care facility, a related institution as defined in Health-General Article, §19-301, Annotated Code of Maryland, or a medical facility owned and operated by a group model health maintenance organization as defined in Health-General Article, §19-713.6, Annotated Code of Maryland; or
 - (b) Prepare medications for final dispensing by a licensed pharmacist [to a patient or a patient’s agent].
 - (2) (text unchanged)
 - (3) “Decentralized automated medication system” means an automated medication system that is located outside of the pharmacy in a health care facility, a related institution as defined in Health-General Article, §19-301, Annotated Code of Maryland, or a medical facility owned and operated by a group model health maintenance organization as defined in Health-General Article, §19-713.6, Annotated Code of Maryland, with an on-site pharmacy and in which medication is stored in a manner that may be, but need not be, patient specific.
 - (4) (text unchanged)
 - (5) “Health care facility” means a hospital or related institution as defined in Health-General Article, §19-301, Annotated Code of Maryland.
 - (6) “Interim box” means a tamper evident and secure container or secure electronic storage system holding minimal quantities of medications agreed on by the health care facility intended to expedite immediate initiation of emergency or nonemergency dosing until the pharmacy is able to provide a regular supply.
 - (5) (7) Remote Automated Medication System.
 - (a) “Remote automated medication system” means an automated medication system that is located in a health care facility, a related institution as defined in Health-General Article, §19-301, Annotated Code of Maryland, or a medical facility owned and operated by a group model health maintenance organization as defined in Health-General Article, §19-713.6, Annotated Code of Maryland, that does not have an on-site pharmacy and in which medication is stored in a manner that may be, but need not be, patient specific.
 - (b) “Remote automated medication system” does not include an interim box or other similar medication storage container that:
 - (i) Does not operate pursuant to the entry of a medication order;
 - (ii) Does not require a pharmacist’s review before access to medication;

(iii) *Is stocked with unit dose medications;*
 (iv) *Has the sole purpose of providing a medication dosage pending the next pharmacy delivery to the health care facility;*

(v) *Is located in a patient care setting that does not have a pharmacy on site; and*

(vi) *Is stocked and controlled by a pharmacy providing services to a health care facility.*

(8) *“Responsible pharmacist” means a licensed pharmacist who ensures the safe and efficient dispensing, repackaging, delivery, control, positive drug identification including bar coding, transaction records, dispensation records, labeling, and accountability for medications in an automated medication system.*

[(6)] (9) (text unchanged)

[(7) “Supervision” means the direction of and responsibility for ancillary personnel performing pharmaceutical tasks delegated by a licensed pharmacist, including determining whether the ancillary personnel are competent to perform the delegated tasks.]

(10) *“Unit dose” means a medication container or package containing one discrete pharmaceutical dosage form labeled according to federal and State law.*

.04 Usage Requirements for Centralized Automated Medication Systems.

A. An automated medication system [shall] *may* only be used if:

(1) Records concerning transactions or operations are maintained in accordance with Regulation .11 of this chapter;

(2) [A licensed pharmacist controls access to the system and defines a method for delegating access to the system to qualified pharmacy personnel under the licensed pharmacist’s supervision or to individuals permitted by law to administer medication] *A responsible pharmacist has been designated by the permit holder to supervise and manage the operations of the centralized automated medication system; and*

(3) [A licensed pharmacist:

(a) Reviews:

(i) Each order for medication before the medication is removed from the remote or decentralized automated medication system, except if the order is for a starter dose; or

(ii) The order for a starter dose within 24 hours of removal of the starter dose from the remote or decentralized automated medication system, if the patient is still under the care of the *health care* facility when the review is to be performed; or

(b) Except as provided in Regulation .08 of this chapter, utilizing a centralized automated medication system, makes a final check of the prescription before dispensing the medication to the patient;

(4)] The permit holder ensures that:

(a) Patients have prompt access to [all] pharmacy services necessary for the provision of good pharmaceutical care as defined in Health Occupations Article, [§12-101(l)] §12-101, Annotated Code of Maryland;

(b) The *centralized automated medication* system maintains the integrity of the information in the system and protects patient confidentiality; and

(c) [A comprehensive program of quality assurance for the system is in place as established in] *The centralized automated medication system is subject to a quality assurance program in accordance with Regulation .10 of this chapter;* and].

[(5) The permit holder and licensed pharmacist responsible for the automated medication system:

(a) Maintain policies and procedures related to:

(i) The operation of the system;

(ii) Training of personnel using the system; and

(iii) Operations during system downtime; and

(b) Establish a process to:

(i) Ensure the security of the system; and

(ii) Account for medication added to and removed from the system.]

[B.] (proposed for repeal)

B. A permit holder shall indicate on the initial, renewal, and reinstatement applications:

(1) *Whether the permit holder operates a centralized automated medication system; and*

(2) *Any other information regarding the system that the Board considers necessary to determine compliance with this chapter.*

.05 Usage Requirements for Decentralized Automated Medication Systems.

A. A decentralized automated medication system may only be used if:

(1) *Records concerning transactions or operations are maintained in accordance with Regulation .11 of this chapter;*

(2) *A responsible pharmacist has been designated by the permit holder to supervise and manage the operations of the automated medication system;*

(3) *Except for starter doses, a licensed pharmacist reviews each order for medication:*

(a) *After the order has been entered into the system; and*

(b) *Before the system permits access to the medication;*

(4) *The permit holder ensures that:*

(a) *Patients have prompt access to pharmacy services necessary for the provision of good pharmaceutical care as defined in Health Occupations Article, §12-101, Annotated Code of Maryland;*

(b) *The decentralized automated medication system maintains the integrity of the information in the system and protects patient confidentiality; and*

(c) *The decentralized automated medication system is subject to a quality assurance program in accordance with Regulation .10 of this chapter; and*

(5) *It is designed to distribute medications in a licensed health care facility, a related institution as defined in Health-General Article, §19-301, Annotated Code of Maryland, or a medical facility owned and operated by a group model health maintenance organization as defined in Health-General Article, §19-713.6, Annotated Code of Maryland.*

B. A starter dose, or a dose in response to an emergency, may be distributed without prior review by a pharmacist of the order if:

(1) *The pharmacist reviews the order within 24 hours of removal from the decentralized automated medication system; or*

(2) *The prescriber reviews the patient medical history and authorizes the administration of the dose to the patient.*

C. Decentralized automated medication systems shall operate in a manner which:

(1) *Limits simultaneous access to multiple:*

(a) *Drug strengths;*

(b) *Dosage forms; or*

(c) *Drug entities;*

(2) *Prevents access to medications not ordered for the patient; and*

(3) *Safeguards against the misidentification of medications, dosages, and dosage forms by those accessing the decentralized automated medication system.*

D. *The requirements listed in §C(1) and (2) of this regulation do not apply to automated supply towers which contain:*

(1) *Noncontrolled medications that are:*

(a) *Refrigerated;*

(b) *Bulk; or*

(c) *Intravenous fluids; or*

(2) Prescription devices.

E. A permit holder shall indicate on the initial, renewal, and reinstatement applications:

(1) Whether the permit holder operates a decentralized automated medication system; and

(2) Any other information regarding the system that the Board considers necessary to determine compliance with this chapter.

.06 Usage Requirements for Remote Automated Medication Systems.

A. A remote automated medication system may only be used if:

(1) Records concerning transactions or operations are maintained in accordance with Regulation .11 of this chapter;

(2) A responsible pharmacist has been designated by the permit holder to supervise and manage the operations of the remote automated medication system;

(3) Except for starter doses, a licensed pharmacist reviews each order for medication:

(a) After the order has been entered into the system; and

(b) Before the system permits access to the medication;

(4) The permit holder ensures that:

(a) Patients have prompt access to pharmacy services necessary for the provision of good pharmaceutical care as defined in Health Occupations Article, §12-101, Annotated Code of Maryland;

(b) The remote automated medication system maintains the integrity of the information in the system and protects patient confidentiality; and

(c) The remote automated medication system is subject to a quality assurance program in accordance with Regulation .10 of this chapter; and

(5) It is designed to distribute medications in a licensed health care facility, a related institution as defined in Health-General Article, §19-301, Annotated Code of Maryland, or a medical facility owned and operated by a group model health maintenance organization as defined in Health-General Article, §19-713.6, Annotated Code of Maryland.

B. A starter dose, or a dose in response to an emergency, may be distributed without prior review by a pharmacist of the order if the pharmacist reviews the order within 24 hours of removal from the remote automated medication system.

C. If a licensed pharmacist is not physically present where the remote automated medication system is located, the pharmacist shall have access to the system by electronic and visual means in order to ensure the safe and efficient operation of the system.

D. Remote automated medication systems shall operate in a manner which:

(1) Unless packaging and labeling for a specific patient, limits simultaneous access to multiple:

(a) Drug strengths;

(b) Dosage forms; or

(c) Drug entities;

(2) Prevents access to medication not ordered for the patient; and

(3) Safeguards against the misidentification of medications, dosages, and dosage forms by those accessing the remote automated medication system.

E. The requirements listed in §D(1) and (2) of this regulation do not apply to automated supply towers which contain:

(1) Noncontrolled medications that are:

(a) Refrigerated;

(b) Bulk; or

(c) Intravenous fluids; or

(2) Prescription devices.

F. A remote automated medication system may be used only if the system:

(1) Uses positive drug identification, such as bar code technology, to ensure accuracy in:

(a) Loading and selection of medications in the pharmacy for stocking and replenishment of the remote automated medication system; and

(b) Loading medications into the remote automated medication system where it is located;

(2) Has electronic reporting capability regarding the identity of persons with access to the system and regarding medications removed from the system;

(3) Restricts access to medications to a licensed pharmacist or an individual authorized to administer medication under Health Occupation Article, Annotated Code of Maryland; and

(4) Before administration of a medication to a patient, provides:

(a) A picture of the medication, if available; or

(b) If a picture is not available, a written description of the medication specifically by color, shape, and unique manufacturer markings.

G. The permit holder shall ensure that the health care facility where the remote automated medication system is located provides, at a minimum:

(1) A licensed pharmacist available for consultation 24 hours per day;

(2) Technical assistance regarding operation of the system available 24 hours per day; and

(3) A quality assurance program as set forth in Regulation .10 of this chapter.

H. A permit holder shall indicate on the initial, renewal, and reinstatement applications:

(1) Whether the permit holder operated a remote automated medication system; and

(2) Any other information regarding the system that the Board considers necessary to determine compliance with this chapter.

.07 Stocking of Automated Medication Systems.

A. Selection of Medication for Stocking. A licensed pharmacist shall verify the accuracy of medications selected for stocking and replenishment of the automated medication system before the medications are stocked in the system.

B. Stocking of Automated Medication System. A registered pharmacy technician may stock an automated medication system provided that:

(1) The pharmacy technician's selection of medications is verified by a pharmacist; and

(2) The system uses positive drug identification such as bar code technology.

.08 Return of Unused Medication.

A. Single-Drug Unit Dose Packaging.

(1) Automated medication systems that distribute medications in single-drug unit dose packaging may allow for return of unused medications to the system provided that:

(a) The medication is returned to a designated common, secure, one-way returns bin; and

(b) A licensed pharmacist determines whether the medication is in an unadulterated form.

(2) Only a licensed pharmacist may return medications directly to the automated medication system under §A(1) of this regulation.

B. Unused medications distributed from a remote or decentralized automated medication system in a manner other than single-drug unit dose packaging shall be:

(1) Returned to a designated common, secure, one-way returns bin; and

(2) Returned to the permit holder for proper disposal.

C. Unused medications dispensed from a centralized automated medication system stocked with bulk medications may not be returned to the system.

.09 Education and Training.

The permit holder shall ensure that individuals [working with the] authorized to utilize centralized, decentralized, or remote automated medication [system] systems receive initial and annual training regarding:

- A. (text unchanged)
- B. [The] Procedures for the operation of the system; and
- C. (text unchanged)

.10 Quality Assurance Program.

[The permit holder shall maintain a quality assurance program regarding the automated medication system that shall include:]

A. [Review of system overrides] The responsible pharmacist, in consultation with the health care facility, shall develop, maintain, and review annually a quality assurance program regarding the automated medication system that addresses, at minimum:

(1) A testing program which includes daily accuracy sampling that verifies the integrity of the system;

[B.] (2) Investigation of medication errors related to the automated medication system, and remedial actions taken;

[C.] (3) Review of discrepancies and transaction reports to identify patterns of inappropriate use and access; [and

D.] (4) Review of the overall functioning of the system[.]:

- (5) Security and access;
- (6) Preventative maintenance;
- (7) Sanitation;
- (8) Storage conditions;
- (9) Inventory of drugs;
- (10) Drug procurement, delivery, and receipt;
- (11) Record keeping;
- (12) Proper labeling procedures; and
- (13) Protocols in the event of a power outage or other situation in which the services of the system are interrupted, that include:

(a) A plan for insuring continuity of pharmacy services to patients; and

(b) A plan for system recovery.

B. The responsible pharmacist, in consultation with the health care facility, shall develop, maintain, and review annually a quality assurance program regarding the remote or decentralized automated medication system that addresses, at a minimum, system override management to include:

(1) A list of medications that can be overridden which is limited to starter doses; and

(2) Review of system overrides to ensure appropriate utilization.

.11 Record Keeping.

A. The permit holder and the [licensed] responsible pharmacist [responsible for the automated medication system] shall maintain records regarding the automated medication system in a readily retrievable manner for at least [2] 5 years.

B. The records referred to in §A of this regulation shall include:

- (1)—(2) (text unchanged)
- (3) Documentation of patient outcomes resulting from system failures;

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

[(4)] (5) Copies of reports and analyses generated as part of the quality assurance program, including daily accuracy sampling;

[(5)] (6) Reports or databases related to level of access and changes in the level of access to the system; [and]

[(6)] (7) Training records including:

(a)—(b) (text unchanged)

(c) The identity of those attending the training program[.];

(8) Records of destruction of medication waste removed from the system, to include an independent witness signature; and

(9) Transaction information as follows:

(a) Transactions involving medications stored in or removed, dispensed, or distributed from the system;

(b) Medications dispensed or distributed for a patient, which shall be recorded to include the:

(i) Identity of the particular automated medication system accessed;

(ii) Identification of the individual accessing the system;

(iii) Date of transaction;

(iv) Name, strength, dosage form, and quantity of drug accessed; and

(v) Name of the patient for whom the drug was accessed;

and

(c) Records of stocking or removal of medications from an automated medication system, which shall include the:

(i) Date;

(ii) Name, strength, dosage form, and quantity of drug stocked or removed; and

(iii) Name, initials, or identification code of the individual stocking or removing drugs from the system.

[C.] (proposed for repeal)

.12 Security.

A. The responsible pharmacist shall ensure the security of the automated medication system.

B. In order to restrict access to the automated medication system to authorized individuals, the responsible pharmacist shall, at a minimum:

(1) Establish a clear process of how passwords will be assigned;

(2) Develop procedures that prohibit the sharing of passwords and reuse of passwords;

(3) Require that the system database be updated daily to remove inactive passwords; and

(4) Require remote locking mechanisms for refrigerated storage associated with the system.

[.12] .13 Laws and Compendial Standards.

The [licensed] responsible pharmacist [responsible for the automated medication system] shall ensure compliance with the laws and compendial standards for packaging and labeling.

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

Subtitle 44 BOARD OF DENTAL EXAMINERS

10.44.06 Advertising

Authority: Health Occupations Article, §§4-205, 4-315, and 4-503, Annotated Code of Maryland

Notice of Proposed Action

[11-359-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .02 under **COMAR 10.44.06 Advertising**. This action was considered by the Board of Dental Examiners at a public meeting held on August 3, 2011, notice of which was given under the Notice of Public Meetings link on the Board’s website pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to delete the requirement that a dentist publish a specific disclaimer when advertising that the dentist practices or advocates “mercury-free” dentistry or removes mercury amalgams for replacement with nonmercury-containing materials. Therefore, a dentist who wishes to advertise that he or she practices “mercury-free dentistry” or removes mercury amalgams for replacement with nonmercury-containing materials will be permitted to do so without a disclaimer.

The Board of Dental Examiners wishes to make clear that it does not advocate “mercury-free” dentistry or the removal of dental amalgams for replacement with nonmercury-containing materials. There is no credible scientific evidence to indicate that dental amalgam is harmful. The Board supports the present position of the federal Food and Drug Administration that there is no causal link between dental amalgam and adverse health effects. The proposal simply allows dentists the freedom to advertise without a required disclaimer.

This proposal affects only public communications and will have no effect on any other laws, statutes, or regulations. For example, a dentist who performs any dental procedure, including those involving amalgam, must obtain informed consent from patients before commencing the procedure. Informed consent only exists when a patient has gained full knowledge about what treatment will be performed, including available alternatives, risks or dangers inherent in or collateral to the treatment, possible complications, and possible consequences of not undergoing the procedures. The concept of informed consent is to enable the patient to make an intelligent and informed choice about whether or not to undergo such treatment. The information provided to a patient should be truthful, unbiased, and based upon sound scientific evidence.

The Board wishes to stress that dental amalgam has proven to be a safe and cost-effective way to correct dental decay. It is a material that due to its many advantages can be used in multiple situations that are not suitable to other restorative materials.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulations and Policy Coordination, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 512, Baltimore, Maryland 21201, or call 410-767-6499 (TTY 800-735-2258), or email to regs@dhmh.state.md.us, or fax to 410-767-6483. Comments will be accepted through January 3, 2012. A public hearing has not been scheduled.

.02 Prohibition of Deceptive or Misleading Statements or Claims.

A. (text unchanged)

B. Deceptive or misleading statements or claims are those that:

(1)—(9) (text unchanged)

(10) Fail to include the name of a responsible licensed dentist who provides dental services at the location advertised; *or*

(11) State or imply that a dentist practices in an area of dental specialty unless the dentist:

(a)—(b) (text unchanged)

(c) Includes in the advertisement a statement that the dentist is a general dentist[; and].

[(12) State that the dentist practices or advocates “mercury-free” dentistry or removes mercury amalgams for replacement of nonmercury containing materials, unless that advertisement includes a readable disclaimer which states: “The National Institutes of Health has determined that there are no verifiable systemic health benefits resulting from the removal of mercury amalgams.”]

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

**Title 13A
STATE BOARD OF
EDUCATION**

***Subtitle 18 LARGE FAMILY CHILD
CARE HOMES***

Notice of Proposed Action

[11-334-P]

The Interim State Superintendent of Schools proposes to adopt a new subtitle, **COMAR 13A.18 Large Family Child Care Homes**, comprising the following:

- (1) New Regulations **.01** and **.02** under **COMAR 13A.18.01 Scope and Definitions;**
- (2) New Regulations **.01—08** under **COMAR 13A.18.02 Registration Application and Maintenance;**
- (3) New Regulations **.01—08** under **COMAR 13A.18.03 Management and Administration;**
- (4) New Regulations **.01—04** under **COMAR 13A.18.04 Operational Requirements;**
- (5) New Regulations **.01—13** under **COMAR 13A.18.05 Home Environment and Equipment;**
- (6) New Regulations **.01—10** under **COMAR 13A.18.06 Provider and Staff Requirements;**
- (7) New Regulations **.01—06** under **COMAR 13A.18.07 Child Protection;**
- (8) New Regulations **.01—08** under **COMAR 13A.18.08 Child Supervision;**
- (9) New Regulations **.01—06** under **COMAR 13A.18.09 Program Requirements;**
- (10) New Regulations **.01—06** under **COMAR 13A.18.10 Safety;**
- (11) New Regulations **.01—06** under **COMAR 13A.18.11 Health;**
- (12) New Regulations **.01—06** under **COMAR 13A.18.12 Nutrition;**
- (13) New Regulations **.01—10** under **COMAR 13A.18.13 Educational Programs in Nonpublic Nursery Schools;**
- (14) New Regulations **.01—09** under **COMAR 13A.18.14 Inspections, Complaints, and Enforcement;**
- (15) New Regulations **.01—08** under **COMAR 13A.18.15 Administrative Hearings;** and
- (16) New Regulations **.01—04** under **COMAR 13A.18.16 Public Access to Licensing Records.**

Statement of Purpose

The purpose of this action is to implement certain provisions of S.B. 925, Ch. 564, Acts of 2011, by establishing large family child care homes as a new category of registered family child care.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Liz Kelley, Director, Office of Child Care, Division of Early Childhood Development, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, Maryland 21201, or call 410-767-7128 (TTY 410-333-6442), or email to liz.kelley@msde.state.md.us, or fax to 410-333-6226. Comments will be accepted through January 3, 2011. A public hearing has not been scheduled.

13A.18.01 Scope and Definitions

Authority: Family Law Article, §§5-501, 5-505, 5-550—5-557.1, and 5-560—5-563; State Government Article, §10-617; Human Services Article, §1-202; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.)

.01 Purpose and Scope.

A. The purpose of this subtitle is to establish requirements for the identification, approval, and operation of large family child care homes.

B. Scope. This subtitle:

(1) Governs child care provided to children for less than 24 hours a day in a private residence that is:

(a) Not the child's own home; and

(b) Approved, or proposed for approval, by the office for a maximum child care capacity of 9 to 12 children; and

(2) Does not apply to a family child care provider or a family child care home currently registered pursuant to COMAR 13A.15.

.02 Definitions.

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

B. Terms Defined.

(1) "Abuse" means:

(a) The physical or mental injury of a child, under circumstances that indicate that the child's health or welfare is significantly harmed or at risk of being significantly harmed, by:

(i) A parent;

(ii) An individual who has permanent or temporary care or custody or responsibility for supervision of a child; or

(iii) A household or family member; or

(b) Sexual abuse of a child, whether physical injuries are sustained or not.

(2) "Agency" means the Office of Child Care, Division of Early Childhood Development, in the State Department of Education.

(3) "Agency representative" means an individual designated by the Agency to determine compliance with this subtitle.

(4) Applicant.

(a) "Applicant" means an individual who applies to the office for a certificate of registration to operate a large family child care home.

(b) "Applicant" may include an individual who is currently licensed to operate a small center.

(5) "Approved training" means course work or a workshop provided by:

(a) A regionally accredited college or university;

(b) A State-approved private career school;

(c) The Child Development Associate National Credentialing Program;

(d) Other organizations or individuals approved by the office; or

(e) The Agency.

(6) "Approved continued training" means training, including but not limited to workshops, seminars, and conferences, that is:

(a) Approved by the office; and

(b) Used by the child care provider or a staff member of a child care home to maintain the applicable professional qualifications required by COMAR 13A.18.06.05—.07.

(7) "Approved preservice training" means training that is:

(a) Approved by the office; and

(b) Used to meet initial professional qualifications required by COMAR 13A.18.06.05—.06 for an applicant or for a staff member of a child care home.

(8) "Child" means an individual who is younger than:

(a) 13 years old; or

(b) 21 years old and has a developmental disability or other emotional, physical, educational, or medical need for child care beyond 13 years old.

(9) Child Care Home.

(a) "Child care home" means a residence in which family child care is provided.

(b) "Child care home" includes a:

(i) Family child care home registered to operate pursuant to COMAR 13A.15; or

(ii) Large family child care home registered to operate pursuant to this subtitle.

(10) "Continuing registration" means a family child care registration that does not expire.

(11) "Core of knowledge" means the competencies identified by the office as essential for all individuals working in the child care delivery system, including:

(a) Child development;

(b) Curriculum;

(c) Special needs;

(d) Professionalism;

(e) Community; and

(f) Health, safety, and nutrition.

(12) "Department" means the Maryland State Department of Education.

(13) "Director" means an individual designated by a provider to conduct the daily operations of a large family child care home.

(14) "Elective training" means training at a conference, seminar, or other event that is approved by the office but is not in a core of knowledge competency area.

(15) Employee.

(a) "Employee" means an individual who for compensation is employed to work in a child care home and who:

(i) Cares for or supervises children in the facility; or

(ii) Has access to children who are cared for or supervised in the facility.

(b) "Employee" includes a paid substitute.

(c) "Employee" does not include an individual who is:

(i) An independent contractor; or

(ii) A registered or certified health care professional who is compensated by the provider or the parent of a child in care to provide a specified health care service to the child.

(d) For the purpose of applying the criminal background check requirements and the child and adult abuse and neglect record

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review requirements set forth in this subtitle, "employee" includes an individual who:

- (i) Is compensated by the provider or a resident to perform a service at the child care home;
- (ii) Has access to children in care; and
- (iii) Does not clearly meet, or is not excluded from, the definition of independent contractor as set forth at §B(21) of this regulation.

(16) "Family child care" means the care given to a child younger than 13 years old or to a developmentally disabled person younger than 21 years old in place of parental care for less than 24 hours a day, in a residence other than the child's residence, for which the provider is paid in cash or in kind.

(17) "Family child care teacher" means a staff member who:

- (a) Is approved by the office to supervise children in care at a large family child care home; and
- (b) Meets the professional requirements of COMAR 13A.18.05.06.

(18) "Group" means a unit of children together with the staff assigned to them.

(19) "Health officer" means the health officer in each of the 23 counties and the Commissioner of Health in Baltimore City, or the duly designated representative of the health officer, or both, and refers to the health officer in the jurisdiction where the child care home is or will be located.

(20) "Identified as responsible for child abuse or neglect" means being determined by a local department to be responsible for child abuse or neglect, or awaiting the local department's appeal hearing after the determination.

(21) Independent Contractor.

(a) "Independent contractor" means an individual or other entity:

(i) That is hired by the provider, a resident in the child care home, or the parent of a child in care, on the basis of a service contract or agreement, to perform a specialized service at the child care home, including, but not limited to, home maintenance or repair, academic tutoring, or recreational programming, for a specified period of time or in order to achieve a specified result;

(ii) That determines how the specialized service shall be performed; and

(iii) Whose specialized service is not restricted to the child care home, but is available for hire by other customers.

(b) "Independent contractor" does not include an individual who:

(i) Is a registered or certified health care professional compensated by the provider to provide a specified health care service to a child in care;

(ii) Under a private arrangement with the parent or guardian of a child or children in care, provides a health care, educational, or other service only to that child or those children; or

(iii) Is employed for compensation by a public school or by a private or nonpublic school required to report annually to the State Board of Education.

(22) "Infant" means a child younger than 18 months old.

(23) "Injurious treatment" means:

(a) Deliberate infliction in any manner of any type of physical pain, including spanking, hitting, shaking, or any other means of physical discipline, or enforcement of acts which result in physical pain;

(b) Failure to attend to a child's physical needs and other physically damaging acts, excluding reasonable acts to protect the child from imminent danger;

(c) Subjecting a child to verbal abuse intended to cause mental distress, such as shouting, cursing, shaming, or ridiculing; and

(d) Utilizing discipline methods that are considered inappropriate by child care professionals and create undue discomfort, such as, but not limited to, washing a child's mouth with soap, putting pepper or other spicy or distasteful items in a child's mouth, requiring a child to stand on one foot as punishment, or tying a child to a cot or other equipment.

(24) "Large family child care home" means a child care home approved by the office to operate with a maximum child care capacity of 9 to 12 children.

(25) "Licensing status" means the type of child care center license or family child care registration issued by the agency and the current operating status of that license or registration.

(26) "Local department" means the department of social services, by whatever name known, in any of Maryland's 24 local jurisdictions.

(27) "Mental injury" means the observable, identifiable, and substantial impairment of a child's mental or psychological ability to function.

(28) "Neglect" means leaving a child unattended or otherwise failing to give proper care and attention to a child by the child's parents, guardian, or custodian under circumstances that indicate that the child's health or welfare is significantly harmed or placed at risk of significant harm.

(29) "Office" means the central office or a regional office of the Agency.

(30) Overnight Care.

(a) "Overnight care" means child care that is provided between the hours of 12 a.m. and 6 a.m.

(b) "Overnight care" does not include child care provided to a child enrolled for care during daytime or evening hours who, because of the parent's schedule, must remain at the family child care home for up to 1/2 hour after 12 a.m. or arrive up to 1/2 hour before 6 a.m.

(31) "Parent" means the biological or adoptive parent, or the legal guardian or custodian of a child, who enrolls the child in care.

(32) Potentially Hazardous Food.

(a) "Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients including synthetic ingredients capable of supporting rapid and progressive growth of infectious, toxigenic microorganisms.

(b) "Potentially hazardous food" does not include clean, whole, uncracked, odor-free shell eggs.

(33) "Preschooler" means a child who:

(a) Is 2 years old or older; and

(b) Does not attend kindergarten or a higher grade.

(34) "Professional development plan" means the written instrument for tracking continued training that is:

(a) Distributed by the office to a provider; and

(b) To be completed annually by the provider and, as applicable, the director, each family child care teacher, and each aide.

(35) "Provider" means the individual to whom a certificate of registration to operate a child care home is issued pursuant to this subtitle.

(36) "Provider substitute" means an adult who is approved by the office to be responsible for the operation of a child care home when the child care provider is absent.

(37) Relative.

(a) "Relative" means an individual related to a child by blood, marriage, or adoption.

(b) "Relative" includes a parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, first or second cousin, great grandparent, great uncle, or great aunt.

(38) “Resident” means a person who lives in the child care home.

(39) “Sanction” means an enforcement action under this subtitle.

(40) “Sanitization” means effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for a sufficient period of time to destroy vegetative cells of pathogenic bacteria and to reduce substantially the number of other microorganisms.

(41) “School age child” means a child younger than 13 years old who attends a public or nonpublic school in grades kindergarten or above.

(42) “Small center” means a child care program located in a private residence and licensed for 12 or fewer children that, before January 1, 2012, was licensed to operate as a child care center pursuant to COMAR 13A.16.

(43) Staff Member.

(a) “Staff member” means an individual 16 years old or older, whether paid or not, who is assigned responsibility for child care in a child care home and whose assignment helps to maintain the staff/child ratios required by COMAR 13A.18.08.03.

(b) “Staff member” also means the provider.

(44) “Successfully passed” means, when used in connection with a criminal background check or a review of records of abuse and neglect of children conducted on an individual that the individual has not:

(a) Received a conviction, a probation before judgment disposition, or a not criminally responsible disposition, or does not have a pending charge for the commission or attempted commission of a crime listed at COMAR 12.15.02.07B; or

(b) Been identified as responsible for the abuse or neglect of a child.

(45) “Superintendent” means the State Superintendent of Schools or the Superintendent’s designee.

(46) “Toddler” means a child 18 months old or older but younger than 2 years old.

(47) “Treatment foster care” means a 24-hour substitute care program, operated by a registered child placement agency or local department of social services, for children with a serious emotional, behavioral, medical, or psychological condition.

(48) “Volunteer” means an individual who:

(a) Is 13 years old or older;

(b) Works in the child care home but is not a compensated employee; and

(c) Is not enrolled as a child in care at the child care home.

13A.18.02 Registration Application and Maintenance

Authority: Family Law Article, §§5-501, 5-505, 5-550—5-557.1, and 5-560—5-563; State Government Article, §10-617; Human Services Article, §1-202; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.)

.01 Registration — General Requirements.

A. Requirement to Be Registered.

(1) An individual may not operate a large family child care home unless:

(a) Both the individual and the home meet the requirements for registration set forth in this subtitle; and

(b) The individual possesses a valid certificate of registration.

(2) Conversion from a Small Center.

(a) An individual currently licensed to operate a small center may apply to the office to convert the small center license to a certificate of registration to operate a large family child care home.

(b) Application for conversion from a small center license shall be made as directed by the office.

(c) A large family child care home that is converted from a small center shall continue to operate with or under the same:

(i) Licensing status;

(ii) Approved child care capacity;

(iii) Approved months, days, and hours of operation;

(iv) Approved age ranges of children to be served;

(v) Approved child care areas;

(vi) Variances, if any;

(vii) Special conditions or restrictions, if any; and

(viii) Expiration date, if any.

B. Types of Registration. The office may issue:

(1) An initial registration, which may be issued on a provisional basis pursuant to Regulation .04A of this chapter; or

(2) A continuing registration, which may be:

(a) Issued on a provisional basis pursuant to Regulation .04A of this chapter; or

(b) Replaced by a conditional registration pursuant to Regulation .04B of this chapter.

C. A certificate of registration:

(1) May not be transferred or applied to another individual, residence, or child care program; and

(2) Remains the property of the office.

D. The provider shall display conspicuously the certificate of registration in a location where it can easily be seen and read by parents whose children are in the provider’s care or who are considering placing their children in the provider’s care.

E. The provider shall surrender the certificate of registration to the office immediately when any of the following occurs or becomes effective:

(1) The provider closes the child care home permanently;

(2) The registration is revoked;

(3) The registration is suspended; or

(4) The initial registration expires, and:

(a) The application for an initial or a continuing registration is denied; or

(b) The provider has not applied for a continuing registration.

F. Except as provided under §G of this regulation, a residence approved for use as a child care home may not also be used to operate a:

(1) Child care home under a different registration; or

(2) Child care program that is subject to the requirements of COMAR 13A.16 or COMAR 13A.17.

G. A residence approved by the office before July 1, 2008, for the concurrent operation of more than one child care home or more than one type of child care program may continue to be used to operate those programs, except that, while concurrent approvals are in effect, the office may not approve a request by the provider for:

(1) An increase in child capacity;

(2) A change in the hours of operation;

(3) A change in the ages of children served;

(4) A change in the approved child care area; or

(5) A variance to a regulation under this subtitle.

.02 Initial Registration.

A. An application for initial registration shall be filed with the office by an individual who wishes to operate a registered large family child care home and who:

(1) Is not currently a registered large family child care home provider; and

(2) Has not been registered as a large family child care home provider for at least 6 months before the date of application.

B. Before the proposed opening date of the child care home, an applicant for initial registration shall submit the following items to the office, if not submitted at the time the written application form was submitted:

(1) Documentation of application for criminal background checks for:

- (a) The applicant;
- (b) Each employee, including paid substitutes; and
- (c) Each resident in the home who is 18 years old or older;

(2) Signed and notarized permission to examine records of abuse and neglect of children and adults for information about:

- (a) The applicant;
- (b) Each employee;
- (c) Each substitute, whether paid or unpaid;
- (d) Each resident in the home who is 18 years old or older;

and
(e) If required by the office, any other individual with regular access to the child care area during the approved hours of operation;

(3) Submit a medical evaluation for the applicant and each resident in the home that:

- (a) Was completed within 12 months before the date of application for registration;
- (b) Was conducted by a practicing physician, certified nurse practitioner, or registered physician's assistant; and
- (c) Is signed or verified by the individual who conducted the evaluation;

(4) Evidence of compliance with all applicable zoning and building codes;

(5) A written plan of operation;

(6) An emergency and disaster plan that meets the requirements of COMAR 13A.18.10.01A(3)(a) and (b);

(7) A complete personnel list, on a form supplied or approved by the office, and all related supporting documentation required by the office;

(8) A complete staffing pattern, on a form supplied or approved by the office, which specifies by staff name all child care assignments;

(9) Documentation that all applicable training requirements set forth at COMAR 13A.18.06.05—.06 have been met by the applicant and each staff member;

(10) A 4-week menu of food to be served to children in care at the child care home;

(11) A written child discipline policy;

(12) If the child care home is located in a condominium or residence which requires homeowners' association membership, written proof of homeowner's liability insurance coverage as required by Maryland law; and

(13) All other documentation required by law or regulation, including but not limited to:

(a) Proof of an on-site inspection and approval by the local fire authority having jurisdiction; and

(b) A building use and occupancy permit, if applicable.

C. If, within 6 months after the applicant submits a completed application form, the office has not received documentation that all

applicable requirements of §B of this regulation have been met, the office may consider the application void.

.03 Continuing Registration.

A. Application for Continuing Registration. To obtain a continuing registration, a provider shall submit to the office before expiration of the initial registration:

(1) A completed request, on a form supplied by the office, for continued registration;

(2) Documentation that the continued training requirements and the first aid and CPR certification requirements set forth in COMAR 13A.18.06.05—.07 have been met;

(3) A medical evaluation that meets the requirements of Regulation .02B(3) of this chapter for:

- (a) The provider;
- (b) Each resident in the home who has child care responsibilities; and
- (c) Each staff member;

(4) A completed and notarized release of information form that permits the office to examine records of abuse and neglect of children and adults for:

- (a) The provider;
- (b) Each provider substitute;
- (c) Each resident in the home who is 18 years old or older;
- (d) Each staff member; and

(e) If required by the office, any other individual with regular access to the child care area during the approved hours of operation;

(5) Documentation that the child care home has passed a fire safety inspection conducted by the local fire authority having jurisdiction; and

(6) Any other documentation required by law or regulation.

B. Maintenance of Continuing Registration.

(1) By the end of each 12-month period after the date of issuance of a continuing registration, the provider shall make available to the office documentation that the continued training requirements set forth in COMAR 13A.18.06.05—.07 have been met.

(2) By the end of each 24-month period after the date of issuance of a continuing registration, the provider shall make available to the office the items specified in §A(2)—(6) of this regulation.

.04 Provisional Status and Conditional Registration.

A. Provisional Status.

(1) Except as provided in §A(2) of this regulation, to allow an applicant for an initial or a continuing registration additional time to meet all applicable requirements, the office may approve an initial or a continuing registration on a provisional basis for a period of up to 120 days after determining that the health and safety of the children in care are not in imminent danger.

(2) An initial registration may not be approved if the office has not yet received evidence that the applicant and, as applicable, each individual specified in Regulation .02B(1) and (2) of this chapter has successfully passed a federal and State criminal background check and a review of child and adult abuse and neglect records.

(3) At the end of the provisional period, if all requirements for the initial or continuing registration are not met due to:

(a) Failure by the applicant to take an action necessary to achieve compliance, the office shall deny the application for registration; or

(b) Circumstances beyond the control of the applicant, the office may reapprove the provisional status of the registration for one or more additional periods of up to 120 days per period, except that provisional registration status may not be continued for more than 24 months after the start of the first provisional period.

(4) If the office denies a certificate of registration at the end of the provisional period, the applicant or provider does not have a valid registration and shall cease operating.

B. Conditional Registration.

(1) If a provider who holds a continuing registration fails to remedy a violation as required, the office may replace the continuing registration with a conditional registration for:

(a) A period of up to 120 days; and

(b) Upon approval by the Agency's central office, an additional period of up to 120 days.

(2) Upon replacing a continuing registration with a conditional registration, the office shall issue to the provider a revised certificate of registration that states the:

(a) Date that the continuing registration was replaced by the conditional registration;

(b) Period of time of the conditional registration; and

(c) Requirements for reinstating the continuing registration.

(3) Immediately upon receipt of the revised certificate of registration, the provider shall:

(a) Remove from display in the child care home the certificate of continuing registration that was originally issued; and

(b) Display the revised certificate as required by Regulation .01D of this chapter.

(4) If the provider satisfies all requirements for reinstatement of the continuing registration, the office shall promptly notify the provider about the reinstatement of the continuing registration.

(5) If the provider fails to satisfy all requirements for reinstatement of the continuing registration within the specified period of time, the office may suspend or revoke the conditional registration.

.05 Resumption of Service.

A. An application to resume service shall be filed by:

(1) A registered provider who wishes to operate a large family child care home at an address different from that specified on the current certificate of registration; or

(2) An individual who was previously registered by the office to operate a large family child care home and who wishes to re-register, if the last effective date of the previous registration is within 6 months of the application.

B. The application to resume service shall meet all initial registration application requirements, except that:

(1) An abbreviated application form supplied by the office shall be used; and

(2) The office may accept as applicable to the new application the:

(a) Individual's original completion of the orientation process under Regulation .02B(1) of this chapter;

(b) Original medical reports submitted for the applicant, each resident in the home who will have child care responsibilities, and each staff member if the reports are based on medical evaluations completed within 12 months of the new application;

(c) Results of the original criminal background checks conducted pursuant to Regulation .02B(1) of this chapter;

(d) Results of the original child and adult abuse and neglect clearances conducted pursuant to Regulation .02B(2) of this chapter, if the clearances were completed within 12 months of the application; and

(e) Approved continued training completed within 12 months of the application.

.06 Response of the Office to Application.

A. Except as set forth at §C of this regulation, upon receiving the completed application and all required documentation, whether for an initial registration or a continuing registration, the office shall determine compliance with the requirements of this subtitle by:

(1) Evaluating the application and required documentation;

(2) Interviewing the applicant;

(3) Inspecting the residence proposed for use as a child care home;

(4) Evaluating the information provided by State and federal criminal background investigations; and

(5) Evaluating the information provided from records of child and adult abuse and neglect.

B. Upon completing the procedures in §A of this regulation, the office shall, within 30 days:

(1) Issue a certificate of registration to operate the child care home in accordance with the provisions of this subtitle if:

(a) The application is complete;

(b) All required documentation has been received; and

(c) The office is satisfied that the applicant and the residence meet the requirements of this subtitle;

(2) Deny the certificate of registration if the office determines that the applicant or the residence does not meet the requirements of this subtitle; or

(3) Issue a provisional certificate of registration in accordance with Regulation .04A of this chapter.

C. Within 30 days of receipt of a completed application for conversion of a small center license to a large family child care home registration pursuant to Regulation .02D of this chapter, the office shall issue a certificate of registration to the applicant.

.07 Denial of a Registration Application.

A. The office may deny a certificate of registration if:

(1) The applicant, a resident, any staff member, or the residence in which child care is to be provided fails to meet the requirements of this subtitle;

(2) An evaluation of the application by the office reveals that the applicant reported false information;

(3) The applicant has a documented history of serious or repeated regulatory violations of this subtitle or other regulations of any state concerning the care of children or adults that demonstrates an inability to provide for the health or safety of children;

(4) The applicant has had a child care home registration, a child care center license, or a letter of compliance denied or revoked before the date on the registration application, unless the office is satisfied that the condition that was the basis for the denial or revocation has been corrected;

(5) The applicant prevents the office from completing its responsibilities for registration;

(6) Upon evaluating the physical condition of the residence and surrounding premises, the office finds conditions that are unsafe or unhealthy;

(7) An evaluation of the medical report or other information about the applicant or a resident indicates that the:

(a) Physical or mental health of the applicant or resident may pose a risk to children; or

(b) Applicant is unable to care for children;

(8) An evaluation of the criminal record of the applicant, an employee including a paid substitute, or a resident in the home indicates behavior harmful to children;

(9) An evaluation of the information provided in records of abuse and neglect of children and adults reveals that the applicant, a staff member including a substitute, or a resident is identified as responsible for abuse or neglect of children or adults, or is currently

under investigation for alleged acts of abuse or neglect of children or adults;

(10) Based on an interview with the applicant or an evaluation of other pertinent information, the office concludes that the applicant cannot provide for the health, safety, or welfare of children in care on the basis of:

(a) Substantial, credible evidence of the applicant's abuse of alcohol or controlled dangerous substances, mental instability, or other condition; or

(b) Other pertinent information received by the office which creates reasonable doubt as to the applicant's ability to provide child care in accordance with this subtitle.

(11) The applicant is:

(a) Providing treatment foster care to a child in other than a preadoptive capacity; and

(b) Filing an application for initial registration as a family child care provider.

B. If the office denies an application, the office shall notify the applicant in writing of the denial stating:

(1) The reason for denial;

(2) The specific regulation with which the applicant has failed to comply that is the basis for the denial;

(3) That the applicant is entitled to a fair hearing; and

(4) The procedure to be used if the applicant wishes to request a hearing to appeal the decision of the office.

C. If an evaluation of criminal records or records of abuse and neglect of children or adults reveals that a person designated by the applicant as a staff member may pose a risk to children in care, the office, instead of denying the registration certificate, may require the provider to designate another staff member.

D. Denial Before Complete Application.

(1) The office may deny an application for registration at any point during the application process if, following evaluation of information received to that point, the office determines that a basis for denial exists as set forth in §A of this regulation.

(2) If the office decides to deny the application before the application process is complete, the office shall send written notice of that decision to the applicant within 30 calendar days after making the decision.

.08 Voluntary Surrender of Registration.

A. A provider may voluntarily surrender a child care home registration at any time by notifying the office.

B. If a registration is surrendered pursuant to §A of this regulation:

(1) The office shall note in the provider's file that the registration has been voluntarily surrendered; and

(2) The provider shall return the surrendered certificate of registration to the office.

13A.18.03 Management and Administration

Authority: Family Law Article, §§5-501, 5-505, 5-550—5-557.1, and 5-560—5-563; State Government Article, §10-617; Human Services Article, §1-202; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.)

.01 Advertisement.

A. An individual may not advertise a family child care service unless the individual holds a current certificate of registration issued by the office.

B. An advertisement of the family child care service by a provider shall:

(1) Specify that the child care home is registered; and

(2) Include the registration number issued to the child care home by the office.

.02 Admission to Care.

A. A provider may not admit a child for care unless the provider has:

(1) Met the applicable requirements of this regulation; and

(2) Received the written records required by Regulation .04C—H of this chapter.

B. At or before the child's admission to care, the provider shall obtain written information from the parent about the child's individual needs.

C. Upon admission of an infant or a toddler, a provider shall determine with the parent:

(1) A schedule for feeding the child that includes:

(a) The amounts and kinds of food consumed daily;

(b) The sequence for introducing solid food when appropriate; and

(c) Any recommendations about feeding from the infant's physician;

(2) A written individual activity plan for the child; and

(3) If the child is 12 months old or older, the need for the child to use a crib for rest purposes.

D. If a child is younger than 6 years old at the time of admission, the provider may not allow the child to remain in care if the parent does not, within 30 days after the child's admission, submit evidence to the provider on a form supplied or approved by the Office that the child has received an appropriate lead screening in accordance with applicable State or local requirements.

E. As part of the admission process, the provider shall:

(1) Give the parent, or advise the parent how to obtain, consumer education information on child care that is supplied by the office; and

(2) Provide documentation that the requirements of §C(1) of this regulation have been met.

.03 Program Records.

The provider shall:

A. Create and maintain, for at least 2 years after their creation, records of program:

(1) Enrollment, with each child's name, address, telephone number, date of birth, and dates and time periods for which enrolled; and

(2) Attendance that indicate:

(a) The dates of attendance of each child in the child care home; and

(b) Verification by each child's parent of that child's recorded daily attendance in care;

B. Maintain:

(1) Procedures to ensure that the whereabouts of each child in attendance is known at all times;

(2) A written child discipline policy as required in COMAR 13A.18.07.03C;

(3) Records of food actually served by the provider for the most recent 4 weeks as required by COMAR 13A.18.12.01G;

(4) A written record of the dates and times at which emergency and disaster plan drills were conducted pursuant to COMAR 13A.18.10.01A(3); and

(5) A current copy of this subtitle at the home so that it is displayed and freely available for reference by parents and staff members;

C. Negotiate and maintain a written agreement with the child's parent that specifies:

(1) The fees for and provision of care;

(2) The provider's child discipline policy;

(3) The presence at the home of any pet animals;

(4) If applicable, the use of volunteers in the child care program; and

(5) If overnight care is to be provided to the child, the sleeping arrangements approved by the parent; and

D. Display a copy of the consumer education pamphlet on child care supplied by the office so that it is freely available for reference to parents.

.04 Child Records.

A. For each child admitted to, or continuing in care, the provider shall maintain written records, on forms provided or approved by the office, that meet the requirements of this regulation.

B. Each child's written records shall be:

(1) Readily accessible to each staff member providing care to the child; and

(2) Kept on file at the child care home during the period of a child's enrollment and for 2 years after the child's disenrollment.

C. The provider shall obtain and maintain emergency information from the child's parent that:

(1) Includes the child's name and date of birth;

(2) Includes the parent's full name, current address, and telephone contact information;

(3) Includes the name and telephone number of the individual who is authorized to pick up the child each day;

(4) Includes the name and telephone number of at least one individual who is authorized to pick up the child in an emergency;

(5) Includes the name, address, and telephone number of the child's physician or other health care provider;

(6) If the child has a special health condition, includes emergency medical instructions for that condition;

(7) Is signed and dated by the child's parent;

(8) Is updated as needed, but at least annually; and

(9) Is readily accessible to each staff member supervising the child, including during an off-site activity.

D. Unless a parent objects to a child's medical examination because of bona fide religious beliefs and practices, a health assessment of the child shall be provided by the child's parent that:

(1) Includes a parental statement of the child's health status;

(2) If applicable, includes a statement of allergies; and

(3) Includes a medical evaluation, signed and dated by a physician that states the child is medically cleared to attend child care and is based on an examination completed by the physician within the last:

(a) 2 months before admission for a child younger than 9 months old;

(b) 3 months before admission for a child between 9 and 24 months old; or

(c) 12 months before admission for a child 2 years old or older.

E. If the child is younger than 6 years old, there shall be documentation that the child has received an appropriate lead screening as required by State or local law.

F. A medical evaluation and, if applicable, documentation of an appropriate lead screening that are transferred directly, without a gap in time longer than 3 months, from another registered child care home, a licensed child care center, or a public or nonpublic school in Maryland may be accepted as meeting the requirements of §§D(3) and E of this regulation.

G. There shall be an immunization record showing that:

(1) The child has had immunizations appropriate for the child's age which meet the immunization guidelines set by the Maryland Department of Health and Mental Hygiene;

(2) The child has had at least one dose of each vaccine appropriate for the child's age before entry and is scheduled to complete the required immunizations;

(3) A registered physician or a health officer has determined that immunization is medically contraindicated according to accepted medical standards; or

(4) The parent objects to the child's immunization because it conflicts with the parent's bona fide religious beliefs and practices.

H. If a parent objects to a child's immunization or medical examination, or both, because of the parent's bona fide religious beliefs and practices, the provider shall require the parent to provide a health history of the child and sign a statement indicating that to the best of the parent's knowledge and belief, the child is in satisfactory health and free from any communicable disease.

I. The provider shall record or maintain on file:

(1) Each incidence of acute illness requiring exclusion of the child from care pursuant to COMAR 13A.18.11.01B;

(2) Each injury or accident required by Regulation .06C and D of this chapter to be reported;

(3) Child medication records required by COMAR 13A.18.11.04D;

(4) If the child requires a modified diet, the prescription from the child's health practitioner or the written instructions from the child's parent, pursuant to COMAR 13A.18.12.02;

(5) If program activities away from the child care home are provided, prior written permission from the child's parent to take the child to those activities; and

(6) If applicable, documentation that the parent of a child who is 12 months old or older, but younger than 2 years old, has requested a crib for the child's rest periods.

J. Written information about the child's individual needs that is supplied by the parent by the time of the child's admission to care shall be reviewed by the provider and the parent at least every 12 months after the child's admission to care.

K. A provider shall maintain daily records of the amounts and kinds of liquids and solid food consumed by each child younger than 2 years old. These records shall be:

(1) Dated and kept on file for at least 4 weeks;

(2) Available in the area where children younger than 2 years old are fed; and

(3) Made available to the child's parent.

.05 Staff Records.

The provider shall:

A. Maintain and, upon request by the office, submit a current and complete list of personnel, on a form supplied or approved by the office, that includes each individual, whether paid or unpaid, who works at the child care home on a routine basis;

B. For review by the office and by parents who have enrolled their children or are considering enrolling their children, post in a conspicuous location a current and complete staffing pattern, on a form supplied or approved by the office, that specifies:

(1) The number and ages of children enrolled;

(2) The staff/child ratio in relation to the daily schedule; and

(3) By staff member name, all child care assignments;

C. During an individual's employment at the child care home and for 2 years after the date of the individual's last employment there, maintain a record for each individual that includes:

(1) The individual's:

(a) Training, if required under this chapter;

(b) Experience, if required under this chapter; and

(c) Function or position;

(2) Verification that the staff member's age complies with the minimum required for the position held;

(3) Employment medical evaluation;

(4) Criminal background check; and

(5) Date on which the staff member received the written information required by COMAR 13A.18.06.02;

D. Maintain documentation required for:

- (1) *Substitutes, pursuant to COMAR 13A.18.06.08B; and*
- (2) *The adult available for emergencies, pursuant to COMAR*

13A.18.08.02D;

E. Maintain a calendar or other written record of the:

- (1) *Days on which a substitute provides care; and*
- (2) *Staff member in whose place the substitute worked; and*

F. If using volunteers in the child care program, maintain a record for each volunteer that includes:

- (1) *The date on which the volunteer received the child health and safety orientation required by COMAR*

13A.18.06.02; and

- (2) *If the volunteer is present at the child care home more than once per week:*

- (a) *A brief statement of the volunteer's duties; and*

- (b) *A medical evaluation of the volunteer that was completed within 12 months before the start of the volunteer's duties.*

.06 Notifications.

The provider shall:

A. Within 5 working days of adding a new staff member, provide to the office:

- (1) *Written notification of the individual's addition to the child care home staff;*

- (2) *Information about the individual's work assignment; and*

- (3) *Signed and notarized permission to examine records of abuse and neglect of children and adults for information about the individual;*

B. Within 15 working days of adding the new employee, provide to the office complete documentation that the individual meets the requirements of this subtitle for the assignment, unless documentation already is on file in the office;

C. Notify or require that a staff member notify the office within 24 hours of:

- (1) *The death of a child in care if the child died while at the child care home;*

- (2) *The death of a child enrolled at the child care home if the child died of a contagious disease; and*

- (3) *An injury to a child that occurs while the child is at the child care home or at an off-site activity which results in the child's being:*

- (a) *Treated by a medical professional; or*

- (b) *Admitted to a hospital;*

D. If a child has an injury or accident while in attendance, notify the child's parent:

- (1) *Immediately, if the child's injury is serious; or*

- (2) *Within the same day, about any other injury and each accident which may result in injury;*

E. Immediately notify the office if an employee's criminal background check received on or after October 1, 2005, reports a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of a crime listed at COMAR 12.15.02.07B;

F. Immediately notify the office of:

- (1) *An employee who is under investigation for:*

- (a) *A criminal charge; or*

- (b) *An allegation of child abuse or neglect; or*

- (2) *A change at the child care home that may affect the status of the registration, including but not limited to:*

- (a) *Individuals living on the premises;*

- (b) *Operation of the child care home; or*

- (c) *Telephone number; and*

G. Within 5 working days after there is a new resident who is 18 years old or older:

- (1) *Submit to the office a signed and notarized release form giving the office permission to examine records of abuse and neglect of children adults for information about the resident; and*

- (2) *Ensure that the resident applies for a federal and State criminal background check.*

.07 Change of Operation.

A. If a provider wishes to make any changes from the current registration, such as use of rooms not previously approved for child care, capacity, hours of operation, or age groups served, the provider shall request and receive written approval of the change from the office before implementing the change.

B. After determining whether the proposed change meets the requirements of this subtitle, the office shall approve or disapprove the proposed change. If the change is approved, the office shall issue a revised registration indicating the change.

.08 Variances.

A. The office may grant a variance to a regulation under this subtitle:

- (1) *If the safeguards to a child's health, safety, or well-being are not diminished;*

- (2) *When the provider presents clear and convincing evidence that the regulation is met by an alternative which complies with the intent of the regulation; and*

- (3) *For a limited period of time as specified by the office, or for as long as the registration remains in effect and the provider continues to comply with the terms of the variance.*

B. Within 30 calendar days of receiving a completed request for a variance, the office shall notify the provider that the variance has been granted or denied.

C. If a variance request is denied by a regional office of the Agency:

- (1) *The provider may appeal the denial to the Agency's central office; and*

- (2) *The Agency's central office has the final determination of whether or not a variance is granted.*

13A.18.04 Operational Requirements

Authority: Family Law Article, §§5-501, 5-505, 5-550—5-557.1, and 5-560—5-563; State Government Article, §10-617; Human Services Article, §1-202; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.)

.01 Hours of Care.

A. A provider shall limit the hours of care to the approved hours of operation stated on the certificate of registration.

B. A provider may not offer overnight care without prior written approval from the office.

C. A provider who wishes to provide overnight care shall:

- (1) *Submit to the office a written plan of operation that includes:*

- (a) *The number and ages of children to be served;*

- (b) *A meal and snack schedule;*

- (c) *The name of the overnight care substitute, if different from the daytime care substitute;*

- (d) *A child supervision plan;*

- (e) *A bedtime routine; and*

- (f) *An evacuation plan for each room where a child in care will sleep; and*

- (2) *Obtain the written approval of each child's parent for the child's sleeping arrangements.*

.02 Child Capacity.

A. The office shall determine the capacity of a large family child care home according to criteria established in:

(1) This subtitle affecting floor space, outdoor activity space, staffing, child supervision, equipment, ages of the children to be enrolled, and sanitary facilities; and

(2) Applicable codes, including but not limited to zoning, building, and fire codes.

B. The maximum total capacity of a large family child care home is 12 children.

C. The number of children present in care at any one time may not exceed the maximum child capacity number stated on the certificate of registration.

.03 Enrollment and Attendance.

A. A provider may enroll a child for care at the child care home only if the child's age group is approved for care, as indicated on the provider's current certificate of registration.

B. All children in care at any one time are counted as being in attendance for purposes of complying with the regulations governing capacity, group size, and staff/child ratios.

C. The office:

(1) Shall count as a child in care a resident who is younger than 6 years old; and

(2) May count as a child in care a child who is visiting the child care home if the child:

(a) Is younger than 8 years old and unaccompanied by an adult; or

(b) Cannot be sent home immediately.

D. The provider may not permit a child to remain in care for more than 14 hours in any 24-hour period on a regular basis without prior approval from the office.

.04 Restriction of Operations.

A. Upon determining that any of the following is unsuitable for the child care home, the office may restrict or reduce the provider's approved:

(1) Hours of care;

(2) Child care age groups; or

(3) Child capacity.

B. The office may base a restriction or reduction under §A of this regulation on any of the following factors:

(1) Space available, indoors or outdoors;

(2) Equipment available;

(3) Number and ages of residents in the child care home;

(4) Responsibility of the provider to care for another individual who may require special attention or care, including, but not limited to, an elderly resident or a child with a serious physical, emotional, or behavioral condition;

(5) Applicable fire, zoning, health, environmental, or other codes;

(6) Failure to comply with group size and staffing requirements set forth at Chapter 08.03 of this subtitle; or

(7) Other factors the office determines may cause a risk to a child's health, safety, or welfare.

C. A provider may appeal a restriction or reduction pursuant to §B of this regulation by filing a request for hearing:

(1) Not later than 20 calendar days after the notification of the office's action; or

(2) In the case of an emergency reduction in capacity, within 72 hours of notification by the office of its decision to immediately reduce the number of children in care.

13A.18.05 Home Environment and Equipment

Authority: Family Law Article, §§5-550, 5-557.1 and 5-560; State Government Article, §10-617; Human Services Article, §1-202; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.)

.01 Suitability of the Home.

The child care home shall:

A. Comply with all applicable State and local codes, including but not limited to zoning, building, plumbing, gas, electrical, sewage disposal, drinking water, environmental, health, and fire codes;

B. Be in good repair;

C. Be free of health or safety hazards, including infestation by insects and rodents;

D. Have operable and safe utility services for lighting, heating, and cooking;

E. Have a toilet in good working condition that is readily accessible to children in care; and

F. Have an operable refrigerator and stove.

.02 Accessibility.

The provider shall ensure that an access road on the child care home property permits passage by emergency vehicles during times when children are in care.

.03 Rooms Used for Care.

A. An area of the home may be used for child care only if it:

(1) Has been approved for use by the office;

(2) Meets the requirements of all applicable fire codes; and

(3) Does not have a condition that may pose a risk to the health, safety, or welfare of the children in care.

B. The space used for child care purposes may include space within the family living area of the residence.

C. A minimum of 35 square feet of floor space shall be provided for each child in care, except that a minimum of 30 square feet of floor space shall be provided for each child in a large family child care home that was licensed as a small center before December 1, 1971.

D. A child care home currently approved by the office to operate with less square footage per child than required by §C of this regulation may continue to operate with that reduced square footage as long as the:

(1) Provider demonstrates to the satisfaction of the office the impossibility of complying with the minimum square footage required by §C of this regulation while maintaining the economic viability of the program; and

(2) Office determines that the reduced square footage does not threaten the health, safety, or welfare of any child in care.

E. Calculation of the square footage of floor space provided for each child:

(1) May include furniture and equipment routinely used for child care purposes, such as but not limited to infant high chairs, diapering stations, tables and chairs used for program activities, and open shelves for storage of items belonging to children in care or related to program activities; and

(2) May not include any floor space, rooms, or areas within the area approved for child care that are not suitable or available for the daily program activities of the children, such as but not limited to columns, vestibules, corridors, and equipment or storage space reserved for used by a resident.

.04 Home Repair and Maintenance.

Maintenance, repair, or renovation activity performed at a child care home may not occur while a child in care is on the premises if the activity may present a significant risk to child safety or health.

.05 Lead-Safe Environment.

A. A provider may not use paint with lead content on any:

- (1) Exterior or interior surface of the child care home; or
- (2) Material or equipment used for child care purposes.

B. If the child care home is a residential rental property constructed before 1950, which is an affected property as defined by Environment Article, §6-801(b), Annotated Code of Maryland, the provider shall submit a copy of the current lead risk reduction or lead free certificate.

C. If the child care home was constructed before 1978 and is not certified lead free pursuant to Environment Article, §6-804(a)(2)(i), Annotated Code of Maryland, the provider shall:

(1) Ensure there is no chipping, peeling, flaking, chalking, or deteriorated paint on any surface of an interior or exterior area of the home;

(2) If deterioration of a surface in an area used for child care is noted, or if renovation of the premises occurs that disturbs a painted surface, arrange to have a lead dust test:

(a) Conducted by an accredited visual inspector pursuant to COMAR 26.16.02.03B to meet the risk reduction standard, if the facility is an affected property; or

(b) Conducted in areas used for child care by an accredited risk assessor pursuant to COMAR 26.16.05.11, if the home is not an affected property; and

(3) If a lead dust test is required under §C(2) of this regulation, obtain:

(a) A passing score on that test; and

(b) Verification from the lead inspector performing the test that the requirements of §C(2) and (3)(a) of this regulation have been met.

D. In a child care home constructed before 1978 and not certified lead free under Environment Article, §6-804(a)(2)(i), Annotated Code of Maryland, when performing renovation which disturbs the painted surface of an interior or exterior area used for child care, the provider shall ensure that the work is performed by an individual accredited to perform the lead paint abatement services using safe work practices as required by Environment Article, Title 6, Subtitle 10, Annotated Code of Maryland, and corresponding regulations.

.06 Ventilation and Temperature.

A room may be used for child care only if it:

A. Has natural or mechanical ventilation that provides adequate exchange of air to protect a child's health and comfort;

B. Is free of moisture and dampness; and

C. Has a temperature at floor level of not less than 65°F.

.07 Water Supply.

A. The child care home shall have hot and cold running water, with hot water temperature not exceeding 120°F.

B. There shall be at least one drinking water source that is:

(1) Safely accessible to children 2 years old or older without assistance from an adult; and

(2) Not located in a toilet room or in a sink used for hand washing.

C. Drinking water shall be supplied by a source approved by the office.

D. During meals and snacks, water may be served family-style from a pitcher if the water is poured into the pitcher directly from the source approved by the office pursuant to §C of this regulation.

.08 Sanitary Facilities and Supplies.

A. Except as set forth at §B of this regulation, the provider shall provide one toilet and one sink that are:

(1) Maintained in good operating condition and in a sanitary manner;

(2) Easily accessible to the children; and

(3) Equipped with water-resistant, nonabsorbent platforms which are safely constructed at a height that allows children to use the toilet and sink unassisted.

B. For each group of children younger than 2 years old in a room, there shall be an approved diapering area with a sink that:

(1) Is used only for diapering and toileting purposes; and

(2) Permits continuous observation of, and immediate response to, each child in the group.

C. Each toilet room shall have:

(1) A floor with a water-resistant, nonabsorbent finish;

(2) Smoothly finished walls with a hard surface; and

(3) Approved and functioning natural or mechanical ventilation.

D. Portable toilets, also known as potty-chairs, may not be used.

E. Each toilet room shall contain individual paper towels, a trash receptacle, soap, and toilet paper.

F. All sanitary supplies in a toilet room shall be available within reach of a child capable of using the toilet unassisted.

G. Toiletry and grooming articles, drinking cups, towels, face cloths, brushes, and combs may not be shared.

.09 Lighting.

A. There shall be sufficient natural and artificial lighting in all approved child care areas of the home to allow children to engage in activities safely, allow proper child supervision, and help ensure the safety of each child, employee, and visitor to the home.

B. A provider shall use light fixtures with bulbs, lamps, and tubes that are shatter-proof or protected by shields to prevent shattering.

C. In a room approved for child care that does not have windows, a provider shall provide an approved source of lighting that will operate in case of a power failure.

D. A provider shall provide adequate outdoor lighting to ensure the safety of persons entering and leaving the child care home when it is dark outside.

.10 Telephone and Communication.

A. There shall be at least one operable telephone in the child care home that is:

(1) Not battery-operated or rechargeable; and

(2) Freely and readily available to all staff members during the approved hours of operation.

B. In a child care home with more than two rooms approved for child care, a staff member supervising a group of children in one room shall be able to communicate a request for assistance to a staff member in another room while maintaining continuous supervision of the group.

C. On each level of the child care home where care is provided to children younger than 2 years old, there shall be an operable telephone.

D. The provider shall provide additional telephones or extensions in the child care home as may be required to:

(1) Summon emergency fire and rescue services promptly; and

(2) Transmit and receive other emergency communications.

.11 Cleanliness and Sanitation.

A. All of the space in the child care home approved for child care purposes, including floors, walls, ceilings, fixtures, furnishings, materials, and equipment, shall be kept clean and free of infestation.

B. Cleaning may not be conducted while children are present except in emergencies or as cleanup activities that are part of the daily child care program.

C. Disposal of Refuse.

(1) Each room used for child care shall have a trash container with a disposable liner.

(2) In each area used for changing diapers, there shall be a separate trash container reserved for diaper discards that:

(a) Has a disposable liner and tightly fitting lid; and

(b) Makes the contents of the container inaccessible to children in care.

(3) All trash containers in child care areas shall be emptied when full but at least daily.

(4) Refuse that is placed outdoors to await collection shall be stored in receptacles that are:

(a) Made of tight, nonabsorbent, easily washable materials;

(b) Covered with tightly fitting lids; and

(c) Washed and treated with disinfectant when necessary to combat odors and prevent infestation.

.12 Outdoor Activity Area.

A. A child care home shall have an outdoor activity area on the premises of, adjacent to, or near and safely accessible to the home that provides adequate usable play space for the approved capacity of the home.

B. Usable Outdoor Play Space.

(1) Except as set forth at §B(2) of this regulation, a child care home shall have an outdoor activity area that provides at least 75 square feet of usable play space for each child.

(2) A child care home that was originally licensed as a small center, and for which a notice of intent filed pursuant to COMAR 13A.16.02.02A(2) as part of an application for a child care center license was received by the office before January 1, 2009, shall have an outdoor activity area that provides ample usable play space for all of the children in attendance.

C. Usable play space may include only the area and the activity equipment approved for use by children in care.

D. The activity area shall be free from potential hazards to child health or safety.

E. All outdoor activity equipment shall be safe, in good repair, clean, and nontoxic.

F. If required by the office, the outdoor activity area shall be enclosed to protect children in care from accessible hazards such as a heavily trafficked area, a body of water, or environmental hazards.

G. A child may not be allowed to:

(1) play on climbing equipment from which the child can fall 7 feet or more to the ground;

(2) Use unsafe activity equipment;

(3) Use activity equipment in an unsafe manner; or

(4) Wear a clothing item or accessory that may pose a hazard to the child while engaged in the activity.

H. The provider shall ensure that children use suitable protective gear when engaged in an activity for which protective gear is required by law.

I. Trampolines.

(1) A child in care may not be allowed to use a trampoline.

(2) The provider shall make a trampoline located on the premises of the child care home inaccessible to children in care.

.13 Swimming Facilities.

A. A provider or substitute may permit children in care to use only swimming facilities that:

(1) Are subject to State or local standards of health, sanitation, and safety; and

(2) Meet those standards.

B. An above-ground swimming pool:

(1) May not be used for swimming activities; and

(2) Shall be made inaccessible to children in care.

C. A child in care may not use a pool, such as a fill-and-drain molded plastic or inflatable pool, that does not have an operable circulation system approved by the local health department.

13A.18.06 Provider and Staff Requirements

Authority: Family Law Article, §§5-501, 5-505, 5-550—5-557.1, and 5-560—5-563; State Government Article, §10-617; Human Services Article, §1-202; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.)

.01 Minimum Staff Age.

A staff member in a child care home may not be younger than 16 years old.

.02 Staff Orientation.

On or before assignment, a provider shall ensure and document that each staff member has been informed in writing about all areas pertinent to the health and safety of the children, including:

A. The location of the telephone and emergency telephone numbers;

B. The location of each child’s emergency form;

C. Emergency and disaster plan contents;

D. Identity of the staff members who:

(1) Are currently certified in first aid and CPR; and

(2) Have completed approved training in medication administration;

E. The identity of the individuals who are required to be available to provide emergency coverage pursuant to COMAR 13A.18.08.02D;

F. Hand washing and diapering procedures approved by the office;

G. The child care home’s child discipline policy;

H. The requirements and procedures for reporting suspected child abuse and neglect according to Family Law Article, §§5-704—5-705, Annotated Code of Maryland;

I. Signs and symptoms of abuse and neglect in children; and

J. The contents of the current version of this subtitle.

.03 Suitability for Employment.

A. A provider may not employ an individual who has received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of:

(1) A crime involving:

(a) A child;

(b) Cruelty to animals;

(c) Domestic violence; or

(d) A weapons or firearms violation of federal or state laws;

(2) A sex offense;

(3) A violent crime classified as a felony;

(4) Abduction or kidnapping;

(5) Abuse of a child or an adult;

(6) Confinement of an unattended child;

(7) Manufacturing, distributing, or dispensing a controlled dangerous substance;

(8) Perjury;

(9) Pornography;

(10) Possession with intent to manufacture, distribute, or dispense a controlled dangerous substance; or

(11) Reckless endangerment.

B. If an individual has been identified as responsible for child abuse or neglect or received a conviction, a probation before

judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of a crime or offense listed under COMAR 12.15.02.07B that is not included in §A of this regulation, the office:

(1) Shall assess, on the basis of the following factors, the individual's suitability for employment:

(a) The job position at the child care home for which the individual is applying or in which the individual is currently employed;

(b) The nature and seriousness of the incident, crime, or offense;

(c) How long ago the incident, crime, or offense occurred;

(d) The age of the individual at the time the incident, crime, or offense occurred;

(e) The individual's probation or parole status, if applicable; and

(f) Any other information the office considers pertinent; and

(2) Depending on the results of the assessment, shall permit or prohibit employment of the individual.

C. Request for Reassessment.

(1) An individual who is prohibited from employment by the office pursuant to §B of this regulation may request the office to conduct a reassessment with respect to the incident, crime, or offense.

(2) For a reassessment request to be eligible for consideration:

(a) The request shall be in writing and shall include documentation, such as but not limited to letters of support or evaluation reports, pertinent to the incident, crime, or offense; and

(b) The individual may not have submitted a reassessment request, whether for the same or a different job position, within the previous 12 months.

(3) In order to reach a decision on the request, the office may request additional information from the individual, the provider, or any agency or entity cited by the individual or the provider in connection with the reassessment request.

(4) Upon reaching a decision on the request, the office shall promptly notify the individual of that decision.

(5) The provider may not permit the individual to begin or to resume employment until the office has notified the provider that the individual may be employed.

D. Notification of Employment Prohibition.

(1) If the office, pursuant to this chapter, determines that an individual may not be employed at a child care home, the office shall notify the individual and the provider in writing of that decision and its basis.

(2) The written notification to the individual shall also:

(a) State that the individual may appeal the decision to the Office of Administrative Hearings (OAH); and

(b) Specify the requirements for submitting an appeal to the OAH.

E. Upon notification that an individual may not be employed, the provider:

(1) Shall promptly terminate the individual from employment or from consideration for employment, as applicable; and

(2) Unless the individual appeals the decision to the OAH and the appeal is concluded in favor of the individual, may not:

(a) Reconsider the individual for employment;

(b) Permit the individual to have any contact with an unrelated child in care; or

(c) Allow the individual on the premises of the child care home except to exercise parental responsibilities with respect to a related child in care.

F. A provider may not allow an individual to serve, or to continue to serve, in a child care position for which the individual does not meet the employment qualification or training requirements set forth

at Regulations .05—.07, as applicable, of this chapter, unless the individual is a substitute functioning in accordance with Regulation .08 of this chapter.

.04 Staff Health.

A. Medical Evaluation.

(1) A provider shall obtain a medical evaluation, including a tuberculosis screen, if indicated, on a form supplied or approved by the office, that has been completed within 6 months before the individual begins work in the child care home, from each prospective:

(a) Staff member; and

(b) Except for a health care professional serving as a consultant pursuant to Regulation .09C of this chapter, support staff who will be present at the child care home while children are in care.

(2) The medical evaluation may transfer directly from one child care home to another, or from a licensed child care center to the child care home, if the evaluation was completed within the previous 12 months.

B. Exclusion from Work. Except with the approval of the office and the health officer, a provider may not permit an individual with a serious transmissible infection or communicable disease listed on a chart supplied by the office to work at the child care home during the period of exclusion from child care recommended on the chart for that infection or disease.

.05 Child Care Home Directors.

A. Use of a Director.

(1) A provider may designate an individual to serve as the director of the child care home.

(2) If an individual is not designated by the provider as the director, the provider shall be the director of the child care home.

B. An individual designated as the director of a child care home shall meet the requirements of this regulation.

C. The provider shall meet the requirements for qualifying as the director of a child care home.

D. Except when engaged in occasional child care home-related activities or away on leave, the director shall be present in the child care home during at least 1/2 of the operating hours of the home each week to:

(1) Plan and supervise all aspects of the program for children;

(2) Supervise the staff; and

(3) Be available to staff, parents, and children.

E. Except as set forth at §F of this regulation, to qualify as a director in a large family child care home, an individual shall:

(1) Be 21 years old or older;

(2) Hold a high school diploma or a certificate of high school equivalence, or have successfully completed at least 6 credits from an accredited college or university;

(3) Have successfully completed:

(a) 9 clock hours of approved preservice training in communicating with staff, parents, and the public; and

(b) 3 semester hours or their equivalent of approved administrative training;

(4) Have successfully completed 6 semester hours or 90 clock hours, or their equivalent, of approved preservice training, or hold the Child Development Associate National Credential that is issued by the Council for Professional Recognition;

(5) Unless previously approved by the office to direct a child care program serving children younger than 2 years old, have completed 3 semester hours of approved training, or the equivalent, related exclusively to the care of children younger than 2 years old; and

(6) Have completed 1 year of experience working directly with children in a registered child care home, licensed child care center, nursery school, church-operated school, or similar setting.

F. An individual is considered qualified as a director when that individual has:

(1) Received either:

(a) Approval by the Department as a teacher for early childhood education, including nursery school through third grade, and has 6 semester hours in early childhood education; or

(b) Certification by the Department or by any other state for early childhood education, including nursery school through third grade; and

(2) Completed 3 semester hours of approved training, or the equivalent, related exclusively to the care of children younger than 2 years old.

G. A director shall:

(1) Maintain the professional development plan received from the office;

(2) According to the professional development plan, complete approved continued training, at the rate of at least 12 clock hours per full year of service as a director, that consists of a:

(a) Minimum of 6 clock hours of core of knowledge training;

and

(b) Maximum of 6 clock hours of elective training; and

(3) Document completion of the continued training on the professional development plan.

.06 Family Child Care Teachers.

A. A family child care teacher in a child care home shall be 19 years old or older.

B. Except as set forth at §C of this regulation, to qualify as a family child care teacher, an individual:

(1) Shall hold or have successfully completed:

(a) A high school diploma, a certificate of high school equivalence, or courses for credit from an accredited college or university;

(b) 9 clock hours of approved pre-service training in communicating with staff, parents, and the public; and

(c) Either:

(i) 6 semester hours or 90 clock hours or their equivalent of approved pre-service training;

(ii) The Child Development Associate Credential issued by the Child Development Associate National Credentialing Program; or

(iii) Accreditation by the National Association for Family Child Care as a family child care provider; and

(2) Have completed at least one of the following:

(i) 1 year of experience working under supervision with children in licensed child care center, nursery school, church-operated school, or similar setting;

(ii) 1 year of experience as a registered family child care provider; or

(iii) 1 year of college, or a combination of experience and college that together are equivalent to 1 year;

C. An individual shall qualify as a family child care teacher if the individual:

(1) Holds an associate's or higher degree with approved courses in early childhood education;

(2) Qualified before July 1, 2008, as a child care teacher in a licensed child care center and has been continuously employed since that time at the same or another licensed child care center;

(3) Has been approved as a teacher by the Department for early childhood in nursery school through third grade; or

(4) Is certified by the Department or by any other state for early childhood in nursery school through third grade.

D. A family child care teacher in a child care home shall:

(1) According to the individual's professional development plan, complete approved continued training, at the rate of at least 12

clock hours per full year of employment as a child care teacher, that consists of a:

(a) Minimum of 6 clock hours of core of knowledge training;

and

(b) Maximum of 6 clock hours of elective training; and

(2) Document completion of the continued training on the professional development plan.

E. Before a family child care teacher may supervise a child younger than 2 years old, the individual shall, unless previously qualified by the office to supervise an infant or a toddler:

(1) Meet the requirements of §§A—B of this regulation and have completed 3 semester hours of approved training, or the equivalent, related exclusively to the care of children younger than 2 years old; or

(2) Be 19 years old or older and:

(a) Meet the requirements of §B(1)(a) and (b) and §B(2) of this regulation; and

(b) Have completed 6 semester hours of approved training, or the equivalent, related exclusively to the care of children younger than 2 years old.

F. A provider shall meet the requirements for qualifying as a family child care teacher.

.07 Aides.

A. An aide shall:

(1) Be 16 years old or older;

(2) Work under the direct supervision of the provider or the family child care teacher in charge of the group of children to which the aide is assigned;

(3) According to the individual's professional development plan, complete approved continued training, at the rate of at least 6 clock hours per full year of employment as a child care aide, that consists of a:

(a) Minimum of 3 clock hours of core of knowledge training; and

(b) Maximum of 3 clock hours of elective training; and

(4) Document completion of the continued training on the professional development plan.

B. Except as set forth at §C of this regulation, an individual hired to work as an aide shall complete, within 6 months after the date of hire, an orientation session that follows guidelines established by the office and includes, but is not limited to:

(1) Proper child supervision;

(2) Workplace professionalism; and

(3) Interacting with parents.

C. The requirement to complete an orientation session, as set forth at §B of this regulation, does not apply to an individual hired to work as an aide before January 1, 2009.

.08 Substitutes.

A. When a staff member is absent, a substitute for that staff member shall be provided as needed to maintain the staff/child ratios required by COMAR 13A.18.08.03.

B. A substitute shall:

(1) Be 18 years old or older;

(2) Be familiar with this subtitle;

(3) Complete, sign, and submit to the office the required forms for substitutes, which include permission to examine records of abuse and neglect of children;

(4) If paid, apply for a federal and State criminal background check at a designated law enforcement office in the State; and

(5) Present no risk to the health, safety, or welfare of children.

C. If a substitute is needed for longer than a continuous 2-week period, the provider shall provide a substitute who meets the qualifications required in this chapter for the absent staff member, or

demonstrate that reasonable efforts have been made, with no success, to obtain a qualified substitute.

D. If a staff member is absent for more than a continuous 2-week period due to family or medical leave, the provider may receive permission from the office to employ a substitute for that absent staff member who does not meet the education, training, and experience qualifications for the absent staff member's position.

.09 Support Personnel.

A. Except as set forth at §B of this regulation, the provider shall provide additional personnel for all duties not involving direct supervision of children, such as personnel for food preparation and service, housekeeping, transportation, clerical, and other duties, if necessary to maintain the correct staff/child ratios at all times.

B. Additional staff need not be provided if children are involved in appropriate activities and supervised at all times while necessary duties, such as food preparation, are performed.

C. A child care home that provides a regular service involving the use of specialized health care procedures or equipment shall use as a consultant in providing the service a registered nurse, nurse practitioner, physician's assistant, physician, or other registered or certified service professional as appropriate.

.10 Volunteers.

A. A child care home volunteer shall be under the close supervision of the provider or a staff member whenever the volunteer is in contact with an unrelated child in care at the home.

B. The provider may not use as a volunteer an individual who has been prohibited, or automatically would be prohibited, from employment at the child care home pursuant to Regulation .03A or B of this chapter.

13A.18.07 Child Protection

Authority: Family Law Article, §§5-501, 5-505, 5-550—5-557.1, and 5-560—5-563; State Government Article, §10-617; Human Services Article, §1-202; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.)

.01 Prohibition of Abuse, Neglect, and Injurious Treatment.

A provider, employee, substitute, volunteer, individual residing on the premises of the child care home, or other individual connected with the home may not subject a child to abuse, neglect, mental injury, or injurious treatment.

.02 Abuse/Neglect Reporting.

A. A provider, employee, or substitute who has reason to believe that a child has been:

(1) Abused, inside or outside of the child care home, shall report that belief directly to the protective services unit of the local department or to a law enforcement agency, as required under Maryland law; or

(2) Neglected, inside or outside of the child care home, shall report that belief directly to the protective services unit of the local department as required under Maryland law.

B. If a child has been subjected to injurious treatment, it shall be reported to the office.

C. A provider shall:

(1) Instruct the staff to monitor all children daily for signs and symptoms of child abuse and neglect;

(2) Instruct the staff about their legal obligations to report suspected child abuse or neglect directly to the local department or the appropriate law enforcement agency; and

(3) Post, near each telephone in the child care home, the telephone numbers of the Child Protective Services unit of the local department and the appropriate law enforcement agency.

D. A provider may not require an employee or substitute to report through the provider, rather than directly to the local department or a law enforcement agency, when the employee or substitute has reason to believe that a child has been abused or neglected.

.03 Child Discipline.

A. Child discipline shall be:

(1) Appropriate to the age, maturity, and physical condition of the child; and

(2) Consistent with the requirements of this chapter.

B. The provider may not:

(1) Force a child to eat or drink;

(2) Punish a child for refusing to eat or drink; or

(3) Withhold food or beverages as punishment.

C. The provider shall:

(1) Prepare a written child discipline policy that states the:

(a) Discipline methods used at the child care home; and

(b) The circumstances under which the child discipline methods may be applied;

(2) Make the child discipline policy available to:

(a) The parent of each child in care;

(b) A parent who is considering whether to enroll their children; and

(c) The office; and

(3) Ensure that the child discipline policy is followed by each employee, substitute, volunteer, and other individual connected with the child care home.

.04 Parental Access.

A provider shall permit the parent of a child in care to:

A. Freely observe all areas of the child care home used for child care during operating hours; and

B. Have access to the parent's child at any time during the child care home's hours of operation, without appointment.

.05 Authorized Release.

A. A provider shall ensure that a staff member releases a child only to the child's parent or to another individual, if directed by the parent, whose identity is verified.

B. If the parent or identified individual is not available due to death, illness, emergency, or any other cause, or if requested by a Child Protective Services worker, the child may be released to Child Protective Services.

.06 Child Security.

A. The provider shall ensure the safety and security of each child at all times.

B. Whenever an area of the child care home is being used for a child care activity and children are present, the provider may not permit the area to be used at the same time for any other purpose without prior approval of the office.

C. Unless an employee or staff member has successfully passed federal and State criminal background checks and a review of child abuse and neglect records, the individual may not be alone with an unrelated child in care.

D. An employee or staff member who has successfully passed federal and State criminal background checks and a review of child abuse and neglect records, shall:

(1) Accompany a child whenever the child is in the presence of another individual, unless the individual is:

(a) Another child in care;

(b) A health service consultant used by the facility provider pursuant to COMAR 13A.18.06.09C;

(c) *The child’s parent, guardian, or other individual to whom the child may be released pursuant to Regulation .05 of this chapter;*

(d) *An individual who is authorized by the child’s parent or guardian, and whose identity is verified, to provide a health care, academic, or other service to the child; or*

(e) *During an off-site activity, another child’s parent or guardian, who is designated in writing by the provider to assist in transporting children to or from the child care home; and*

(2) *Unless documentation is on file at the child care home that an independent contractor performing a service at the child care home has successfully passed federal and State criminal background checks and a review of child abuse and neglect records, remain within sight and sound of the contractor whenever the contractor is in an area where children are present.*

E. Activity Not Conducted by a Staff Member.

(1) *An activity involving the participation of children that is not conducted or led by a staff member is not permitted unless an appropriately qualified staff member is present throughout the activity to supervise the children.*

(2) *A child may not participate in the activity unless the provider has received prior written permission from the child’s parent or guardian for the child’s participation.*

13A.18.08 Child Supervision

Authority: Family Law Article, §§5-501, 5-505, 5-550—5-557.1, and 5-560—5-563; State Government Article, §10-617; Human Services Article, §1-202; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.)

.01 Individualized Attention and Care.

A provider shall ensure that:

A. Each child receives:

(1) *Attention to the child’s individual needs; and*

(2) *Adequate supervision and care at all times which is:*

(a) *Provided only by individuals who are designated by the provider to provide supervision and care; and*

(b) *Appropriate to the individual age, needs, and capabilities of the child;*

B. Each staff member providing care to a child is:

(1) *Oriented to the child’s individual care needs; and*

(2) *Prepared to provide the appropriate individual care;*

C. Written information about the child’s individual needs that was supplied by the parent by the time of the child’s admission to care is used to meet the child’s individual care needs;

D. A child is under close and continuous supervision whenever using potentially dangerous activity materials or equipment such as scissors, sharp tools, or knives; and

E. A child is allowed to travel to or from school or a school transportation site without adult supervision only if:

(1) *The child is in the first or a higher grade; and*

(2) *The child’s parent and the provider agree in writing that the child can travel safely without adult supervision.*

.02 Supervision by Qualified Staff.

A. At all times while in care, each child shall be assigned to a group of children that is supervised by a family child care teacher who meets the requirements of COMAR 13A.18.06.06.

B. The provider shall assign qualified child care teachers to each group of children as needed to meet the requirements for group size and staffing set forth at Regulation .03 of this chapter.

C. A child younger than 2 years old may be handled or fed only by an individual designated to do so by the provider.

D. Staff Availability.

(1) *In case of a temporary absence from the child care home of the provider or, if applicable, the director:*

(a) *The provider shall designate a family child care teacher to be present and in charge of the child care home; or*

(b) *If a family child care teacher is not available, the provider shall direct the provider’s substitute to be present and in charge of the child care home.*

(2) *If three or fewer children younger than 2 years old are present in care and only one staff member is needed to meet staff/child ratio requirements, the provider shall ensure that an additional staff member or another adult, who has successfully passed a federal and State criminal background check and a review of child and adult abuse and neglect records, is available in the child care home.*

(3) *If the only children in attendance are 2 years old or older and only one staff member is needed to meet staff/child ratio requirements, the provider shall have a written, signed, and dated agreement from an adult who has successfully passed a federal and State criminal background check and a review of child and adult abuse and neglect records and is willing and able to be at the child care home within 15 minutes of notification.*

.03 Group Size and Staffing.

A. Assignment of Staff. *One or more family child care teachers shall be assigned to each group of children as needed to meet the requirements for group size and staffing set forth at §§C—G of this regulation.*

B. Age of a Child. *For purposes of determining group size and staff required under this chapter, the age of a child is determined solely according to the date of the child’s most recent birthday.*

C. Same-Age Groups. *In a group of children of the same age, the following staff/child ratio and maximum group size requirements apply:*

Child Ages	Staff/Child Ratio	Maximum Group Size
2 years old	1 to 6	12
3 or 4 years old	1 to 10	12
5 years old or older	1 to 12	12

D. Groups of Children Younger than 2 Years Old. *In a group of children where each child is younger than 2 years old, the following staff/child ratio and maximum group size requirements apply:*

Child Ages	Staff/Child Ratio	Maximum Group Size
Infants	1 to 3	6
Toddlers	1 to 3	9
Infants and toddlers, with 1 to 2 infants in the group	1 to 3	9
Infants and toddlers, with 3 or more infants in the group	1 to 3	6

E. *Mixed-Age Groups with Children Younger than 2 Years Old.* In a group where children younger than 2 years old are mixed with children 2 years old or older, the following minimum staffing levels and maximum group size requirements apply:

Group Composition	Minimum Staffing Level	Maximum Group Size
Includes 1 or 2 children under the age of 2	1 staff member	8
Includes 1 or 2 children under the age of 2	2 staff members	12
Includes 3 or 4 children under the age of 2	2 staff members	8
Includes 3 or 4 children under the age of 2	3 staff members	12

F. *Mixed-Age Groups with Children 2 Years Old or Older.*

(1) In a mixed age group with children who are 3 years old or older, the staff to child ratio is 1 to 10.

(2) In mixed-age groups of varying sizes that include children who are 2 years old, the following minimum staffing levels apply:

Group Composition	Group Size	Minimum Staffing Level
Includes one to three 2-year-old children	Up to 10	1 staff member
Includes four or more 2-year-old children	Up to 12	2 staff members

.04 Variations in Group Size.

Group sizes for all ages may vary during outdoor play and special activities such as field trips and assemblies, only if the provider maintains the staff/child ratios required by this chapter.

.05 Supervision During Water Activities.

A. A provider shall have prior written approval from a child’s parent for the child’s participation in a water activity.

B. If a wading or swimming area is 4 feet or less in depth, each child engaged in a water activity shall receive continuous supervision by a staff member.

C. If the water exceeds 4 feet in depth, there shall be a lifeguard present who:

(1) Holds a current certificate of approval for lifeguarding from the American Red Cross, YMCA, or other organization acceptable to the office or the local health department;

(2) Is present at waterside during the swimming activity; and

(3) Is not included in the required staff/child ratio.

D. Except during a swimming lesson conducted by a certified water safety organization, such as the American Red Cross, that is acceptable to the office or the local health department, whenever water is over the chest of a child who cannot swim, the child shall receive one-to-one supervision by a staff member who is in the water with the child.

.06 Supervision During Transportation.

When child transportation is conducted to or from:

A. The child care home by the provider, there shall be at least one adult other than the driver present in the vehicle if:

(1) More than eight preschoolers are being transported as a group; or

(2) At least one child is being transported and the driver of the vehicle is not:

(a) A child care home employee; or

(b) The parent of a child in care who is authorized by the provider to assist in transporting children in care; or

B. An off-site activity by an independent contractor and at least one child in care is being transported, the provider shall ensure that there is at least one adult other than the driver present in the vehicle.

.07 Playground Supervision.

When a group of children is engaged in a playground or outdoor activity, staff members assigned to the group shall:

A. Station themselves among the children so that immediate intervention can occur if necessary; and

B. If a child expresses or shows signs of discomfort due to over-activity, temperature or weather conditions, or other physical or environmental factors, take immediate and appropriate steps to alleviate the discomfort.

.08 Rest Time Supervision.

A. During a rest period for a group of children who are younger than 2 years old:

(1) The required staff/child ratio applicable to that group shall be maintained; and

(2) Each staff member assigned to the group shall remain with the children.

B. During a rest period for a group of children who are 2 years old or older:

(1) The required staff/child ratio applicable to that group shall be maintained until all the children are resting quietly; and

(2) Once all the children in the group are resting quietly:

(a) At least one child care teacher or aide assigned to the group shall continue to remain in the room with the children; and

(b) Other staff members, if any, assigned to the group may leave the room but shall remain on the premises and within hearing range.

C. To determine if a resting child is safe, breathing normally, and in no physical distress:

(1) Each resting child shall be observed at intervals appropriate to the child’s age and individual needs; and

(2) A resting child younger than 12 months old shall be observed at least every 15 minutes.

13A.18.09 Program Requirements

Authority: Family Law Article, §§5-501, 5-505, 5-550—5-557.1, and 5-560—5-563; State Government Article, §10-617; Human Services Article, §1-202; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.)

.01 Schedule of Daily Activities for All Children.

A. The provider shall prepare, post, and follow a written schedule of daily activities and offer activities that:

(1) Promote the sound emotional, social, intellectual, and physical growth of each child;

(2) Are appropriate to the age, needs, and capabilities of the individual child;

(3) Include opportunities for individual and group participation;

(4) Include a balance between self-selected and staff-directed activities;

(5) Include a balance between active and quiet periods;

(6) Include periods of rest appropriate to the age, needs, and activities of the child; and

(7) Include outdoor play in the morning and afternoon except that outdoor play need not be included:

(a) When the weather is inclement; or

(b) In a before-school program.

B. A before-school and after-school program schedule of activities shall take into consideration that the child has attended an instructional program during regular school hours.

.02 Activity Plans for Infants and Toddlers.

A. A provider shall assign one staff member primary responsibility for each infant and toddler in care during each staff shift.

B. Upon enrollment of an infant or a toddler, the provider shall, in consultation with the parent of the child, prepare a written individualized activity plan for the child that:

- (1) Addresses the child's normal pattern of activities, sleeping, and eating;
- (2) Is consistent with the child's needs and capabilities;
- (3) Identifies the staff member who is assigned primary responsibility for the care of the child during each staff shift;
- (4) Ensures that the child is:
 - (a) Held, played with, and talked to;
 - (b) Except when sleeping, given opportunities to sit, crawl, toddle, or walk outside the infant's crib or playpen;
 - (c) Except in inclement weather, taken outdoors daily; and
 - (d) Diapered as needed and in accordance with the approved diapering procedure.

C. For an infant or a toddler, the written activity plan required at the time of the child's admission to care shall be:

- (1) Available for reference in the space used by the child's group;
- (2) Implemented by each staff member having responsibility for care of the child;
- (3) Modified in consultation with the child's parent as necessitated by the child's developmental needs; and
- (4) Reevaluated at least every 3 months.

.03 Activity Materials, Equipment, and Furnishings.

A. For indoor and outdoor activities, a provider shall provide to each group of children in care a sufficient quantity and variety of activity materials, equipment, and furnishings according to the numbers, ages, and developmental needs of the children.

B. Activity materials and equipment shall be:

- (1) Provided for:
 - (a) Vigorous play;
 - (b) Creative and dramatic play;
 - (c) Socialization;
 - (d) Manipulation, including construction materials;
 - (e) Exploration of art, music, language arts, and science;

and

- (f) Individual pursuits;
- (2) Appropriate to each child's individual development of cognitive, social, emotional, and fine and gross motor skills;
- (3) Easily accessible to each child for whose use they are intended;
- (4) In good repair, clean, nontoxic, and free from hazards including lead paint; and
- (5) Culturally sensitive and representative of the children in care.

C. In reviewing materials and equipment in before-school and after-school programs, the office shall take into consideration that the child has attended an instructional program during regular school hours.

D. Furnishings used by a child in care:

- (1) May include furniture and other furnishings used by residents in the child care home; and
- (2) Shall be scaled in proportion to the child's size.

.04 Rest Furnishings.

A. There shall be:

- (1) A suitable cot or mat for each child 12 months old to 5 years old present in the child care home for more than 4 hours, and for children 5 years old or older who regularly take rest periods in the child care home;
- (2) A suitable bed for each child who is 12 months old or older and who is present in the child care home during those hours which are usual nighttime sleep hours for that child;
- (3) An adequate supply of clean bedding provided for each child who takes rest periods at the child care home; and
- (4) A crib, portable crib, or playpen with a snugly fitting mattress, moisture-proof mattress covering, and tight fitting sheet for each child in the child care home who is:
 - (a) Younger than 12 months old; or
 - (b) 12 months old or older but younger than 2 years old, if the child's parent requests a crib, portable crib, or playpen.

B. When in use, all cots, mats, and beds shall be appropriately spaced to facilitate safe movement and evacuation of staff and children.

C. Each crib, portable crib, and playpen shall meet the standards of the U.S. Consumer Product Safety Commission.

D. Stackable cribs may not be used.

E. Each crib, portable crib, and playpen in use shall be placed so that:

- (1) It presents at least one long side without a wall, plexiglass panel, or other solid barrier; and
- (2) There is a space of at least 3 feet if placed side-to-side and 18 inches if placed end-to-end between two adjacent cribs, portable cribs, or playpens that are not separated by a solid barrier.

F. Soft bedding items, including but not limited to pillows, quilts, comforters, and crib bumpers, may not be used as rest furnishings for a child using a crib, portable crib, or playpen.

.05 Equipment for Infants and Toddlers.

A. A sufficient number of strollers or carriages with appropriate restraints shall be available to accommodate all nonwalking infants and toddlers who are present in care.

B. The use of walkers is prohibited.

C. The child care home shall have furnishings that allow the safe and easy feeding of infants and toddlers, including but not limited to high chairs, child-sized tables and chairs, and chairs for staff members to use while holding infants for feeding.

D. If high chairs are used, each high chair shall be equipped with age-appropriate restraints.

.06 Storage.

There shall be appropriate storage for:

- A. Materials and equipment;
- B. Mats, cots, beds, and bedding;
- C. Portable equipment intended for outdoor use;
- D. Each child's clothing and possessions in an individual space; and
- E. Materials, equipment, furnishings, and supplies being held in reserve.

13A.18.10 Safety

Authority: Family Law Article, §§5-501, 5-505, 5-550—5-557.1, and 5-560—5-563; State Government Article, §10-617; Human Services Article, §1-202; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.)

.01 Emergency Safety Requirements.

A. Emergency and Disaster Plan.

(1) The provider or a staff member shall:

(a) Complete emergency preparedness training that is approved by the office; and

(b) As part of the approved emergency preparedness training, prepare a written emergency and disaster plan for the child care home.

(2) The provider shall maintain the emergency and disaster plan prepared in accordance with §A(1)(b) of this regulation.

(3) The emergency and disaster plan shall:

(a) Establish procedures for:

(i) Evacuating the child care home, including an evacuation route;

(ii) Relocating staff and children to a designated safe site;

(iii) Sheltering in place in the event that evacuation is not feasible;

(iv) Notifying parents of children in care; and

(v) Addressing the individual needs of children, including children with special needs;

(b) Contain:

(i) The name of, and contact information for the local emergency operations center;

(ii) Assignment of staff responsibilities during an emergency or disaster;

(iii) A list of local emergency services numbers; and

(iv) The radio station call sign and frequency for the local Emergency Alert System;

(c) Be practiced by staff and children at least:

(i) Once per month for fire evacuation; and

(ii) Twice per year for other emergency and disaster situations; and

(d) Be updated at least annually.

(4) A copy of the emergency escape route floor plan shall be posted in each area and room in the child care home.

(5) Each staff member shall be oriented to the contents of the written emergency and disaster plan required at §A(2) of this regulation.

(6) In the event of a declared emergency, the provider shall be prepared to respond as directed by the local emergency management agency through sources of public information.

(7) During an emergency evacuation or practice, a staff member shall take attendance records out of the child care home and determine the presence of each child currently in attendance.

B. If the child care home is included within a comprehensive emergency and disaster plan, the provider shall ensure that:

(1) The comprehensive plan contents meet all emergency and disaster plan requirements set forth at §A(2)(a) and (b) of this regulation; and

(2) A copy of the comprehensive plan is available to all staff members.

C. A provider shall post, immediately accessible to each telephone in the child care home, a notice stating the:

(1) 9-1-1 emergency telephone number to summon fire, police, and rescue services;

(2) Child care home's name, address, and telephone number;

(3) Telephone number of the protective services unit of the local department of social services;

(4) Telephone number of a poison control center;

(5) Name and telephone number of the local health department or a physician to consult about issues regarding health and illnesses;

(6) Name and telephone number of the available adult as required by COMAR 13A.18.08.02D; and

(7) Telephone number of the office.

.02 First Aid and CPR.

A. At all times, including during an off-site activity, at least one family child care teacher or the provider shall be present who holds a current certificate indicating successful completion of approved:

(1) Basic first aid training through the American Red Cross, or a program with equivalent standards, which is appropriate to all child age groups for which the child care home is approved; and

(2) Cardiopulmonary resuscitation (CPR) training through the American Heart Association, or a program with equivalent standards, which is appropriate to all child age groups for which the child care home is approved.

B. Whenever a child in care is present, there shall be at least one staff member, or the provider, present who is currently certified in approved first aid and CPR as specified at §A of this regulation.

C. Whenever a child in care is being transported under child care home auspices to or from the child care home, there shall be at least one adult present in the vehicle who is currently certified in approved CPR and first aid. This requirement may be met by the driver of the vehicle.

D. Section §C of this regulation shall not apply if the driver of the vehicle is a parent of a child in care who is designated by the provider to assist in transporting children in care.

E. A provider shall maintain first aid supplies as required by the office, conveniently accessible for each group of children at the child care home and at an off-site activity.

.03 Safe Use of Materials and Equipment.

The provider shall ensure that furnishings, activity materials, and equipment, whether intended for indoor use or outdoor use, are used:

A. In a safe and appropriate manner by each staff member and each child in attendance; and

B. As applicable, in accordance with manufacturer instructions or recommendations.

.04 Potentially Hazardous Items.

A. A provider shall store all potentially harmful items, including but not limited to the items described in §§B—E of this regulation, in locations which are inaccessible to children in care.

B. Petroleum and flammable products shall be stored in an approved manner.

C. Cleaning and sanitizing agents and poisonous products shall be stored apart from food and beverages.

D. Containers of poisonous products may not be kept on the premises unless they are labeled clearly as to nature, content, and approved purposes.

E. A pesticide may be used only if it is:

(1) Approved by the U.S. Environmental Protection Agency;

(2) Used according to the manufacturer's instructions;

(3) Used only when children are not in care; and

(4) Stored apart from food, beverages, and cleaning agents.

F. If a firearm is maintained in the child care home, the firearm shall be kept:

(1) In a location not used by children in care; and

(2) Unloaded and partially disassembled in a locked container with ammunition stored in its own separate locked container.

G. Whenever a child younger than 5 years old is in care, the provider shall ensure that:

- (1) All electrical sockets within reach of the child are plugged or capped as required by the applicable fire code;
- (2) Suitable protective barriers are placed at locations accessible and potentially hazardous to the child; and
- (3) Child-proof devices are placed on cabinets and drawers that contain items potentially hazardous to the child.

H. Window Coverings. A window covering installed:

- (1) Before October 1, 2010, shall not have unsecured cords, beads, ropes, or strings that are accessible to a child in care; or
- (2) On or after October 1, 2010, shall be cordless.

.05 Rest Time Safety.

A. Unless specified otherwise in writing by the child’s physician, a child who:

- (1) Cannot roll over without assistance shall be placed for sleep on the child’s back; or
- (2) Is younger than 12 months old but can roll over unassisted shall be placed for sleep on the child’s back, but may be allowed to adopt whatever position the child prefers for sleep.

B. Unless the need for a positioning device is specified in writing by a child’s physician, a restricting device of any type may not be applied to a resting child.

.06 Transportation.

A. Unless being transported in a registered school bus or contract motor coach, each child who is transported in a vehicle while in care shall be separately secured in a child car seat or seat belt which is appropriate for the child’s age and weight, as specified by Maryland law.

B. A vehicle used to transport a child in care shall comply with all applicable State and federal safety requirements.

13A.18.11 Health

Authority: Family Law Article, §§5-501, 5-505, 5-550—5-557.1, and 5-560—5-563; State Government Article, §10-617; Human Services Article, §1-202; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.)

.01 Exclusion for Acute Illness.

A. The provider shall:

- (1) Monitor, and ensure that each staff member present monitors, each child in attendance for signs and symptoms of acute illness;
- (2) Notify a child’s parent or other designated person upon observing a sign or symptom of acute illness; and
- (3) Provide temporary isolation for the affected child in a suitably equipped separate area within sight and hearing of an adult.

B. A provider may not admit a child to care or allow a child to remain in care when the child is exhibiting symptoms of acute illness.

C. A child may not be readmitted to care after an absence of 3 days or more due to illness without a written statement from the parent or physician that the child may return to a regular schedule.

.02 Infectious and Communicable Diseases.

A. A provider shall immediately transmit to the health officer a report of the name and address of a child or a staff member who appears to be infected with a reportable communicable disease or who has been exposed to a reportable communicable disease as indicated in COMAR 10.06.01.03.

B. A provider may not knowingly admit to care or retain in care a child with a transmissible infection or a communicable disease during the period of exclusion recommended for that infection or

disease as shown on a chart provided by the office, unless the health officer grants approval for the child to attend child care during that period.

.03 Preventing Spread of Disease.

A. A written hand washing procedure approved by the office shall be posted at each sink used for washing hands.

B. Hands shall be washed according to the posted approved procedure by the provider, each staff member, each volunteer, and each child in care at least:

- (1) After toileting or diapering;
- (2) Before food preparation or eating; and
- (3) After an outdoor activity or handling an animal.

C. Diapering shall be performed in accordance with a written diapering procedure approved by the office.

.04 Medication Administration and Storage.

A. Medication may not be administered to a child in care unless:

(1) Parental permission to administer the medication is documented on a completed, signed, and dated medication authorization form, provided by the office, that is received at the child care home before the medication is administered;

(2) If the medication is by prescription, it is labeled by the pharmacy or physician with:

- (a) The child’s name;
- (b) The date of the prescription;
- (c) The name of the medication;
- (d) The medication dosage;
- (e) The administration schedule;
- (f) The administration route;
- (g) If applicable, special instructions, such as “take with food”;
- (h) The duration of the prescription; and
- (i) An expiration date that states when the medication is no longer useable; and

(3) If the medication is by prescription, at least one dose of the medication has been given to the child at home.

B. Except for topical medications, a provider may administer only one dose of a nonprescription medication to a child per illness unless a registered health practitioner approves the administration of the nonprescription medication and the dosage.

C. Medication shall be administered according to the instructions on the label of the medication container or a registered health practitioner’s written instructions, whichever are more recently dated.

D. Except for application of a nonprescription diaper rash treatment, sunscreen, or insect repellent supplied by a child’s parent, each administration of a medication to a child shall be noted in the child’s record.

E. Medication Storage.

(1) Each medication shall be:

- (a) Labeled with the child’s name, the dosage, and the expiration date;
- (b) Stored as directed by the manufacturer, the dispensing pharmacy, or the prescribing physician; and
- (c) Discarded according to guidelines of the Office of National Drug Control Policy or the U.S. Environmental Protection Agency, or returned to the child’s parent upon expiration or discontinuation.

(2) All medications shall be stored to make them inaccessible to children in care but readily accessible to each staff member designated by the provider to administer medication.

F. Medication Administration Training.

(1) Whenever children in care are present, there shall be at least one child care home staff member present who has completed medication administration training approved by the office.

(2) Medication may be administered to a child in care only by a staff member who has completed approved medication training.

G. The requirements of §F of this regulation shall not apply if:

(1) The child care home employs a registered nurse, registered practical nurse, or medication technician certified by the Maryland Board of Nursing to administer medication to children in care; or

(2) Responsibility for administering medication to children in care is delegated to a staff member by a delegating nurse in accordance with COMAR 10.27.11.

.05 Smoking.

Smoking is prohibited in any indoor or outdoor area approved for child care use during the child care home's hours of operation.

.06 Alcohol and Drugs.

Whenever children are in care, a provider may not allow the consumption of alcoholic beverages or the use of illegal or nonprescribed controlled dangerous substances:

A. By a person supervising, or helping to supervise, a child in care;

B. In an area of the child care home approved for child care during the home's hours of operation; or

C. By a staff member or a volunteer during an off-site program activity.

13A.18.12 Nutrition

Authority: Family Law Article, §§5-501, 5-505, 5-550—5-557.1, and 5-560—5-563; State Government Article, §10-617; Human Services Article, §1-202; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.)

.01 Food Service.

A. The provider shall prepare, or make arrangements with the child's parents to provide, an adequate amount of nutritious food and beverages for the number of meals and snacks the child will be served, appropriate for the child's age and appetite.

B. If a provider chooses not to provide meals, the provider shall make arrangements with the parent of each child to provide food for meals.

C. Meals and snacks shall be served to each child at regular and age-appropriate intervals according to the hours that the child is in care, as set forth in the following chart:

If a child is at a child care home for:	The child shall receive at least:
Less than 4 consecutive hours	1 snack
4 to 7 consecutive hours	1 meal and 1 snack
7 to 11 consecutive hours	1 meal and 2 snacks or 2 meals and 1 snack
11 to 14 consecutive hours	2 meals and 2 snacks or 3 meals and 1 snack

D. Unless supplied by the parent of a child in care, food and beverages furnished by the provider to the child for meals and snacks shall comply with the guidelines of the Child and Adult Care Food Program of the U.S. Department of Agriculture, as indicated on a chart supplied by the office.

E. Milk shall be furnished and served with all meals.

F. A provider shall keep a supply of nutritious food on hand in order to provide food to a child whose parent has not supplied food or beverages for meals or snacks.

G. A provider shall keep a dated record of food actually served in the child care home, and to each child on a modified diet, on file for at least 4 weeks.

.02 Modified Diet.

If a provider agrees to accept a child who requires a modified diet for:

A. Medical reasons, the provider shall obtain from the child's parent a written prescription for the diet signed and dated by the child's registered health practitioner within the previous 6 months; or

B. Cultural or religious reasons, the provider shall obtain written, dated instructions for the diet signed by the child's parent.

.03 Food Sources.

A. A provider shall furnish food at the child care home only if it is wholesome and free from spoilage, filth, or other contamination and obtained from sources that comply with all laws relating to food, food processing, food handling, and food labeling.

B. A provider may not provide to the children home-canned goods or any other hermetically sealed food prepared in a place other than a registered food processing establishment.

C. A provider:

(1) Shall provide only fluid milk and fluid milk products that are:

(a) Pasteurized Grade A;

(b) Except as provided by §C(3) of this regulation, served from the original container; and

(c) Not more than 4 days older than the expiration date marked on the original container;

(2) Except as provided at Regulation .06D of this chapter, may use dry milk, dry milk products, or reconstituted dry milk only for cooking purposes; and

(3) For meals and snacks, may serve milk family-style from a pitcher or similar container into which the milk has been poured from the original container.

.04 Food Storage and Preparation.

A. A provider shall:

(1) Protect all food from contamination while it is being stored, transported, or displayed; and

(2) Prepare and serve food, including infant formula, in a safe, sanitary, and healthful manner.

B. There shall be sufficient storage areas for all food brought from the child's home and all food held in reserve for service by the provider.

C. Food shall be stored:

(1) In an area that is dry, cool, well-ventilated, well-lighted, and equipped with easily cleanable shelving; and

(2) If stored on open shelves, at least 6 inches off the floor.

D. Food may be stored:

(1) Separately from family food; or

(2) With family food if the provider chooses to have the entire family food storage area inspected.

E. If food is transferred for storage from its original container, the provider shall provide a secondary storage container that is:

(1) Easily cleanable or disposable;

(2) Nontoxic;

(3) Nonabsorbent;

(4) Tightly closed; and

(5) Clearly labeled as to its contents.

F. The provider:

(1) May not store food below overhead waste lines;

(2) Shall maintain cooked, potentially hazardous hot food at or above a temperature of 140°F;

(3) Shall refrigerate potentially hazardous food at or below a temperature of 40°F;

(4) Shall keep frozen food at or below 0°F; and

(5) Shall restrict the movement of pets and other animals so that food and food contact surfaces are not contaminated.

G. Single service items such as paper and plastic cups, containers, lids, plates, knives, forks, spoons, and placemats shall be:

- (1) Used only once; and
- (2) Stored, handled, and dispensed to protect them from contamination.

H. During an activity in which the children prepare food, the activity shall be planned and carried out in a manner consistent with the safety and health practices required in this subtitle.

I. The provider shall discard:

- (1) All spoiled fruits, vegetables, or other food;
- (2) Refrozen food;
- (3) Potentially hazardous frozen food that has been thawed and not immediately cooked and served;
- (4) Swelled, rusty, or leaky canned foods;
- (5) Foods exposed to fire, smoke, or water damage;
- (6) After a child finishes eating, any remaining food that has come into contact with:
 - (a) The child's mouth; or
 - (b) An eating utensil that has been used by the child; and
- (7) After being left out for consumption by children during a meal or snack, any milk remaining in an opened original container, a pitcher or similar container, or a drinking vessel.

J. The provider shall send home or discard at the end of each day all opened containers of food brought from home for a child.

.05 Food Preparation Area and Equipment.

A. Appliances and equipment in the food preparation area shall be:

- (1) Cleaned and sanitized;
- (2) In good repair;
- (3) Capable of normal operation; and
- (4) Not conducive to the harboring of insects and rodents.

B. Food contact surfaces shall be nontoxic, smooth, in good repair, and free of breaks, open seams, cracks, pits, and similar imperfections.

C. Refrigeration shall be:

- (1) Of sufficient capacity to store all food and beverages that require refrigeration;
- (2) Operated at or below 40°F; and
- (3) Equipped with an indicating thermometer graduated at 2°F intervals.

D. All frozen food units shall be operated at 0°F or less, and shall be provided with an indicating thermometer.

E. Utensils and equipment used for the preparation and service of food and beverages shall be cleaned, sanitized, air dried, and stored in a manner approved by the office.

.06 Feeding Infants and Toddlers.

A. The provider shall ensure that the written feeding schedule for each infant and toddler, as required by COMAR 13A.18.03.02C, is:

- (1) Followed; and
- (2) Updated as necessary or at least every 3 months while the child is in care.

B. Self-Feeding by Children Younger than 18 Months Old.

(1) The child shall be held for each bottle feeding except when developmentally able and insistent upon self-feeding.

- (2) The child may hold the bottle only:
 - (a) When seated; and
 - (b) If the bottle is made of unbreakable material.

C. Except as specified by §D of this regulation, a provider may serve a child younger than 18 months old only developmentally appropriate:

- (1) Commercially prebottled formula;
- (2) Breast milk, formula, juice, or water which has been prebottled for the child and provided by the child's parent;

(3) Commercially processed baby food that is opened and used the same day;

(4) Commercial infant formula, in concentrate, powder, or ready-to-feed form, if the:

(a) Child's parent has provided prior written authorization for the use of the formula; and

(b) Formula is prepared directly from a factory-sealed container and in accordance with the manufacturer's instructions; and

(5) Other foods supplied by the provider or the parent that are consumed the same day.

D. Only whole, pasteurized milk will be served to a child younger than 2 years old who is not receiving formula or breast milk, except that skim milk, reconstituted nonfat dry milk, or 1—2 percent milk may be served upon the written prior approval of the child's parent and health care provider.

E. A provider shall ensure that:

(1) All food and bottles intended for consumption or use by a child younger than 18 months old are labeled with the child's name, dated, and refrigerated at 40°F or below if potentially hazardous;

(2) All nipples on bottles are protected;

(3) Breast milk or formula which has been bottled for the child is:

(a) Placed immediately in a refrigerator when brought to the child care home;

(b) Warmed to the desired temperature immediately before feeding; and

(c) Served to the child at a temperature that is safe and conducive to the child's comfortable feeding;

(4) Foods that present a high risk of choking for children younger than 2 years old are not served to them; and

(5) Reusable bottles and nipples are:

(a) Reused only after they have been washed, rinsed, and sanitized; or

(b) If supplied by the child's parent, rinsed after use and returned daily to the parent.

13A.18.13 Educational Programs in Nonpublic Nursery Schools

Authority: Family Law Article, §§5-501, 5-505, 5-550—5-557.1, and 5-560—5-563; State Government Article, §10-617; Human Services Article, §1-202; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.)

.01 Purpose and Scope.

This chapter establishes requirements for approval to operate an educational program in a nonpublic nursery school located in a residence that is registered as a large family child care home.

.02 Definitions.

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

B. Terms Defined.

(1) "Certificate of approval" means the document issued by the State Board to the legal authority responsible for governing and operating a school if the school has met the requirements of this chapter.

(2) "Child care home registration" means the document issued by the Department pursuant to this subtitle that authorizes the recipient to operate a large family child care home.

(3) "Class" means a group of students scheduled to report regularly to a teacher at a particular time and place for the implementation of an educational program.

(4) "Department" means the State Department of Education.

(5) "Department representative" means an individual designated by the Department to determine compliance with this chapter.

(6) "Educational program" means an organized program of instruction that:

(a) Is provided by a teacher; and

(b) Meets the requirements of Regulation .07 of this chapter.

(7) "Institution of higher education (IHE)" means a college or university that is accredited by an accrediting commission of one of the regional associations of colleges and schools.

(8) "Montessori program" means an educational program based on the pedagogical philosophy of Dr. Maria Montessori, as reflected in the program's teacher qualifications, curriculum, instructional methods, and materials and equipment.

(9) "Nursery school" means an educational program for children who are 2 years old, 3 years old, 4 years old, or any consecutive sequence of these ages.

(10) "Office" means the central office or a regional office of the Department's Division of Early Childhood Development, Office of Child Care.

(11) "State Board" means the Maryland State Board of Education.

(12) "Teacher" means an individual who:

(a) Provides instruction to children enrolled in an educational program; and

(b) Meets the requirements of Regulation .06B of this chapter.

.03 Approval to Operate an Educational Program — General Requirements.

A. A provider may be approved to operate an educational program in a nonpublic nursery school only if:

(1) The provider holds a valid registration to operate a large family child care home; and

(2) The educational program would not be operated in the living space of the residence where the child care home is located.

B. Unless a provider chooses to cease operating an educational program, approval to operate the program, once granted, shall continue as long as the:

(1) Child care home registration remains in effect;

(2) Educational program is operated according to the terms under which approval to operate was granted; and

(3) Provider remains in full compliance with all applicable requirements of this chapter.

C. Approval to operate an educational program in a nonpublic nursery school becomes void if the nonpublic nursery school's approval is suspended or revoked, or the child care home registration is suspended or revoked and the provider:

(1) Does not appeal the suspension or revocation action; or

(2) Appeals the suspension or revocation action and the action is upheld through the administrative hearing process or notice of deficiencies hearing before the State Board in accordance with Education Article, §2-206, Annotated Code of Maryland.

D. A provider who has ceased operating an educational program subject to the requirements of this chapter shall promptly return to the office the child care home registration that certifies approval to operate the educational program.

E. A certificate of approval to operate an educational program that was issued to the provider prior to January 1, 2012, shall remain in effect.

.04 Approval to Operate an Educational Program — Specific Requirements.

A. Application for Approval.

(1) Application for approval shall be made in a manner and form and according to timelines established by the office.

(2) The applicant shall submit all information that the office considers necessary in order to ascertain compliance with the requirements of this chapter.

(3) A provider who is already approved to operate an educational program may not apply for approval to operate another educational program if the educational program for which the provider is currently approved is not in full compliance with all applicable requirements of this chapter.

B. When the office is satisfied that the requirements of this chapter have been met, the office shall issue to the applicant a child care home registration that certifies approval to operate an educational program.

C. The child care home registration shall specify the terms under which approval to operate an educational program has been granted, including the:

(1) Hours, days, and months of approved operation; and

(2) Ages of children who may be enrolled in the program.

D. If the provider intends to change the terms under which approval has been granted, the provider shall:

(1) Notify the office in writing at least 60 days before the occurrence of any change or changes; and

(2) Furnish any information the office considers necessary to approve the change or changes planned by the provider.

E. A provider may not seek approval of a change in the terms of the approval under any one or combination of the following circumstances:

(1) The educational program demonstrates an area or areas of noncompliance;

(2) The office has received and is investigating a complaint alleging that the educational program is in violation of one or more regulations under this chapter;

(3) The office is implementing a sanction or an enforcement action against the child care home registration; or

(4) A deficiency hearing is pending before the State Board in accordance with Education Article, §2-206, Annotated Code of Maryland.

F. Notwithstanding the requirement established in §E of this regulation, a provider may seek approval of a change in the terms of the approval if approval of the change is the means for the provider to demonstrate compliance with this chapter.

G. A provider may not implement a change in the terms of approval until the office has issued a revised child care home registration that reflects the change.

H. A provider shall inform the office in writing at least 30 days before the provider ceases operating an educational program.

.05 Compliance and Inspections.

A. Continued approval to operate an educational program is conditioned on the provider's maintaining compliance with this chapter.

B. To evaluate compliance with this chapter, the office may inspect the educational program, with or without prior notice to the provider, at any time during the approved hours of operation of the program.

C. During an inspection, the provider shall permit the Department representative access to any activity, person, material, document, or other information or source of information connected with the educational program that is considered necessary by the Department representative for the purpose of the inspection.

D. Following each inspection of the educational program, the office shall provide the provider with a written report of all findings of the inspection.

E. If the educational program fails to demonstrate compliance with the requirements of this chapter, the office shall notify the provider in writing of the:

(1) Regulation or regulations with which the program does not demonstrate compliance;

(2) Fact or facts that demonstrate the program's noncompliance with each regulation;

(3) Action or actions the provider is required to take to demonstrate compliance with each regulation; and

(4) Date by which the program is required to demonstrate compliance with each regulation.

F. Sanctions.

(1) Failure to maintain compliance with applicable requirements of this chapter may result in a sanction by the office, including restriction, suspension, or revocation of the approval to operate the educational program.

(2) Sanctions against an educational program located in a child care home may be severable.

.06 Personnel Qualifications.

A. Educational Program Administrator.

(1) The educational program shall have an administrator who is responsible for the day-to-day administration of the educational program.

(2) The educational program administrator at a minimum shall meet the standards established in §B(3) of this regulation.

(3) The provider shall have a written position description that states the duties and responsibilities of the educational program administrator.

(4) The educational program administrator shall have sufficient time during each educational program day to carry out the duties and responsibilities stated in the written position description of the educational program administrator.

B. Teachers.

(1) An educational program shall have a teacher to implement the educational program in each class.

(2) A teacher, regardless of whether the employment status of the teacher is full-time, part-time, paid, volunteer, or substitute, shall meet the requirements of §B(3) of this regulation.

(3) A teacher who provides instruction in language and literacy development, mathematical and scientific thinking, or social studies shall hold or have completed:

(a) A bachelor's degree from an IHE;

(b) 120 semester hours of college credit from an IHE; or

(c) A foreign credential that is determined by the Department to be equivalent to a bachelor's degree from an IHE.

(4) In addition to meeting the requirements of §B(3) of this regulation, a teacher employed in a Montessori program shall also hold a Montessori diploma for the level of the individual's assignment.

(5) If the degree, college credit, or foreign credential required under §B(3) of this regulation does not include at least 6 semester hours of approved early childhood coursework, the teacher shall, in addition:

(a) Hold or have completed:

(i) The Child Development Associate Credential issued by the Child Development Associate National Credentialing Program; or

(ii) 6 semester hours, 90 clock hours or their equivalent of approved preservice training; or

(b) Be certified by the Department as a teacher for early childhood in nursery through third grade.

(6) An individual approved as a teacher by the Department before July 1, 2010, shall remain qualified for that position as long as the individual is continuously employed as a teacher.

(7) A teacher in an educational program shall complete at least 12 clock hours of approved continued training per full year of employment, measured from date of hire, in that position.

C. An individual who provides assistance to a teacher in a class is not required to meet the requirements of §B(3) or (7) of this regulation.

D. Written Statement of Teacher Qualifications. A provider shall:

(1) Maintain a written statement of the qualifications of each teacher who implements the educational program; and

(2) On request by a parent or legal guardian of a child enrolled, or being considered for enrollment, in the educational program, give to the parent or legal guardian a written statement of the qualifications of each teacher who implements the educational program.

.07 Educational Program.

A. Program. The provider shall implement and maintain at the nonpublic nursery school a written curriculum of the nonpublic nursery school's educational program for the development of skills for each approved nursery school age in the following areas:

(1) Personal and social development;

(2) Language and literacy development;

(3) Mathematical and scientific thinking;

(4) Social studies;

(5) The arts; and

(6) Physical development and health.

B. Instructional Materials and Equipment. The provider shall own and maintain the nonpublic nursery school instructional materials and equipment required to implement the written curriculum of the educational program specified in §A of this regulation.

.08 Child Records.

A. The provider shall maintain a cumulative record for each child enrolled in the educational program.

B. Each child's record shall include the:

(1) Nonpublic nursery school's name;

(2) Nonpublic nursery school's address;

(3) Nonpublic nursery school's telephone number;

(4) Child's first, middle, and last names;

(5) Child's month, day, and year of birth;

(6) Child's home address;

(7) Month, day, and year the child initially entered the educational program;

(8) Age on enrollment in the educational program;

(9) Month, day, and year the child withdrew from the educational program, if applicable;

(10) Child's performance information in each curricular area;

(11) Code for the meaning of performance information; and

(12) Number of days the child attended in each school year.

C. The requirements of §B(1)–(8) of this regulation are met by compliance with child record requirements set forth at COMAR 13A.18.03.04C.

D. Age of Admission.

(1) Except as provided by §D(2) of this regulation, a child shall be 2 years old, 3 years old, or 4 years old on or before September 1 of a school year to be age-eligible for admission during that school year to a nonpublic nursery school program approved under this chapter.

(2) A nonpublic nursery school may adopt policies and procedures permitting, on request by a child's parent or guardian, and if a nonpublic nursery school determines that a child demonstrates capabilities warranting early admission, a:

(a) 2-year-old child to be admitted to a 3-year-old nursery school program; or

(b) 3-year-old child to be admitted to a 4-year-old nursery school program.

.09 Health, Fire Safety, and Zoning.

A. A provider shall obtain and maintain documentation verifying current compliance with health, fire safety, and zoning regulations applicable to a nonpublic nursery school.

B. The requirements of §A of this regulation are met by complying with pertinent health, fire safety, and zoning requirements set forth under this subtitle.

.10 Procedures and Sanctions for Noncompliance — Educational Programs.

If the Department believes that a nonpublic nursery school does not meet the conditions or standards on which the certificate of approval of the school was based, the Department shall implement procedures and sanctions for noncompliance approved by the State Board.

13A.18.14 Inspections, Complaints, and Enforcement

Authority: Family Law Article, §§5-501, 5-505, 5-550—5-557.1, and 5-560—5-563; State Government Article, §10-617; Human Services Article, §1-202; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.)

.01 Inspections.

A. The office shall inspect each child care home:

(1) On an announced basis before issuing a certificate of initial registration or continuing registration; and

(2) On an unannounced basis, at least once within each 12-month period after the date that a certificate of initial registration or continuing registration was issued to the provider.

B. The provider or staff member shall permit inspection of all areas of the home by the agency representative during the provider's hours of operation.

C. The agency representative may make inspections, in addition to the announced and unannounced inspections specified in §A of this regulation, without prior notice to the provider.

D. Upon request, the provider or staff member shall make the records required by this subtitle available to the agency representative for inspection and copying.

E. A provider or staff member may request satisfactory identification from the agency representative before admitting the person for an inspection.

F. A provider may appeal a finding of noncompliance with this subtitle by requesting a review of findings by the regional office or the central office of the Agency.

.02 Complaints.

The office shall investigate:

A. Both written and oral complaints that relate to a potential violation of a regulation under this subtitle, including anonymous complaints; and

B. Complaints of unregistered family child care.

.03 Warnings.

If an investigation of a complaint or an inspection of a child care home indicates a violation of this subtitle that does not present an immediate threat to the health, safety, and welfare of a child in care, the office may issue a warning in writing, on an inspection report or by separate letter, that states:

A. The violation found, citing the regulation;

B. The time period for correcting the violation; and

C. That failure to correct the violation may result in sanctions being imposed or in suspension or revocation of the registration.

.04 Intermediate Sanctions.

A. Upon determining that a provider has violated or a child care home fails to meet any of the regulations of this subtitle, the office may:

(1) Restrict the age or number of children accepted for care;

(2) Reduce the number of children in care;

(3) Require the provider to receive remedial instruction in a specified content area;

(4) Increase the frequency of monitoring of the home during a specified period of time;

(5) Enter into an agreement with the provider detailing requirements in addition to those above, including time limits for compliance; and

(6) Notify, or require the provider to notify, a parent of a child who may be affected by the situation for which a sanction has been imposed.

B. If the office determines that the provider has violated a condition or requirement of the intermediate sanction, the office may suspend or revoke the registration.

.05 Nonemergency Suspension.

A. The office may suspend the certificate of registration, for a period of not more than 60 calendar days, upon determining that the provider or the child care home is in violation of any of the regulations under this subtitle and that the health, safety, or welfare of a child in the home is threatened.

B. The office shall notify the provider in writing of the suspension at least 20 calendar days before the effective date stating:

(1) The effective date and period of the suspension;

(2) The reason for suspension;

(3) The regulation with which the provider has failed to comply that is the basis for the suspension;

(4) Corrections required to ensure reinstatement of the certificate of registration;

(5) That the provider shall stop providing child care on the effective date of the suspension unless the provider requests a hearing;

(6) That the provider is entitled to a hearing if requested in writing within 20 calendar days of the delivery of the notice;

(7) The procedure to be used if the provider wishes to request a hearing to appeal the decision of the office;

(8) That the suspension shall be stayed if a hearing is requested;

(9) That, if the suspension is upheld following the hearing, the provider shall cease providing child care for the period of the suspension;

(10) That the suspension may lead to revocation; and

(11) That the provider is required to surrender the certificate of registration to the office when the suspension becomes effective.

C. The office shall notify the parents of the children in care of the suspension.

D. By the end of the suspension period, the office shall:

(1) Reinstatement the certificate of registration and return it to the provider; or

(2) Revoke the certificate of registration.

.06 Emergency Suspension.

A. The office may immediately suspend the certificate of registration for a period of not more than 45 calendar days upon finding that a child's health, safety, or welfare imperatively requires emergency action.

B. The office shall hand-deliver a written notice to the provider informing the provider of the emergency suspension, giving the reasons for the action, and notifying the provider of the right to request, within 30 days of the delivery of the notice, a hearing before the Superintendent's designee.

C. When the certificate of registration is to be suspended immediately:

- (1) The office shall repossess the certificate of registration;
- (2) The provider shall stop providing child care immediately;

and

(3) The office shall notify the parents of the children in care of the suspension and make every reasonable effort to assist the parents of the children in making other child care arrangements.

D. If a hearing is requested by the provider, the Superintendent's designee shall hold a hearing within 7 calendar days of the date of the request.

E. Within 7 calendar days of the hearing, a decision concerning the emergency suspension shall be made by the Superintendent's designee.

F. If the decision does not uphold the emergency suspension, the provider may resume providing child care.

G. By the end of the suspension period, the office shall:

- (1) Reinstate the certificate of registration and return it to the provider; or
- (2) Revoke the certificate of registration.

.07 Revocation.

A. The office may revoke a certificate of registration if the:

(1) Provider or child care home is in violation of one or more of the regulations under this subtitle and the health, safety, or welfare of a child in the home is threatened;

(2) Provider misrepresented or offered false information on the application or on any form or report required by the office;

(3) Provider interferes with or obstructs the agency representative in the performance of the duties of the office;

(4) Provider fails to submit all documentation required to maintain the certificate of registration;

(5) Provider or staff member refuses to permit access to a child or to the space in the home used for child care by a parent or an agency representative during operating hours of the child care home;

(6) Terms or conditions of a sanction have been violated;

(7) Violations required to be corrected during a period of suspension have not been corrected and the period has ended;

(8) The provider fails to comply with the:

(a) Prohibitions on the use of an individual as an employee or a volunteer as set forth in COMAR 13A.18.06.03A — B and F, and .10B; or

(b) Child security requirements set forth in COMAR 13A.18.07.06;

(9) Provider permits an individual to have child supervision responsibilities after being notified by the office that the individual has been disapproved for that purpose;

(10) Evaluation of information provided to or acquired by the office indicates that the provider is unable to care for the welfare of children; or

(11) Provider admits a child for treatment foster care in the home, unless the child is placed in the home in a preadoptive capacity.

B. If the office decides to revoke a certificate of registration, the office shall notify the provider in writing at least 20 calendar days in advance of the revocation, stating:

(1) The effective date of the revocation;

(2) The reason for the revocation;

(3) The regulation with which the provider has failed to comply that is the basis for the revocation;

(4) That the provider shall stop providing child care on the effective date of the revocation;

(5) That the provider is entitled to a hearing if requested in writing within 20 calendar days of the delivery of the notice;

(6) The procedure to be used if the provider wishes to request a hearing to appeal the decision of the office;

(7) The revocation shall be stayed if the hearing is requested, unless the revocation immediately follows an emergency suspension period; and

(8) That the provider is required to surrender the certificate of registration to the office when the revocation becomes effective.

C. The office shall notify the parents of the children in care of the revocation.

.08 Penalties.

A. An individual found to be operating a child care home, or advertising a family child care service, without a valid family child care registration is guilty of a misdemeanor and on conviction is subject to a fine not exceeding:

(1) \$1,500 for the first violation; and

(2) \$2,500 for a second or subsequent violation.

B. The office may institute legal proceedings to:

(1) Enjoin any individual not registered who is providing family child care from continuing to operate; or

(2) Ask a court in the jurisdiction of the child care home to impose a fine of up to the maximum amount permitted by law on an individual found to be operating in violation of this subtitle.

.09 Civil Citations.

A. The office may issue a civil citation imposing a civil penalty to an individual who provides unregistered family child care in violation of the requirements of this subtitle.

B. Assessment of Penalty.

(1) Subject to §B(3) of this regulation, an individual to whom a civil citation is issued is subject to a civil penalty in the amount of:

(a) \$250 for the first violation;

(b) \$500 for the second violation; and

(c) \$1,000 for the third and each subsequent violation.

(2) Each day that unregistered family child care occurs in violation of the requirements of this subtitle is a separate violation under this regulation.

(3) The total amount of civil penalty imposed against an individual in an action under this regulation may not exceed \$5,000.

C. An individual against whom a civil penalty has been imposed under this regulation shall pay the full amount of the penalty promptly to the Department, as instructed by the civil citation or as otherwise directed by the office.

D. Appeals.

(1) An individual may appeal the imposition of a civil penalty under this regulation by filing an appeal with the office as instructed by the civil citation or as otherwise directed by the office.

(2) Appeals are conducted in accordance with the provisions of COMAR 13A.18.15.

13A.18.15 Administrative Hearings

Authority: Family Law Article §§5-515—5-517 and 5-554; State Government Article, §10-204; Annotated Code of Maryland

.01 Scope.

A. This chapter applies to hearings concerning actions taken by the Office of Child Care which adversely impact on child care home registrations, such as registration denials, revocations, suspensions, reductions in capacity, limitations on the ages or numbers of children who may be admitted to a child care home, or employment exclusions pursuant to COMAR 13A.18.06.03A or B of this subtitle.

B. The Superintendent has delegated authority to administrative law judges of the Office of Administrative Hearings to make the final decisions of the Superintendent on those actions listed in §A of this regulation. A decision by an administrative law judge of the Office of Administrative Hearings in a family child care registration case is the final decision of the highest administrative authority in the case and thus is directly appealable to the circuit court in the jurisdiction where the child care home is located, pursuant to State Government Article, §10-222, Annotated Code of Maryland.

C. The Superintendent has delegated authority to administrative law judges of the Office of Administrative Hearings to make the final decisions of the Superintendent on those actions listed in §A of this regulation. A decision by an administrative law judge of the Office of Administrative Hearings in a family child care registration case is the final decision of the highest administrative authority in the case and thus is directly appealable to the circuit court in the jurisdiction where the child care home is located, pursuant to State Government Article, §10-222, Annotated Code of Maryland.

.02 Definitions.

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

B. Terms Defined.

(1) "Administrative law judge" means a hearing officer designated by the Maryland Office of Administrative Hearings to render the final decision of the Superintendent in a hearing.

(2) "Appellant" means the individual requesting the hearing or appealing a decision, or that individual's legal representative.

(3) "Applicant" means an individual applying for a registration to operate a child care home.

(4) "Capacity" means the number of children who may be in care at a child care home at the same time.

(5) "Days" means calendar days.

(6) "Department" means the State Department of Education.

(7) Emergency Action.

(a) "Emergency action" means an action which is effective immediately because of danger to children's health or safety.

(b) "Emergency action" may include an emergency suspension, an immediate reduction in capacity, an immediate limitation on the ages or numbers of children who may be admitted to care, or an employment exclusion pursuant to Chapter 06.03A or B of this subtitle.

(8) "Filed" means received in writing by the Office of Child Care.

(9) "Filing date" is the date a hearing request is received by the Office of Child Care.

(10) "Office" means the central office or a regional office of the Office of Child Care.

(11) "Office of Administrative Hearings" means the administrative unit of Maryland government which is responsible for processing requests for hearings, for scheduling and conducting hearings, and for rendering decisions pursuant to State Government Article, §9-1601 et seq., Annotated Code of Maryland.

(12) "Party" means the appellant and the Office of Child Care.

(13) "Provider" means a person registered to provide family child care.

(14) "Registration" means a certificate issued by the Department which gives a person legal permission to operate a child care home.

(15) "Superintendent" means the State Superintendent of Schools.

.03 Hearing Requests.

A. A hearing shall be held when an applicant or provider requests a hearing to contest:

(1) The denial of an application for registration;

(2) A revocation or suspension of a registration; or

(3) Any other action that adversely impacts on registration, including, but not limited to:

(a) The setting of a provider's capacity at a number below that requested;

(b) A reduction in capacity; or

(c) A limitation on the ages or numbers of children who may be admitted to the child care home.

B. Nonemergency Action Hearing Requests.

(1) All nonemergency action hearing requests shall be forwarded in writing to the Office and shall state the name and address of the provider, and the effective date and nature of the action appealed from.

(2) A hearing request shall be filed not later than 20 days after the date of the notice of the action taken by the Office.

(3) The Office shall forward a hearing request to the Office of Administrative Hearings within 10 days of the filing date.

(4) A hearing decision shall be rendered by the Office of Administrative Hearings within 90 days of the filing date.

(5) Any nonemergency action is stayed if a hearing request is timely filed, unless the action is:

(a) A revocation which immediately follows an emergency suspension period; or

(b) A denial which follows the expiration of the provisional period of a registration that was issued on a provisional basis.

C. Emergency Action Hearing Requests.

(1) All emergency action hearing requests shall be filed with the Office within 30 days of the hand-delivery of the notice of the Office's action, and shall state the name and address of the provider, and the effective date and action appealed from.

(2) The Office shall notify the Office of Administrative Hearings at once upon receipt of an emergency action hearing request. Oral notification shall be followed by written notification within 24 hours.

(3) A hearing shall be conducted within 7 days of the filing date of the hearing request.

(4) A decision by the administrative law judge shall be rendered within 7 days after the conclusion of the hearing.

(5) The filing of a hearing request may not stay an emergency action.

.04 Preliminary Conference.

A. The Office shall hold a preliminary conference, on request of an appellant, before a hearing on an action.

B. The conference is optional and does not replace the hearing process.

C. The conference may be attended by a representative of the Office, the appellant, and the appellant's representative.

D. The conference may lead to an informal resolution of the dispute. However, a hearing shall be held unless one of the parties submits a written withdrawal of the hearing request to the Office of Administrative Hearings.

.05 Denial or Dismissal of a Hearing Request.

A. The Office of Administrative Hearings may deny a request for a hearing if:

(1) The issue appealed is not one which adversely affects the registration of a child care home; or

(2) The date of the request is not within the required time limits.

B. The Office of Administrative Hearings may dismiss an appeal if the appellant:

- (1) Withdraws the request in writing; or
- (2) Without good cause, does not appear at the hearing.

.06 Hearing and Appeal Procedures.

A. Notice to Appellant.

(1) For nonemergency hearings, the Office of Administrative Hearings shall, by regular mail, notify the Office and the appellant of the time, date, and place of the hearing at least 20 days in advance. For rescheduled nonemergency hearings, a 10-day notice is required. For all emergency action hearings, at least 3 days advance notice is required.

(2) The notice to the appellant shall:

- (a) Refer to the regulations governing the hearing procedure; and
- (b) Advise the appellant of:
 - (i) The right to be represented by a lawyer;
 - (ii) The right to present documents and witnesses in support of the appeal;
 - (iii) Whom to call if the appellant cannot attend the hearing; and
 - (iv) The fact that failure to attend the hearing without good cause may lead to dismissal.

(3) The Office shall mail the appellant a copy of these administrative hearing regulations when the request for a hearing is filed.

B. Rescheduling of Nonemergency Action Hearings. The appellant, the Office, or the Office of Administrative Hearings may request a change in the hearing date. If the Office of Administrative Hearings finds that good cause for delay exists, another date shall be set. The time limit for rendering a decision established by Regulation .03B(4) of this chapter is extended by the period of delay due to a postponement requested by the appellant.

C. Rescheduling of Emergency Action Hearings. Emergency action hearings may only be rescheduled by the Office of Administrative Hearings with the consent of both parties or on motion of a party, if substantial prejudice is demonstrated. Only one postponement of an emergency action hearing may be granted.

D. The appellant may examine the appellant’s family child care registration record for the purpose of discovering information pertinent to the appeal before the hearing.

E. By agreement, the appellant and the Office may exchange witness lists and documents before the hearing.

F. The procedures in §§D and E of this regulation do not constitute good cause for delay of a hearing.

.07 Conduct of Hearing.

A. The hearing shall be conducted by an administrative law judge.

B. At the hearing, the appellant and a representative of the Office may present witnesses, documentary evidence, and oral argument and may cross-examine any witness. A document introduced into evidence by a party may be examined by the opposing party.

C. The transcript or tape of the proceedings, together with all documents filed in the hearing proceedings and the final decision of the administrative law judge, constitute the exclusive record of the hearing.

.08 Decision.

A. The administrative law judge shall:

- (1) Base the decision on the complete record; and
- (2) Determine whether the Office correctly applied State regulations in effect at the time it reached its decision.

B. The final decision of the administrative law judge shall be accompanied by findings of fact and conclusions of law.

C. The final decision shall be binding upon the Department and shall be implemented immediately unless otherwise specifically indicated in the decision.

D. The decision of the Office of Administrative Hearings in cases under this chapter constitutes the decision of the Department.

E. A copy of the decision shall be delivered or mailed promptly to each party or the attorney of record.

F. A party dissatisfied with the decision of the administrative law judge may appeal that decision directly to the circuit court of the appropriate jurisdiction within 30 days from the date notice of the decision is sent to the party, or as otherwise provided in Maryland Rules 7-201—7-211.

13A.18.16 Public Access to Licensing Records

Authority: Family Law Article, §§5-501, 5-505, 5-550—5-557.1, and 5-560—5-563; State Government Article, §10-617; Human Services Article, §1-202; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.)

.01 Definitions.

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

B. Terms Defined.

(1) “Confirmed complaint” means a determination by the Department or office after an investigation that the violation of a regulation of this subtitle that was alleged in the complaint has occurred or is occurring.

(2) “Custodian of record” means an authorized individual employed by the Department or office who has physical custody and control of licensing records.

(3) “Licensing records” means all papers, computerized records, correspondence, forms, books, cards, photographs, photostats, films, microfilms, sound recordings, charts, maps, drawings, or other written documents, regardless of physical form or characteristics, maintained or stored by the Department or the office in connection with the registering of a person or a child care home to provide child care.

(4) “Official custodian of record” means the Superintendent or the Superintendent’s designee who is responsible for the maintenance, care, and storage of the Department’s licensing records.

(5) “Requester” means an individual, business, corporation, partnership, association, organization, or governmental agency that requests inspection of, or information from, licensing records.

(6) “Sociological information” means any of the following information about a provider, a staff member, a volunteer, or a resident in the child care home:

- (a) Social Security number;
- (b) Personal address;
- (c) Personal phone number;
- (d) Information regarding marital status, dependents, or relatives; and
- (e) Information regarding employment status, including employment application.

(7) “Unsubstantiated complaint” means a complaint of an alleged violation of a regulation of this subtitle that the Department or office, after an investigation, has been unable to confirm as having occurred or to rule out as not having occurred.

.02 Disclosure of Information from Licensing Records.

A. Except as prohibited or restricted by applicable law or regulation, the custodian of record may make the following information from licensing records available to a requester:

- (1) Findings of inspections conducted by the office in registered child care homes;
- (2) Records of complaint forms pertaining to confirmed or unsubstantiated complaints;
- (3) Copies of certificates of registration, including those on provisional status;
- (4) Variances;
- (5) Correspondence and documents requiring abatement of noncompliance with the regulations of this subtitle, including compliance agreements;
- (6) Correspondence and documents pertaining to enforcement actions taken by the Department or office against a provider or a child care home, including denial letters, sanctions, emergency suspensions, and revocations; and
- (7) Correspondence regarding requests for inspection of licensing records under this regulation.

B. The custodian of record may not disclose sociological information to a requester, except that this information may be disclosed:

- (1) To public employees in the performance of their public duties;
- (2) To parties litigating claims for unemployment insurance to the extent the sociological information would be available to private parties in litigation; or
- (3) When required by a duly issued subpoena.

.03 Request for Information from Licensing Records.

A. A written request shall be filed with the custodian of record in order to:

- (1) Conduct a physical inspection of licensing records; or
- (2) Obtain a written or electronic:
 - (a) Copy of licensing records; or
 - (b) Report of information from licensing records that the official custodian of records does not already make available to the general public.

B. The written request shall:

- (1) Contain the applicant's name, address, and telephone number;
- (2) Be signed by the applicant; and
- (3) Reasonably identify by brief description the record sought.

C. A request may be made in any form or format if it does not involve:

- (1) Physical inspection of licensing records; or
- (2) Preparation of a written or electronic:
 - (a) Copy of licensing records; or
 - (b) Report of information from licensing records.

D. The custodian of record may charge a reasonable fee for:

- (1) The reproduction of documents sought;
- (2) Official or employee time expended searching for requested records; or
- (3) Any time expended in preparing records for inspection or copying.

.04 Compelling Public Purpose.

A compelling public purpose shall exist for the custodian of record to permit inspection of licensing records other than the records specified under State Government Article, §10-617(h)(2), Annotated Code of Maryland.

BERNARD J. SADUSKY, ED.D.
Interim State Superintendent of Schools

Title 24
DEPARTMENT OF BUSINESS
AND ECONOMIC
DEVELOPMENT
Subtitle 05 ECONOMIC
DEVELOPMENT

24.05.25 Film Production Tax Exemption

Authority: Economic Development Article, §6-203, Annotated Code of Maryland

Notice of Proposed Action

[11-353-P]

The Secretary Business and Economic Development proposes to amend Regulation .04 under COMAR 24.05.25 **Film Production Tax Exemption**.

Statement of Purpose

The purpose of this action is to remove a filing requirement imposed on a recipient of a film production tax exemption.

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 Jack Gerbes, Director, Maryland Film Office, Department of Business and Economic Development, 401 East Pratt Street, 14th Floor, Baltimore, MD 21202, or call 410-767-6343, or email to jack@marylandfilm.org, or fax to 410-333-0044. Comments will be accepted through January 3, 2012. A public hearing has not been scheduled.

.04 Certification Procedures.

A. (text unchanged)

B. If a film producer or film production company is considered eligible to receive the film production activity tax exemption, the Maryland Film Office shall issue a numbered tax exemption Certificate of Eligibility and a Comptroller Buyer Certification to the film producer or film production company, and shall forward a copy of the Certificate of Eligibility to the Comptroller. The Buyer Certification shall include a list of examples of tangible personal property and taxable services that are eligible and ineligible for the tax exemption. [The Maryland Film Office shall also issue a Budget Expenditure Form to be completed by the film producer or film production company and returned to the Maryland Film Office within 5 days after the end date of production.]

C.—D. (text unchanged)

CHRISTIAN S. JOHANSSON
Secretary of Business and Economic Development

Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 11 AIR QUALITY

Notice of Proposed Action

[11-347-P]

The Secretary of the Environment proposes to amend:

- (1) Regulation .01 under **COMAR 26.11.01 General Administrative Provisions;**
- (2) Regulation .01 under **COMAR 26.11.02 Permits, Approvals, and Registration;** and
- (3) Regulation .14 under **COMAR 26.11.06 General Emission Standards, Prohibitions, and Restrictions.**

Statement of Purpose

The purpose of this action is to implement the U.S. Environmental Protection Agency's (EPA) action to defer, for a period of 3 years, the Prevention of Significant Deterioration (PSD) and Title V permitting requirements related to carbon dioxide (CO₂) emissions from bioenergy and other biogenic stationary sources (biogenic CO₂). The EPA Rule "Deferral for CO₂ Emissions from Bioenergy and Other Biogenic Sources under the Prevention of Significant Deterioration and Title V Programs" (76 FR 43490) ("Deferral Rule") was published on July 20, 2011, and became effective that day. The Rule amended the "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule" (75 FR 31514) published in the Federal Register on June 3, 2010.

During the 3-year deferral period, EPA will conduct a detailed examination of the science associated with biogenic CO₂ emissions from stationary sources. This study will consider technical issues that EPA must resolve in order to account for biogenic CO₂ emissions in ways that are scientifically sound and also manageable in practice.

The appropriate parts of this action will be submitted to EPA for approval as part of Maryland's State Implementation Plan and Title V Program. The Department will request approval of the regulations in their entirety.

Biogenic CO₂ Emissions

Biogenic CO₂ emissions are defined as emissions of CO₂ from a stationary source directly resulting from the combustion or decomposition of biologically based materials other than fossil fuels and mineral sources of carbon. Examples include, but are not limited to:

- CO₂ generated from the biological decomposition of waste in landfills, wastewater treatment or manure management processes;
- CO₂ from the combustion of biogas collected from biological decomposition of waste in landfills, wastewater treatment or manure management processes;
- CO₂ from fermentation during ethanol production;
- CO₂ from combustion of the biological fraction of municipal solid waste or biosolids;
- CO₂ from combustion of the biological fraction of tire-derived fuel; and
- CO₂ derived from combustion of biological material, including all types of wood and wood waste, forest residue, and agricultural material.

Explanation of Specific Amendments

The following regulations have been amended to implement EPA's Deferral Rule:

1. COMAR 26.11.01.01B(6-1) — the CO₂ equivalent emissions (CO₂e) calculation procedure was amended to defer, for a period of 3 years, the inclusion of biogenic CO₂ in the mass amount of emissions for CO₂.
2. COMAR 26.11.01.01B(37) and COMAR 26.11.06.14 — The citations to 40 CFR 52.21 in the definition of "PSD Source" and in the general requirements for PSD sources have been updated to include a reference to EPA's Deferral Rule.
3. COMAR 26.11.02.01B(44) — the definition of "Regulated air pollutant" was amended to include the deferral of requirements related to carbon dioxide (CO₂) emissions from biogenic CO₂ under EPA's Deferral Rule.
4. COMAR 26.11.02.01C(1) — the definition of "Major source" has been amended to update the citation to 40 CFR 70.2 to include a reference to EPA's Deferral Rule.

Sources Affected

Stationary sources that emit CO₂ directly resulting from the combustion or decomposition of biologically based materials other than fossil fuels and mineral sources of carbon. Examples include, but are not limited to those provided in Table 1:

TABLE 1—EXAMPLES OF AFFECTED ENTITIES
BY NAICS* CATEGORY

Category: Biomass combustion
NAICS:
221 Electric utilities burning biomass fuels
321 Wood products manufacturing, and wood pellet fuel manufacturing
322 Pulp and paper manufacturing
Category: Municipal solid waste combustion
NAICS: 562213 Solid waste combustors and incinerators
Category: Sources/users of biogas
NAICS:
112 Animal production manure management operations
221320 Sewage treatment facilities
562212 Solid waste landfills
Category: Fermentation processes
NAICS:
325193 Ethanol manufacturing
325411 Medicinal and botanical manufacturing
Category: Other
NAICS: 311/312 Food/Beverage processors burning agricultural biomass residues, using fermentation processes, or producing/using biogas from anaerobic digestion of waste materials.

* The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. NAICS was developed under the auspices of the Office of Management and Budget (OMB), and adopted in 1997 to replace the Standard Industrial Classification (SIC) system

Emissions Reductions Expected from This Action

None. EPA's 3-year deferral was implemented to provide time for EPA to account for biogenic CO₂ emissions in ways that are scientifically sound and also manageable in practice.

Comparison to Federal Standards

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

Estimate of Economic Impact

I. Summary of Economic Impact.

Economic Impact on Affected Sources

EPA stated that this rule will “relieve the necessary analysis and corresponding workload requirements for most affected facilities, including small businesses, subject to the PSD and Title V programs.” (76:43505)

Economic Impact on Small Businesses

EPA stated that this rule will “relieve the necessary analysis and corresponding workload requirements for most affected facilities, including small businesses, subject to the PSD and Title V programs. As a result, the program changes provided in this rule are not expected to result in a significant economic impact on a substantial number of small entities. In addition, EPA determined that the final rulemaking would not have a significant impact on small governmental jurisdictions. The EPA has therefore concluded that this final action will not have a significant economic impact on a substantial number of small entities.” (76:43505)

Economic Impact on the Department

EPA has temporarily removed the additional burdensome analysis associated with analyzing and accounting for biogenic CO₂ emissions as part of processing permit applications from biomass facilities. EPA has stated that during this 3-year deferral period it will develop a consistent and practical framework for determining net carbon cycle impacts (76:43496).

II. Types of Economic Impact.

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

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

D. EPA stated that this rule will “relieve the necessary analysis and corresponding workload requirements for most affected facilities, including small businesses, subject to the PSD and Title V programs.” (76:43505)

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

The Department of the Environment will hold a public hearing on the proposed action on January 11, 2012 at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Conference Rooms, Baltimore, Maryland 21230-1720. Interested persons are invited to attend and express their views. Comments may be sent to Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration, Department of the Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or emailed to drabin@mde.state.md.us. Comments must be received not later than January 11, 2012 or be submitted at the hearing. For more information, call Deborah Rabin at (410) 537-3240.

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

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

26.11.01 General Administrative Provisions

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

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (6) (text unchanged)

(6-1) CO₂ Equivalent Emissions (CO₂e).

(a) (text unchanged)

(b) “CO₂ equivalent emissions (CO₂e)” shall be computed as follows:

(i) [Multiply] *Except as stated in §B(6-1)(b)(iii) of this regulation, multiply the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas’s associated global warming potential published at Table A-1 to Subpart A of 40 CFR Part 98 —Global Warming Potentials (74 FR 56395); [and]*

(ii) Sum the resultant values from §B(6-1)(b)(i) of this regulation for each gas to compute a tpy CO₂e; *and*

(iii) *Prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of nonfossilized and biodegradable organic material originating from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry and related industries as well as the nonfossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of nonfossilized and biodegradable organic material).*

(6-2) — (36) (text unchanged)

(37) “Prevention of Significant Deterioration (PSD) source” means any new or modified source subject to the provisions of 40 CFR §52.21, as published in the 2009 edition, as amended by the “Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule” (75 FR 31514) and the “Deferral for CO₂ Emissions from Bioenergy and Other Biogenic Sources under the Prevention of Significant Deterioration and Title V Programs”(76 FR 43490), including:

(a) — (d) (text unchanged)

(38) — (53) (text unchanged)

C. — D. (text unchanged)

26.11.02 Permits, Approvals, and Registration

Authority: Environment Article, §§1-101, 1-404, 2-101—2-103, 2-301—2-303, 2-401, 2-403, and 2-404, Annotated Code of Maryland

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (43) (text unchanged)

(44) “Regulated air pollutant” means the following:

(a) — (e) (text unchanged)

(f) A greenhouse gas (GHG) as defined in COMAR 26.11.01.01B(18-1) and subject to regulation under the “Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule” (75 FR 31514) and the “Deferral for CO₂ Emissions from Bioenergy and Other Biogenic Sources under the Prevention of Significant Deterioration and Title V Programs” (76 FR 43490).

(45) — (56) (text unchanged)

C. Major Source.

(1) “Major source” means a stationary source or group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person, or persons under common control, belonging to a single major industrial grouping and that is described as follows:

(a) — (c) (text unchanged)

(d) A GHG source shall not be considered a major stationary source of any GHG under §C(1)(b) of this regulation unless it is subject to regulation under paragraphs (1) and (2) of the definition of “Subject to regulation” in 40 CFR 70.2, as amended by “Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule” (75 FR 31514) and the “Deferral for CO₂ Emissions from Bioenergy and Other Biogenic Sources under the Prevention of Significant Deterioration and Title V Programs” (76 FR 43490).

(2) — (3) (text unchanged)

26.11.06 General Emission Standards, Prohibitions, and Restrictions

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

.14 Control of PSD Sources.

A. (text unchanged)

B. General Requirements.

(1) A person may not construct, modify, or operate, or cause to be constructed, modified, or operated, a Prevention of Significant Deterioration (PSD) source, as defined in COMAR 26.11.01.01B(37), which will result in violation of any provision of 40 CFR §52.21, as published in the 2009 edition, as amended by the “Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule” (75 FR 31514) and the “Deferral for CO₂ Emissions from Bioenergy and Other Biogenic Sources under the Prevention of Significant Deterioration and Title V Programs” (76 FR 43490).

(2) (text unchanged)

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

Subtitle 11 AIR QUALITY

Notice of Proposed Action

[11-346-P]

The Secretary of the Environment proposes to amend:

(1) Regulation .01 under COMAR 26.11.01 General Administrative Provisions; and

(2) Regulation .12 under COMAR 26.11.06 General Emission Standards, Prohibitions, and Restrictions.

Statement of Purpose

The purpose of this action is to:

(1) Update the definition of National Emission Standards for Hazardous Air Pollutants source (NESHAP source) under COMAR 26.11.01B(21)(b);

(2) Update the definition of New Source Performance Standard source (NSPS source) under COMAR 26.11.01B(23); and

(3) Update a cross reference to the NSPS definition in COMAR 26.11.06.12.

The definitions are being updated by directly incorporating by reference the federal definitions under 40 CFR Parts 63 and 60, as amended, respectively. This action removes the NESHAP and NSPS industrial category/sector lists under 26.11.01.01C and D and instead directly references the industrial category/sector standards under 40 CFR Parts 63 and 60.

Background

Under the Clean Air Act, standards are required to be established for substances and chemical groups that have been identified as hazardous air pollutants (HAPs).

Section 112 of the Clean Air Act sets the requirements for the federal control program for HAPs. NESHAPs are issued to set specific standards for HAPs from industrial sectors. These standards represent the maximum available control technology (MACT) or, in the case of some standards for area sources, the generally achievable control technology (GACT), that the sector could achieve. The level of emission controls required by NESHAPs is technology based. NESHAPs are regularly reviewed and revised by EPA and states take delegation to enforce the standards.

NSPS are required under Section 111 of the Clean Air Act. These standards are technology based and apply to specific categories of stationary sources identified in 40 CFR Part 60. The NSPS apply to new, modified and reconstructed facilities in specific source categories. The NSPS are developed and implemented by EPA and states take delegation to enforce the standards. EPA retains authority to implement and enforce the NSPS.

Sources Affected and Location

The proposed amendments apply to all sources affected by the federal NESHAP and NSPS requirements.

Requirements

The proposed amendments clarify the definitions of NESHAP and NSPS source as follows:

(1) NESHAP source: A source which is subject to the provisions of 40 CFR Part 63, as amended including Subpart B requirements for control technology determinations for major sources in accordance with Clean Air Act Sections 112(g) and (j); and

(2) NSPS source: A source which is subject to 40 CFR Part 60, as amended.

Expected Emissions Reductions

Emissions of HAPs are reduced as a result of implementing the NESHAP standards. Implementation of NSPS standards predominantly results in reduction of criteria pollutants. As EPA adds

new source categories to NESHAP and NSPS, those sources will be required to meet strict technology based emission limits.

Existing source categories covered by NESHAP and NSPS are already subject to the emission limits and no additional reductions will be achieved through this action. This action facilitates the implementation of NESHAP and NSPS standards as they are adopted and amended by EPA.

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 an impact on individuals with disabilities as follows:

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

Opportunity for Public Comment

The Department of the Environment will hold a public hearing on the proposed action on January 11, 2012 at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Conference Rooms, Baltimore, Maryland 21230-1720. Interested persons are invited to attend and express their views. Comments may be sent to Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration, Department of the Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or emailed to drabin@mde.state.md.us. Comments must be received not later than January 11, 2012, or be submitted at the hearing. For more information, call Deborah Rabin at (410) 537-3240.

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

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

26.11.01 General Administrative Provisions

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

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (20-1) (text unchanged)

(21) "National Emission Standards for Hazardous Air Pollutants source (NESHAP source)" means any:

(a) Source of asbestos, beryllium, mercury, vinyl chloride, benzene, or inorganic arsenic which is subject to the provisions of 40 CFR Part 61 (excluding Subparts B, H, I, K, Q, R, T, and W), as amended; or

(b) [One of the sources listed in §D of this regulation] *Source* which is subject to the provisions of 40 CFR Part 63, as amended.

(22) Reserved.

(23) "New Source Performance Standard source (NSPS source)" [(see §C of this regulation)] *means any source which is subject to 40 CFR Part 60, as amended.*

(24) — (53) (text unchanged)

[C.] — [D.] (proposed for repeal)

26.11.06 General Emission Standards, Prohibitions, and Restrictions

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

.12 Control of NSPS Sources.

A person may not construct, modify, or operate, or cause to be constructed, modified, or operated, a New Source Performance Standard (NSPS) source as defined in COMAR [26.11.01.01C] 26.11.01.01B(23), which results or will result in violation of the provisions of 40 CFR 60, as amended.

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

Subtitle 11 AIR QUALITY

Notice of Proposed Action

[11-348-P]

The Secretary of the Environment proposes to amend:

- (1) Regulation .04 under **COMAR 26.11.01 General Administrative Provisions**; and
- (2) Regulation .02 under **COMAR 26.11.19 Volatile Organic Compounds from Specific Processes**.

Statement of Purpose

The purpose of this action is to:

- (1) Establish methods, procedures, and requirements for the alternative testing of control devices under COMAR 26.11.19.02D;
- (2) Establish the method required to determine composite vapor pressure of solvent cleaning material under COMAR 26.11.19.02E;
- (3) Establish requirements for the handling of solvents and cleaning materials under COMAR 26.11.19.02I;
- (4) Update COMAR 26.11.19.02G(1) to include references to specific VOC Reasonably Available Control Technology (RACT) regulations that had not been adopted at the time this generic RACT regulation was adopted; and
- (5) Update COMAR 26.11.01.04 as needed because the test methods are referenced under COMAR 26.11.19.02.

Submission to EPA as Revision to Maryland's SIP (or 111(d) Plan, or Title V Program)

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

Background — COMAR 26.11.19.02D, E, and I Amendments

The methods, procedures, and work practice standards have been established by the U.S. EPA as part of the Control Techniques Guidelines (CTG) for: 1. Paper, Film, and Foil Coatings; 2. Industrial Cleaning Solvents; 3. Miscellaneous Metal and Plastic Parts Coatings; 4. Large Appliance Coatings; 5. Offset Lithographic Printing and Letterpress Printing; 6. Flat Wood Paneling Coatings; and 7. Flexible Package Printing.

EPA develops CTGs as guidance on control requirements for specific source categories. States can either follow the CTGs or adopt more restrictive standards. MDE proposes to adopt the methods,

procedures, and work practice standards for different categories as they are established in the EPA CTGs. The amendments affect all sources and processes covered by the chapter.

EPA finalized CTGs for seven industrial categories: 1. Paper, Film, and Foil Coatings; 2. Industrial Cleaning Solvents; 3. Miscellaneous Metal and Plastic Parts Coatings; 4. Large Appliance Coatings; 5. Offset Lithographic Printing and Letterpress Printing; 6. Flat Wood Paneling Coatings; and 7. Flexible Package Printing. Requirements for the testing alternatives of control devices, determination of composite vapor pressure of solvents, mass and weight of VOC; and work practice standards for cleaning materials are included in the CTGs for these categories. The regulation amendments place the new additional CTG general requirements along with other testing, work practice, and record-keeping requirements in COMAR 26.11.19.02 so that they are applicable to the sources that are affected by the regulations in the entire chapter.

Background — COMAR 26.11.10.02G(1) Amendment

COMAR 26.11.19.02G, Maryland's generic RACT regulation, became effective in March 1991. The regulation established a procedure to determine RACT for sources that have VOC emissions greater than 100 tons per year, and applies to those that do not have a specific VOC RACT regulation. At that time, specific VOC source regulations were adopted up to and including COMAR 26.11.19.15 Paint, Resin, and Adhesive Manufacturing and Adhesive Application. This amendment updates the reference to specific VOC Reasonably Available Control Technology (RACT) regulations adopted since 1991.

Sources Affected and Location

The proposed amendments to COMAR 26.11.19.02(D), (E), and (I) apply to sources covered by the CTG categories and other regulations and processes involving testing, cleaning solutions, solvents, or degreasing materials covered under COMAR 26.11.19.

The proposed amendments to COMAR 26.11.19.02(G) affect major stationary sources of VOCs.

Requirements

The proposed amendments to COMAR 26.11.19.02(D), (E), and (I) provide requirements to:

- (1) Perform alternative tests for control devices;
- (2) Determine composite vapor pressure of solvents;
- (3) Determine ratio of mass of VOC to mass of solids;
- (4) Determine weight of VOC to weight of solids; and
- (5) Implement work practice standards for cleaning materials.

The proposed amendments to COMAR 26.11.19.02(G) will not add any additional requirements for existing or new sources. It merely clarifies this regulation to reference to all appropriate regulations.

Expected Emissions Reductions

Minimal VOC emissions will be reduced as Maryland already has existing testing, work practice, and record-keeping requirements in COMAR 26.11.19.02. The proposed amendments make the requirements more consistent with what is required under the CTGs for alternative test methods, calculation methods, and work practice standards.

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

The Department of the Environment will hold a public hearing on the proposed action on January 11, 2012 at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Conference Rooms, Baltimore, Maryland 21230-1720. Interested persons are invited to attend and express their views. Comments may be sent to Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration, Department of the Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or emailed to drabin@mde.state.md.us. Comments must be received not later than January 11, 2012, or be submitted at the hearing. For more information, call Deborah Rabin at (410) 537-3240.

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

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

26.11.01 General Administrative Provisions

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

.04 Testing and Monitoring.

A. — B. (text unchanged)

C. Emission Test Methods. *The following test methods are incorporated by reference:*

[(1) Test methods used shall be those found in:]

[(a)] (1) 40 CFR Part 60, Appendix A, [2004 edition] *as amended* [, which is incorporated by reference]; [or]

[(b)] (2) The Department's Technical Memorandum 91-01, "Test Methods and Equipment Specifications for Stationary Sources", January, 1991, as amended through Supplement 3 (October 1, 1997)[, which is incorporated by reference.]; *and*

[(2)] (3) For PM10 stack tests, the following EPA approved test methods shall be used:

(a) Test Methods 201 A and 202 in 40 CFR Part 51, Appendix M, *as amended*;

(b) Test Method 5 (40 CFR Part 60, Appendix A, *as amended*) and Test Method 202 in 40 CFR Part 51, Appendix M, *as amended*; [or]

(c) Test Method 5 (40 CFR Part 60, Appendix A, *as amended*) using front half and back half procedure[.];

[(3)] (d) EPA Conditional Test Method 39 [(conditional)] may be substituted for Test Method 202 in 40 CFR Part 51, Appendix M, *as amended*[.]; *or*

[(4)] (e) Alternative test methods may be used for PM10 if they are approved by the Department and the EPA.

26.11.19 Volatile Organic Compounds from Specific Processes

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

.02 Applicability, Determining Compliance, Reporting, and General Requirements.

A. — C. (text unchanged)

D. Test Method.

(1) (text unchanged)

(2) If compliance with any requirement in this chapter is achieved through use of an air pollution control device, compliance shall be determined [using Method 1003 of the Department’s Technical Memorandum 91-01, “Test Methods and Equipment Specifications for Stationary Sources” (January 1991), which is incorporated by reference] in accordance with COMAR 26.11.01.04C.

(3) Alternative methods for determining compliance may be used if approved by the Department and by the US EPA.

E. Computations.

(1) — (2) (text unchanged)

(3) The composite vapor pressure of organic compounds for any cleaning solution, solvent, or degreasing material shall be determined as follows:

(a) The composite vapor pressure of organic compounds shall be determined by quantifying the amount of each compound in the blend using gas chromatographic analysis (ASTM E 260-91) for organics and ASTM D3792-79 for water content, as applicable, and the following equation:

$$Pp_c = \frac{\sum_{i=1}^n (W_i)(VP_i)/Mw_i}{W_w/Mw_w + \sum_{i=1}^n W_e/Mw_e + \sum_{i=1}^n W_i/Mw_i}$$

Where:

Pp_c = VOC composite partial pressure at 20⁰ C, in mm Hg

W_i = Weight of the “I”th VOC compound, in grams, as determined by ASTM E 260-91

W_w = Weight of water, in grams as determined by ASTM D 3792-86

W_e = Weight of the “I”th exempt compound, in grams, as determined by ASTM E 260-91

Mw_i = Molecular weight of the “I”th VOC compound, in grams per g-mole, as given in chemical reference literature

Mw_w = Molecular weight of water, 18 grams per g-mole

Mw_e = Molecular weight of the “I”th exempt compound, in grams per g-mole, as given in chemical reference literature

VP_i = Vapor pressure of the “I”th VOC compound at 20 C, in mm Hg, as determined by §E(4)(b) of this regulation.

(b) The vapor pressure of each single component compound may be determined from ASTM D2879-86, or may be obtained from a material safety data sheet or another source approved by the Department.

(4) The mass VOC to mass solids applied for coatings, adhesives, or inks shall be determined as follows:

(a) The VOC content, water content, density, volume solids, and weight solids for any coating, adhesive, or ink used pursuant to the requirements of this chapter shall be determined as specified in COMAR 26.11.01.04C.

(b) The weight of coating solids shall be calculated as follows:

$$VOCS = \frac{W_v - W_w - W_{ex}}{W_n}$$

Where:

$VOCS$ = VOC content in lb VOC/lb of coating solids or in kg VOC/kg of coating solids

W_v = 100% - W_n

W_w = Weight percent of water

W_{ex} = Weight percent of exempt solvents

W_n = Weight percent of solids of the as applied coating

(5) The weight of VOC in units of weight VOC per weight coating applied (in pounds VOC/pounds coating applied or in VOC/kg coating applied) for coatings, adhesives, or inks shall be determined as follows:

(a) The VOC content, water content, density, volume solids, and weight solids for any coating, adhesive, or ink used pursuant to the requirements of this chapter shall be determined as specified in COMAR 26.11.01.04C.

(b) The weight of coating solids shall be calculated as follows:

$$VOC_M = W_v - W_w - W_{ex}$$

Where:

VOC_M = VOC content in lb VOC/lb of coating or in kg VOC/kg of coating

W_v = 100% - W_n

W_w = Weight percent of water

W_{ex} = Weight percent of exempt solvents

W_n = Weight percent of solids of the as applied coating

F. (text unchanged)

G. Control of Major Stationary Sources of Volatile Organic Compounds.

(1) This section applies to a person who owns or operates any major stationary source of VOC that is not subject to any VOC emission standard in COMAR 26.11.10, 26.11.11, 26.11.13, 26.11.14, or Regulations .03—[.15] .33 of this chapter.

(2) — (4) (text unchanged)

H. (text unchanged)

I. Good Operating Practices, Equipment Cleanup and VOC Storage.

(1) (text unchanged)

(2) Good Operating Practices.

(a) (text unchanged)

(b) Good operating practices shall, at a minimum, include the following:

(i) — (ii) (text unchanged)

(iii) Minimize spills of VOC-containing cleaning materials;

(iv) Convey VOC-containing cleaning materials from one location to another in closed containers or pipelines;

(v) Minimize VOC emissions from cleaning of storage, mixing, and conveying equipment;

[(iii)] (vi) — [(v)] (viii) (text unchanged)

(3) — (4) (text unchanged)

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

Subtitle 11 AIR QUALITY

26.11.08 Control of Incinerators

Authority: Environment Article, §§1-101, 1-404, 2-101—2-103, 2-301—2-303, 2-406, 10-102, and 10-103, Annotated Code of Maryland

Notice of Proposed Action

[11-349-P]

The Secretary of the Environment proposes to amend Regulations .01, .02, and .08-1 and adopt new Regulation .08-2 under **COMAR 26.11.08 Control of Incinerators**.

Statement of Purpose

The purpose of this action is to adopt the requirements of the EPA's Emission Guidelines (EG) for hospital, medical, infectious and medical waste incinerators (HMIWI). EPA develops EGs as guidance on control requirements. States can follow the EGs or adopt more restrictive standards. MDE proposes to adopt standards for HMIWI consistent with the EGs for incinerators. The proposed standards will reduce emissions from the combustion of hospital, medical, infectious and medical waste. These amendments affect hospital, medical, infectious and medical waste incinerators and require full compliance with the proposed standards no later than October 6, 2014.

The regulation will be submitted to the U.S. EPA for approval as a revision to Maryland's 111(d) Plan.

Background

EPA is required to develop and adopt new source performance standards (NSPS) and EG for solid waste incineration units pursuant to the Clean Air Act (CAA) Sections 111 and 129. New sources (NSPS program) are regulated under Sections 111(b) and 129(a) of the CAA. Existing sources are regulated under Sections 111(d) and 129(b) of the CAA. The NSPS are directly enforceable Federal regulations, and under CAA Section 129(f)(1) become effective 6 months after promulgation. Under CAA Section 129(f)(2), the EG become effective and enforceable as expeditiously as practicable after EPA approves a State plan implementing the EG but no later than 3 years after such approval or 5 years after the date the EG are promulgated, whichever is earlier.

Hospital waste consists of discards generated at a hospital, and medical/infectious waste is generated in the diagnosis, treatment, or immunization of human beings or animals, in research, or in the production or testing of biologicals. Household or hazardous waste, or human and animal remains not generated as medical waste are not included.

Maximum achievable control technology standards for existing HMIWI are established by the EG for particulate matter (PM); heavy metals, including lead (Pb), cadmium (Cd), and mercury (Hg); toxic organics, including chlorinated dibenzo-p-dioxins/ dibenzofurans (CDD/CDF); carbon monoxide (CO); nitrogen oxides (NO_x); and acid gases, including hydrogen chloride (HCl) and sulfur dioxide (SO₂).

Affected Sources and Location

The proposed amendments affect HMIWIs in Maryland.

Requirements

The standards must be met no later than October 6, 2014 and are applicable to HMIWIs in the following categories:

1. Small, medium, and large HMIWIs for which construction was commenced after June 20, 1996 but no later than December 1, 2008, or for which modification commenced after March 16, 1998 but no later than April 6, 2010.

2. Small, medium, and large HMIWIs for which construction was commenced on or before June 20, 1996 or for which modification commenced on or before March 16, 1998.

3. Small rural area HMIWI for which construction commenced on or before June 20, 1996 or for which modification was commenced on or before March 16, 1998.

4. Small rural area HMIWI for which construction commenced after June 20, 1996 but no later than December 1, 2008 or for which modification was commenced after March 16, 1998 but no later than April 6, 2010.

Expected Emissions Reductions

Minimal emissions reductions from existing sources in Maryland are expected as a result of adopting the proposed standards. Maryland sources have already applied control technologies to the incineration process and to post incineration emissions. Integration and optimization of the performance of these technologies has also taken place. Controls such as tertiary combustion chamber, dry injection acid gas scrubber, powder activated carbon system, and fabric filter with passive dioxins/furans control are utilized. Maryland sources have already been controlled under COMAR 26.11.08.08-1, in conformance with the initial 1997 MACT standards.

In the MACT review process for the 2009 standards, performance and test results of all sources nationwide were taken into account. Since Maryland sources have already added control technologies, they perform well on a national level and stack test results show that their performance is currently very close to the 2009 MACT standards. Based on the emission levels during stack tests, Maryland HMIWIs would be able to meet most of the standards with the current technologies. For NO_x and HCL further improvements and enhancements would have to be investigated and tested. Emission reductions are expected as a result of adopting these two standards in particular. Emissions are expected to be minimally reduced for the remaining pollutants as a result of implementing the proposed standards. The benefit will be provided throughout the year by reducing criteria pollutants and toxic emissions.

Comparison to Federal Standards

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

Estimate of Economic Impact

I. Summary of Economic Impact. The economic impact of these amendments has been estimated by EPA on a national level. Cost impact on sources that are owned by hospitals is expected to range between 0.1 to 0.9 percent of sales (an average cost for incinerator would be approximately \$250,000 — \$280,000 per year in the first three years). Commercial incinerators have cost impacts that are no more than 2 percent of sales. The economic impact on the Department is going to be minimal in modifying the standards and ensuring compliance. There will be minimal to no impact on other state agencies and local jurisdictions as some permitting work may be necessary.

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

	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
(1) Sources owned by hospitals	(-)	0.1 to 0.9 percent of sales
(2) Commercial incinerators	(-)	No more than 2 percent of sales
E. On other industries or trade groups:		
	NONE	
F. Direct and indirect effects on public:		
	(+)	Unable to estimate

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

- A. The Department will modify standards and ensure compliance.
- B. Some permitting work may be necessary, but there will be minimal to no impact on other State agencies.
- C. Some permitting work may be necessary, but there will be minimal to no impact on local governments.
- D(1). Avg. cost incinerator approx. \$250,000 — \$280,000/yr 1st 3 yrs.
- D(2). EPA cost estimate upon affected industry.
- F. This action will reduce emissions of criteria pollutants and toxic emissions, having a positive impact on public health.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

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

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

Opportunity for Public Comment

The Department of the Environment will hold a public hearing on the proposed action on January 11, 2012 at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Conference Rooms, Baltimore, Maryland 21230-1720. Interested persons are invited to attend and express their views. Comments may be sent to Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration, Department of the Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or emailed to drabin@mde.state.md.us. Comments must be received not later than January 11, 2012, or be submitted at the hearing. For more information, call Deborah Rabin at (410) 537-3240.

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

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

.01 Definitions.

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

(1) *Bag Leak Detection System.*

(a) “Bag leak detection system” means an instrument that is capable of monitoring PM loadings in the exhaust of a fabric filter in order to detect bag failures.

(b) “Bag leak detection system” includes, but is not limited to, an instrument that operates on triboelectric, light scattering, light-transmittance, or other effects to monitor relative PM loadings.

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

(2) — (7) (text unchanged)

(7-1) “Commercial HMIWI” means a HMIWI which offers incineration services for hospital/medical/infectious waste generated off site by firms unrelated to the firm that owns the HMIWI.

(8) — (39) (text unchanged)

(40) “Minimum reagent flow rate” means 90 percent of the highest 3-hour average reagent flow rate at the inlet to the selective noncatalytic reduction technology (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the NO_x emissions limit.

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

(41) (text unchanged)

(42) “Minimum secondary chamber temperature” means 90 percent of the highest 3-hour average secondary chamber temperature (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the PM, CO,
[or] and dioxin/furan emission limits.

(43) — (61) (text unchanged)

.02 Applicability.

A.—H. (text unchanged)

I. All provisions of Regulation .08-1 of this chapter and the related HMIWI 111(d)/129 plan approval, 40 CFR Part 62, Subpart V, are applicable, except as amended or revised under Regulation .08-2 of this chapter and approved by EPA as part of the Maryland HMIWI 111(d)/129 plan.

.08-1 Emission Standards and Requirements for HMIWIs.

A. Emission Standards.

(1) The emission standards and requirements in §A(2)—[(6)] (7) of this regulation apply to a person who owns or operates an HMIWI other than a small rural area HMIWI.

(2) *The emission limits of this regulation and 40 CFR §§62.5160 and 62.5161, apply to a person who owns and operates a small, medium, or large HMIWI for which construction was commenced on or before June 20, 1996 or for which modification commenced on or before March 16, 1998, and remain applicable until such HMIWI comes into full and final compliance in accordance with Regulation .08-2 of this chapter and its related 111(d)/129 plan revision.*

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

B. Emission Limits and Requirements for Small Rural Area HMIWIs.

(1) The emission limits and requirements in §B(2)—(6) of this regulation apply to a person who owns or operates a small rural area HMIWI, and remain applicable until such HMIWI comes into full and final compliance in accordance with Regulation .08-2 of this chapter and its related 111(d)/129 plan revision.

(2) — (3) (text unchanged)

C. — D. (text unchanged)

.08-2 Emission Standards and Requirements for HMIWIs Under 40 CFR 60 Subpart Ce as Revised October 6, 2009.

A. *Applicability and Emission Standards.* Notwithstanding the requirements of Regulation .08-1 of this chapter, the emission standards and requirements of §B(1) — (7) and §C(1) — (6) of this regulation apply to a person who owns or operates an HMIWI subject to 40 CFR Part 60, Subpart Ce, as revised, October 6, 2009.

B. *Emission Limits and Requirements for Small, Medium, and Large HMIWIs.*

(1) A person who owns or operates a small, medium, or large HMIWI for which construction was commenced on or before June 20, 1996 or for which modification commenced on or before March 16, 1998 shall comply with the following emission limits.

Pollutant	Units (7 percent oxygen, dry basis)	Emission limits			Test Method	Averaging Time ¹
		Small	Medium	Large		
Particulate matter	Milligrams per dry standard cubic meter (grains per dry standard cubic foot)	66 (0.029)	46 (0.020)	25 (0.011)	EPA Reference Method 5 of Appendix A-3 of 40 CFR Part 60, or EPA reference Method 26A or 29 of Appendix A-8 of 40 CFR Part 60	3 run average (1hr minimum sample time per run)
Opacity	6 minute block average percent	10	10	10	EPA Method 9 and PM CEMS. Alternative use of PM CEMS as stipulated under 40 CFR §60.56c(b)(9) in lieu of EPA Method 9, Appendix A-4 or Bag leak detection system	6 minute block average
Carbon monoxide	Parts per million by volume	20	5.5	11	EPA Reference Method 10 of Appendix A-4 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)
Dioxins/furans	Nanograms per dry standard cubic meter total dioxins/furans (grains per billion dry standard cubic feet) or nanograms per dry standard cubic meter TEQ (grains per billion dry standard cubic feet)	16 (7.0) or 0.013 (0.0057)	0.85 (0.37) or 0.020 (0.0087)	9.3 (4.1) or 0.054 (0.024)	EPA Reference Method 23 of Appendix A-7 of 40 CFR Part 60	3 run average (4 hr minimum sample time per run)
Hydrogen chloride	Parts per million by volume	44	7.7	6.6	EPA Reference Method 26 or 26A of Appendix A-8 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)

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<i>Sulfur dioxide</i>	<i>Parts per million by volume</i>	4.2	4.2	9.0	<i>EPA Reference Method 6 or 6C of Appendix A-4 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Nitrogen oxides</i>	<i>Parts per million by volume</i>	190	190	140	<i>EPA Reference Method 7 or 7E of Appendix A-4 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Lead</i>	<i>Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)</i>	0.31 (0.14)	0.018 (0.0079)	0.036 (0.016)	<i>EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Cadmium</i>	<i>Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)</i>	0.017(0.0074)	0.013(0.0057)	0.0092(0.0040)	<i>EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Mercury</i>	<i>Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)</i>	0.014(0.0061)	0.025(0.011)	0.018(0.0079)	<i>EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>

¹Except as allowed under 40 CFR §60.56c(c) for HMIWI equipped with CEMS.

(2) A person who owns or operates a small, medium, or large HMIWI for which construction was commenced after June 20, 1996 but no later than December 1, 2008, or for which modification commenced after March 16, 1998 but no later than April 6, 2010, shall comply with the following emission limits.

<i>Pollutant</i>	<i>Units (7 percent oxygen, dry basis)</i>	<i>Emission limits HMIWI size</i>			<i>Test Method</i>	<i>Averaging Time¹</i>
		<i>Small</i>	<i>Medium</i>	<i>Large</i>		
<i>Particulate matter</i>	<i>Milligrams per dry standard cubic meter (grains per dry standard cubic foot)</i>	66 (0.029)	34 (0.015)	25 (0.011)	<i>EPA Reference Method 5 of Appendix A-3 of 40 CFR Part 60, or EPA reference Method 26A or 29 of Appendix A-8 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Opacity</i>	<i>6 minute block average percent</i>	6	6	6	<i>EPA Method 9 and PM CEMS. Alternative use of PM CEMS as stipulated under 40 CFR §60.56c(b)(9) in lieu of EPA Method 9, Appendix A-4 or Bag leak detection system</i>	<i>6 minute block average</i>
<i>Carbon monoxide</i>	<i>Parts per million by volume</i>	20	5.5	11	<i>EPA Reference Method 10 of Appendix A-4 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>

Dioxins/furans	Nanograms per dry standard cubic meter total dioxins/furans (grains per billion dry standard cubic feet) or nanograms per dry standard cubic meter TEQ (grains per billion dry standard cubic feet)	16 (7.0) or 0.013 (0.0057)	0.85 (0.37) or 0.020 (0.0087)	9.3 (4.1) or 0.054 (0.024)	EPA Reference Method 23 of Appendix A-7 of 40 CFR Part 60	3 run average (4 hr minimum sample time per run)
Hydrogen chloride	Parts per million by volume or percent reduction	15 or 99%	7.7	6.6	EPA Reference Method 26 or 26A of Appendix A-8 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)
Sulfur dioxide	Parts per million by volume	4.2	4.2	9.0	EPA Reference Method 6 or 6C of Appendix A-4 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)
Nitrogen oxides	Parts per million by volume	190	190	140	EPA Reference Method 7 or 7E of Appendix A-4 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)
Lead	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)	0.31 (0.14)	0.018 (0.0079)	0.036 (0.016)	EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)
Cadmium	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)	0.017 (0.0074)	0.013 (0.0057)	0.0092 (0.0040)	EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)
Mercury	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)	0.014 (0.0061)	0.025 (0.011)	0.018 (0.0079)	EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)

¹Except as allowed under 40 CFR §60.56c(c) for HMIWI equipped with CEMS.

(3) Waste Management Plan.

(a) A person who owns or operates an HMIWI subject to §B of this regulation shall prepare a Waste Management Plan that identifies the feasibility and the approach to solid waste segregation or material substitution to reduce the amount of toxics emissions.

(b) The Waste Management Plan shall meet the requirements of 40 CFR §60.55c.

(c) A revised Waste Management Plan shall be submitted to the Department within 60 days of completion of the required initial compliance tests under this regulation.

(4) Compliance and Performance Testing.

(a) A person who owns or operates an HMIWI subject to §B of this regulation shall complete the initial and subsequent tests which meet the conditions and requirements using test methods and procedures listed under 40 CFR §§60.56c(b)(1) to (b)(6) and (b)(9) to (b)(14), except for annual fugitive and CO emissions testing requirements, which shall comply with 40 CFR §§60.56c(c)(3) and (4).

(b) In addition to the specified test method, compliance with the emissions limits in §B may be demonstrated by use of CEMS or any approved alternative non-EPA test methods allowed under 40 CFR §60.56c(b).

(5) Monitoring Requirements. A person who owns or operates an HMIWI subject to §B of this regulation shall comply with the monitoring requirements under 40 CFR §60.57c.

(a) Exemptions. A person may elect to use the exemptions listed under 40 CFR §§60.56c(c)(5)(ii) through (v), (c)(6), (c)(7), (e)(6) through (10), (f)(7) through (10), (g)(6) through (10), and (h) for HMIWI units subject to .08-2B(1).

(b) Alternative Compliance Option. A person may elect to use CO CEMS as specified under 40 CFR §60.56c(c)(4) or bag leak detection systems as specified under 40 CFR §60.57c(h).

(6) Reporting and Record-Keeping Requirements. A person who owns or operates an HMIWI subject to §B of this regulation shall report to the Department and EPA and maintain records in accordance with the requirements listed in 40 CFR Part 60.58c(b) through (g), excluding 40 CFR §§60.58c(b)(2)(viii) and (b)(2)(xvii), (b)(2)(xviii) and (b)(2)(xix).

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C. Emission Limits and Requirements for Small Rural Area HMIWIs.

(1) A person who owns or operates a small rural area HMIWI for which construction was commenced on or before June 20, 1996, or for which modification commenced on or before March 16, 1998, shall comply with the following emission limits.

<i>Pollutant</i>	<i>Units (7 percent oxygen, dry basis)</i>	<i>HMIWI Emission limits</i>	<i>Test Method</i>	<i>Averaging Time¹</i>
<i>Particulate matter</i>	<i>Milligrams per dry standard cubic meter (grains per dry standard cubic foot)</i>	<i>197 (0.086)</i>	<i>EPA Reference Method 5 of Appendix A-3 of 40 CFR Part 60, or EPA reference Method 26A or 29 of Appendix A-3 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Opacity</i>	<i>6 minute block average percent</i>	<i>10</i>	<i>EPA Method 9 and PM CEMS. Alternative use of PM CEMS as stipulated under 40 CFR §60.56c(b)(9) in lieu of EPA Method 9, Appendix A-4 or Bag leak detection system</i>	<i>6 minute block average</i>
<i>Carbon monoxide</i>	<i>Parts per million by volume</i>	<i>40</i>	<i>EPA Reference Method 10 of Appendix A-4 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Dioxins/furans</i>	<i>Nanograms per dry standard cubic meter total dioxins/furans (grains per billion dry standard cubic feet) or Nanograms per dry standard cubic meter TEQ (grains per billion dry standard cubic feet)</i>	<i>800 (350) or 15 (6.6)</i>	<i>EPA Reference Method 23 of Appendix A-7 of 40 CFR Part 60</i>	<i>3 run average (4 hr minimum sample time per run)</i>
<i>Hydrogen chloride</i>	<i>Parts per million by volume</i>	<i>3,100</i>	<i>EPA Reference Method 26 or 26A of Appendix A-8 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Sulfur dioxide</i>	<i>Parts per million by volume</i>	<i>55</i>	<i>EPA Reference Method 6 or 6C of Appendix A-4 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Nitrogen oxides</i>	<i>Parts per million by volume</i>	<i>250</i>	<i>EPA Reference Method 7 or 7E of Appendix A-4 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Lead</i>	<i>Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)</i>	<i>10 (4.4)</i>	<i>EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Cadmium</i>	<i>Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)</i>	<i>4 (1.7)</i>	<i>EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Mercury</i>	<i>Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)</i>	<i>7.5 (3.3)</i>	<i>EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>

¹Except as allowed under 40 CFR §60.56c(c) for HMIWI equipped with CEMS.

(2) A person who owns or operates a small rural area HMIWI for which construction commenced after June 20, 1996 but no later than December 1, 2008, or for which modification was commenced after March 16, 1998 but no later than April 6, 2010, shall comply with the following emission limits.

Pollutant	Units (7 percent oxygen, dry basis)	HMIWI Emission limits	Test Method	Averaging Time ¹
Particulate matter	Milligrams per dry standard cubic meter (grains per dry standard cubic foot)	87 (0.038)	EPA Reference Method 5 of Appendix A-3 of 40 CFR Part 60, or EPA reference Method 26A or 29 of Appenixa-8 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)
Opacity	6 minute block average percent	6	EPA Method 9 and PM CEMS. Alternative, use of PM CEMS as stipulated under 40 CFR §60.56c(b)(9) in lieu of EPA Method 9, Appendix A-4 or Bag leak detection system	6 minute block average
Carbon monoxide	Parts per million by volume	20	EPA Reference Method 10 of Appendix A -4 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)
Dioxins/furans	Nanograms per dry standard cubic meter total dioxins/furans (grains per billion dry standard cubic feet) or Nanograms per dry standard cubic meter TEQ (grains per billion dry standard cubic feet)	240 (100) or 5.1 (2.2)	EPA Reference Method 23 of Appendix A-7 of 40 CFR Part 60	3 run average (4 hr minimum sample time per run)
Hydrogen chloride	Parts per million by volume	810	EPA Reference Method 26 or 26A of Appendix A-8 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)
Sulfur dioxide	Parts per million by volume	55	EPA Reference Method 6 or 6C of Appendix A-4 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)
Nitrogen oxides	Parts per million by volume	130	EPA Reference Method 7 or 7E of Appendix A-4 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)
Lead	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)	0.5 (0.22)	EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)
Cadmium	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)	0.11 (0.048)	EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)
Mercury	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)	0.0051 (0.0022)	EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)

¹Except as allowed under 40 CFR §60.56c(c) for HMIWI equipped with CEMS.

(3) Waste Management Plan.

(a) A person who owns or operates a small rural area HMIWI subject to §C of this regulation shall prepare a Waste Management Plan that identifies the feasibility and the approach to solid waste segregation or material substitution to reduce the amount of toxics emissions.

(b) The Waste Management Plan shall meet the requirements of 40 CFR Part 60.55c.

(c) A revised Waste Management Plan shall be submitted to the Department within 60 days of completion of the required initial compliance tests under this regulation.

(4) Compliance and Performance Testing.

(a) A person who owns or operates a small rural area HMIWI shall conduct the performance test in accordance with 40 CFR Part 60.56c, with the following requirement and exemptions:

(i) The compliance test load and frequency shall be conducive to meeting the 2000 lbs/week limitation.

(ii) For an HMIWI subject to §C(1) of this regulation, the test methods listed in 40 CFR §§60.56c(b)(7),(8),(12),(13)(Pb and Cd), and (14) and the annual PM, CO, and HCl emissions testing requirements under 40 CFR §60.56c(c)(2) and the fugitive emissions testing requirements under 40 CFR §60.56c(c)(3) do not apply.

(iii) For an HMIWI subject to §C(2) of this regulation the annual fugitive emissions testing requirements under 40 CFR §60.56c(c)(3) do not apply.

(b) A person who owns or operates a small rural area HMIWI not equipped with an air pollution control device shall:

(i) Establish the maximum charge rate and minimum secondary chamber temperature as site-specific operating parameters during the initial performance test to determine compliance with applicable emission limits as required in 40 CFR §60.37e(b)(2).

(ii) Following the date on which the initial performance test is completed, an owner operator may not operate above the maximum charge rate or below the minimum secondary chamber temperature measured as 3-hour rolling averages (calculated each hour as the average of the previous 3 operating hours) at any time, except during performance tests.

(iii) Except as provided in §C(5)(b)(iii) of this regulation, operation of a small rural area HMIWI above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the PM, CO, and dioxin/furan emission limits.

(iv) Operation above the maximum charge rate or below the minimum secondary chamber temperature shall constitute a violation of the established operating parameters.

(v) The owner or operator may conduct a repeat performance test within 30 days of violation of any applicable operating parameter to demonstrate that the HMIWI is not in violation of the applicable emission limit.

(vi) Repeat performance tests conducted pursuant to §C(4)(b)(v) of this regulation shall be conducted after notification to the Department.

(c) In addition to the specified test method, compliance with the emissions limits in §C may be demonstrated by use of CEMS or any approved alternative non-EPA test methods allowed under 40 CFR §60.56c(b).

(5) Monitoring Requirements.

(a) A person who owns or operates a small rural area HMIWI shall comply with 40 CFR Part 60.57c.

(b) A person who owns or operates a small rural area HMIWI without an air pollution control device shall comply with the following requirements:

(i) Install, calibrate (to manufacturers' specifications), maintain, and operate a device for measuring and recording the temperature of the secondary chamber on a continuous basis, the output of which shall be recorded, at a minimum, once every minute throughout operation;

(ii) Install, calibrate (to manufacturers' specifications), maintain, and operate a device which automatically measures and records the date, time, and weight of each charge fed into the HMIWI; and

(iii) At a minimum, valid monitoring data shall be obtained for 75 percent of the operating hours per day and 90 percent of the operating hours per calendar quarter that the HMIWI is combusting hospital waste or medical/infectious waste, or both.

(c) Exemptions.

(i) For an HMIWI subject to the requirements of §C(1) of this regulation, the CO CEMS requirements under 40 CFR §60.56c(c)(4), and the compliance requirements for monitoring listed in 40 CFR §§60.56c(c)(5) through (7) and (d) through (k) do not apply.

(ii) For an HMIWI subject to the requirements of §C(2) of this regulation, CO CEMS requirements under 40 CFR §60.56c(c)(4), and the compliance requirements for monitoring listed

in 40 CFR §§60.56c(c)(5)(ii) through (v), (c)(6) through (10), (e)(6) through (10), (f)(7) through (10), and g(6) through (10) do not apply.

(6) Reporting and Record-Keeping. A person who owns or operates a small rural area HMIWI shall:

(a) Maintain records of the annual equipment inspections, any required maintenance, and any repairs not completed within 10 days of an inspection or the time frame established by the Department; and

(b) Submit a report signed by the facility manager containing the information recorded under §B(6)(a) of this regulation in accordance with the following schedule:

(i) For a source subject to the permitting requirements under Title V of the federal Clean Air Act, the report shall be submitted semiannually.

(ii) For a source other than one subject to Title V of the federal Clean Air Act, the report shall be submitted annually, and not later than 60 days following the year in which the data was collected.

(c) Those records required by 40 CFR §§60.58c(b)(2)(viii) and (b)(2)(xvii), (b)(2)(xviii), and (b)(2)(xix), and (b)(7) are not required under §C(6) of this regulation.

D. Equipment Inspection Requirements.

(1) Each HMIWI shall undergo by June 15, 2012 an initial equipment inspection and subsequent annual inspections that at a minimum include the following:

(a) Inspect all burners, pilot assemblies, and pilot sensing devices for proper operation and clean pilot flame sensor, as necessary;

(b) Ensure proper adjustment of primary and secondary chamber combustion air, and adjust as necessary;

(c) Inspect hinges and door latches, and lubricate as necessary;

(d) Inspect dampers, fans, and blowers for proper operation;

(e) Inspect HMIWI door and door gaskets for proper sealing;

(f) Inspect motors for proper operation;

(g) Inspect primary chamber refractory lining; clean and repair or replace lining as necessary;

(h) Inspect incinerator shell for corrosion or hot spots, or both;

(i) Inspect secondary/tertiary chamber and stack and clean as necessary;

(j) Inspect mechanical loader, including limit switches, for proper operation, if applicable;

(k) Visually inspect waste bed (grates), and repair or seal, as appropriate;

(l) For the burn cycle that follows the inspection, document that the incinerator is operating properly and make any necessary adjustments;

(m) Inspect air pollution control device or devices for proper operation, if applicable;

(n) Inspect waste heat boiler systems to ensure proper operation, if applicable;

(o) Inspect bypass stack components;

(p) Ensure proper calibration of thermocouples, sorbent feed systems and any other monitoring equipment; and

(q) Generally observe that the equipment is maintained in good operating condition.

(2) Within 10 operating days following an equipment inspection, all necessary repairs shall be completed unless the owner or operator obtains written approval from the Department for a different date to complete all necessary repairs.

(3) Each HMIWI shall undergo an equipment inspection annually (within 12 months following the previous annual equipment

inspection), in accordance with the requirements of §D(1) of this regulation.

(4) The control device of an HMIWI shall undergo by June 15, 2012, an initial inspection that at a minimum includes the following:

(a) Inspect air pollution control device(s) for proper operation, if applicable;

(b) Ensure proper calibration of thermocouples, sorbent feed systems, and any other monitoring equipment;

(c) Generally observe that the equipment is maintained in good operating condition; and

(d) Within 10 operating days following an air pollution control device inspection, all necessary repairs shall be completed unless the owner or operator obtains written approval from the Department establishing a date whereby all necessary repairs of the designated facility shall be completed.

(5) The control device of HMIWI shall undergo an inspection annually (within 12 months following the previous annual inspection), in accordance with the requirements of §D(4) of this regulation.

E. Compliance Schedules. A person who owns or operates a HMIWI subject to this regulation shall:

(1) Comply with all the requirements of §E of this regulation and related 40 CFR Part 62, Subpart V revision requirements by June 15, 2012 or as expeditiously as practicable; or

(2) Submit to the Department and the EPA for approval, a compliance plan by December 15, 2011 that includes the following increments of progress:

(a) Award contracts for control systems or process modifications or orders for purchase of components no later than June 15, 2012;

(b) Initiate on-site construction or installation of the air pollution control device(s) or process changes no later than December 15, 2012;

(c) Complete on-site construction or installation of control equipment or process changes by no later than December 15, 2013;

(d) Comply with the requirements of this regulation and related 40 CFR Part 62, Subpart V revision as expeditiously as practicable, but no later than October 6, 2014; and

(e) Complete the compliance testing within 180 days after the final compliance date.

F. Compliance Based on Previous Test Results.

A person who owns or operates an HMIWI or a small rural area HMIWI subject to this regulation may use previous emissions tests to demonstrate compliance with the requirements of this regulation provided:

(1) The test was conducted using the applicable procedures and test methods listed in 40 CFR §60.56c(b) or EPA-accepted voluntary consensus standards;

(2) The HMIWI is to be operated in a manner (e.g., with charge rate, secondary chamber temperature, etc.) that would be expected to result in the same or lower emissions than observed during the previous emissions test(s);

(3) The HMIWI has not been modified such that emissions would be expected to exceed (notwithstanding normal test-to-test variability) the results from previous emissions test(s); and

(4) The previous emissions test(s) were conducted in 1996 or later.

G. HMIWI Shutdown.

(1) A person who owns or operates a HMIWI and plans to shutdown rather than comply with the requirements of this regulation and amended 40 CFR Part 60 Subpart Ce shall cease operations by June 15, 2012, but not later than October 6, 2014, as provided in §§G(2) and (3) of this regulation.

(2) A request for an extension of the June 15, 2012 cease operation deadline shall be submitted to the Department by December 15, 2011 and contain the following information:

(a) Documentation of the analysis undertaken to support the need for an extension, including a justification for the length of the period of the extension;

(b) An evaluation of the option to transport the waste off site to a commercial medical waste treatment and disposal facility on a temporary or permanent basis; and

(c) A plan that documents measurable and enforceable incremental steps of progress to be taken towards permanent facility closure no later than October 6, 2014.

H. Shut-Down Extension Requests for the Installation of Alternative Treatment Technologies. A person who owns or operates an HMIWI and requests an extension to install alternative treatment technologies shall:

(1) Submit by December 15, 2011 a request to the Department to install alternative treatment technology;

(2) Initiate onsite construction or installation of alternative technology by December 15, 2012;

(3) Complete onsite construction or installation by December 15, 2013;

(4) Shut down the existing HMIWI as expeditiously as practicable but no later than October 6, 2014; and

(5) Render the existing HMIWI inoperative as expeditiously as practicable.

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

Subtitle 11 AIR QUALITY

26.11.19 Volatile Organic Compounds from Specific Processes

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

Notice of Proposed Action

[11-345-P]

The Secretary of the Environment proposes to repeal existing Regulation .23 and adopt new Regulation .23 under COMAR 26.11.19 Volatile Organic Compounds from Specific Processes.

Statement of Purpose

The purpose of this action is to establish operating standards for vehicle refinishing facilities in Maryland. The regulation establishes VOC content limits for coatings and solvents used during the preparation, application, and drying phases of vehicle refinishing, coating application standards, work practices standards, and monitoring and record-keeping standards.

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

Background:

Since the late 1980s, the U.S. EPA has issued guidelines and several states have promulgated regulations that have set emissions standards for vehicle refinishing facilities by limiting the VOC content of coatings and solvents manufactured and sold for the purpose of vehicle refinishing and placing standards on the application and storage of coatings and solvents used. In 1995, Maryland adopted rules (COMAR 26.11.19.23 — Control of VOC Emissions from Vehicle Refinishing) for limiting emissions from automobile refinishing industries that includes coating standards and coating application equipment, cleanup and surface preparation, and

monitoring and reporting requirements that reflect the standards similar to those in the U.S. EPA control technique guidelines for vehicle refinishing. The proposed regulation, which is based on a model rule developed by the Ozone Transport Commission (OTC) places more stringent standards on VOC content limits for auto refinishing coatings, controls on emissions from equipment cleaning, use of coating application methods, record keeping, maintenance activities, and operator training.

Sources Affected and Location:

The proposed regulation applies to auto body and repair facilities, fleet operator repair and paint facilities, and new and used auto dealer repair and paint facilities located in Maryland.

Requirements:

The proposed regulation establishes the following standards and limits as of July 1, 2013:

VOC content limits. All affected facilities must use coatings and cleaning solvents that meet specific VOC limits as specified in the regulation, minus water and exempt compounds. The specific VOC content limits for coatings range from 60 g/L (0.5 lbs/gal) for temporary protective coatings to 680 g/L (5.7 lbs/gal) for multicolor coatings. The VOC content limit for cleaning solvents (other than bug and tar removers) is 25 g/L (0.21 lbs/gal). The VOC content limit for bug and tar removers is 40 percent VOC by weight.

Application equipment standards. All affected facilities must use one of the following application methods when applying an automotive coating:

- Flow or curtain coating;
- Dip coating;
- Brush Coating;
- Cotton-tipped swab application;
- Electrodeposition coating;
- High volume-low pressure (HVLP) spraying;
- Electrostatic spray;
- Airless spray; or
- An alternative spray equipment coating application method.

Work practice standards. Affected facilities must clean spray gun equipment used to apply automotive coatings and handle automotive coatings and solvents in accordance with the regulation.

Operator training. Owners and operators of affected facilities that implement a training program must include work practice standards and training measures as specified in the regulation.

Compliance and record keeping. All affected facilities are required to keep extensive records on the amount of each coating used, its VOC content, purchase records, etc.

Additional requirements include labeling requirements for automotive coatings, automotive coating components, and cleaning solvents in addition to product dating requirements for labels affixed to coating containers or packaging.

Expected Emissions Reductions:

Based upon calculations and emissions estimates by the Department, the proposed regulation has an estimated Statewide VOC emissions reduction potential of 65 percent from the vehicle refinishing category of the current baseline emissions inventory. Maryland's 2002 baseline emissions inventory indicates that VOC emissions from vehicle refinishing total 3.7 tons/day. The proposed regulation will reduce 2.4 tons/day of VOC emissions through implementation of the coating limits and standards that have been established in the OTC Model Rule for Motor Vehicle and Mobile Equipment Refinishing and Recoating.

Comparison to Federal Standards

In compliance with Executive Order 01.01.1996.03, this proposed regulation is more restrictive or stringent than corresponding federal standards as follows:

(1) Regulation citation and manner in which it is more restrictive than the applicable federal standard:

The VOC content limits for coating and cleaning solvents, along with others requirements such as work practice, operator training, compliance, and record-keeping standards in the proposed regulation are more stringent than those found in 40 CFR Part 59, Subpart B — National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings.

(2) Benefit to the public health, safety, or welfare, or the environment:

The use and implementation of compliant low-VOC automotive coatings and cleaning solvents coupled with stringent application and work practice standards is expected to reduce VOC emissions from vehicle refinishing operations through the use of coatings with less toxic compounds. The proposed regulation will reduce VOCs in Maryland. VOCs in combination with NO_x and intense sunlight form ground-level ozone, which is a significant summertime air pollutant.

(3) Analysis of additional burden or cost on the regulated person:

The additional burden or cost on regulated sources is expected to be minimal. The Maryland Department of the Environment found a significant number of auto refinishing coatings and cleaning solvents that are currently available which comply with the standards in the proposed regulation. A significant number of compliant coatings can be applied using several application methods which are compatible with the workflow of many auto body and collision repair paint shops, and are currently being used by shops in the State and nationwide. The effective date of the proposed regulation (July 1, 2013) coupled with the sell-through and alternative compliance provisions found in the regulation provide retailers, distributors, auto body and collision repair shops, and other affected sources flexibility to reduce or offset implementation costs.

Some small businesses, specifically auto repair and refinishing operations may initially incur additional costs due to equipment upgrades, additional operator training, and/or switching to low-solvent or waterborne coatings in order to comply with the limits and standards in the proposed regulation. Based on survey data compiled by the California Air Resources Board (CARB) in their 2005 SCM Staff Report, the compliance costs would average \$2,320 per facility with an average annualized compliance cost of \$1,022 per facility.

Regulated sources may experience a small, short-term increase in compliance costs as a result of the proposed regulation. These costs should likely be absorbed by regulated sources without a significant effect on employment, business competitiveness, or added costs to consumers.

(4) Justification for the need for more restrictive standards:

In addition to public health benefits resulting from the use of coatings with less toxic compounds, the proposed regulation has an estimated Statewide VOC emissions reduction potential of 65 percent from the vehicle refinishing category of the current baseline emissions inventory based upon analysis by the Department. Maryland's 2002 baseline emissions inventory indicates that VOC emissions from vehicle refinishing total 3.7 tons/day. The proposed regulation will reduce 2.4 tons/day of VOC emissions through implementation of the coating limits and standards that have been established in a multi-state model rule (Motor Vehicle and Mobile Equipment Refinishing and Recoating) developed through the Ozone Transport Commission (OTC).

Estimate of Economic Impact

I. Summary of Economic Impact.

Economic Impact on Affected Sources and the Department:

Some affected sources, specifically auto repair and refinishing operations in the State, may be impacted by additional costs due to initial equipment upgrades, additional operator training, and/or switching to low-solvent or waterborne coatings in order to comply with the limits and standards in the proposed regulation.

There will be no additional impact on the Department as a result of this regulation.

Economic Impact on Small Businesses:

Some small businesses, specifically auto repair and refinishing operations, may initially incur additional costs due to equipment upgrades, additional operator training, and/or switching to low-solvent or waterborne coatings in order to comply with the limits and standards in the proposed regulation. Based on survey data compiled by CARB in the 2005 SCM Staff Report., the compliance costs would average \$2,320 per facility with an average annualized compliance cost of \$1,022 per facility. The Department expects the costs associated with compliance to decrease with the increasing availability of compliant automotive coatings and applications equipment which have been used in auto repair and refinishing facilities in states such as California for several years.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(-)	\$2,320 per facility
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	(+)	2.4 tons/day of VOC reductions

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

D. Based on survey data compiled by CARB in the 2005 SCM Staff Report, the compliance costs would average \$2,320 per facility with an average annualized compliance cost of \$1,022 per facility. The Department expects the costs associated with compliance to decrease with the increasing availability of compliant automotive coatings and applications equipment which have been used in auto repair and refinishing facilities in states such as California for several years.

F. Based upon calculations and emissions estimates by the Department, the proposed regulation has an estimated Statewide VOC emissions reduction potential of 65 percent from the vehicle refinishing category of the current baseline emissions inventory.

Maryland’s 2002 baseline emissions inventory indicates that VOC emissions from vehicle refinishing total 3.7 tons/day. The proposed regulation will reduce 2.4 tons/day of VOC emissions through implementation of the coating limits and standards that have been established in the OTC Model Rule for Motor Vehicle and Mobile Equipment Refinishing and Recoating.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

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

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

Opportunity for Public Comment

The Department of the Environment will hold a public hearing on the proposed action on January 11, 2012 at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Conference Rooms, Baltimore, Maryland 21230-1720. Interested persons are invited to attend and express their views. Comments may be sent to Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration, Department of the Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or emailed to drabin@mde.state.md.us. Comments must be received not later than January 11, 2012, or be submitted at the hearing. For more information, call Deborah Rabin at (410) 537-3240.

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

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

.23 Control of VOC Emissions from Vehicle Refinishing.

A. Definitions.

(1) *In this regulation, the following terms have the meanings indicated.*

(2) *Terms Defined.*

(a) *“Airless spray” means a spray coating method in which the coating is:*

(i) *Atomized by forcing it through a small nozzle at high pressure; and*

(ii) *Not mixed with air before exiting from the nozzle opening.*

(b) *Associated Parts and Components.*

(i) *“Associated parts and components” means a structure, device, piece, module, section, assembly, subassembly, or element of a motor vehicle or mobile equipment that is designed to be a part of the motor vehicle or mobile equipment but which is not attached to the motor vehicle or mobile equipment at the time of coating the structure, device, piece, module, section, assembly, subassembly, or element.*

(ii) *“Associated parts and components” does not include circuit boards.*

(c) *Automotive Coating.*

(i) *“Automotive coating” means a coating or coating component used or recommended for use in motor vehicle or mobile*

equipment refinishing, service, maintenance, repair, restoration, or modification.

(ii) "Automotive coating" includes any reference to automotive refinishing or automotive coating recommended for use in motor vehicle or mobile equipment refinishing on the container or in product literature.

(iii) "Automotive coating" does not include metal plating activities.

(d) Automotive Coating Component.

(i) "Automotive coating component" means a portion of a coating, including a reducer or thinner, toner, hardener, or additive that is recommended by a person to distributors or end-users for use in an automotive coating, or which is supplied for use in an automotive coating.

(ii) "Automotive coating component" does not include raw materials used to produce the components.

(e) "Automotive pretreatment coating" means a coating that:

(i) Contains a minimum of 0.5 percent acid by weight and not more than 16 percent solids by weight necessary to provide surface etching; and

(ii) Is labeled and formulated for application directly to bare metal surfaces to provide corrosion resistance and adhesion.

(f) "Automotive primer" means a coating labeled and formulated for application to a substrate to provide one or more of the following:

(i) A bond between the substrate and subsequent coats;

(ii) Corrosion resistance;

(iii) A smooth substrate surface; and

(iv) Resistance to penetration of subsequent coats, and on which a subsequent coating is applied.

(g) Automotive Refinishing Facility.

(i) "Automotive refinishing facility" means a shop, business, location, or parcel of land where motor vehicles or mobile equipment or their associated parts and components are coated, including auto body collision repair shops.

(ii) "Automotive refinishing facility" does not include the original equipment manufacturing plant where the new motor vehicle or new mobile equipment is completely assembled.

(h) "CARB" means the California Air Resources Board.

(i) Cleaning Solvent.

(i) "Cleaning solvent" means a fluid containing VOC used to perform surface preparation, or cleaning of surface coating equipment.

(ii) "Cleaning solvent" does not include thinners, reducers or other solvents that may be used to adjust the solvent content of coatings.

(j) Color Coating.

(i) "Color coating" means a pigmented coating, excluding promoters, primers, and multicolor coatings that requires a subsequent clear coating and which is applied over a primer, adhesion promoter, or color coating.

(ii) "Color coating" includes metallic/iridescent color coatings.

(k) "Electrostatic spray" means the application of charged atomized paint droplets that are deposited by electrostatic attraction.

(l) "Exempt compound" means a compound identified as exempt under the definition of volatile organic compound (VOC) under COMAR 26.11.01B(53).

(m) "Graphic arts operation" means the application of logos, letters, numbers, or graphics to a painted surface by brush, roller, or airbrush.

(n) "Metallic/iridescent color coating" means a coating that:

(i) Exhibits more than one color in the dried film after a single application;

(ii) Is packaged in a single container;

(iii) Hides surface defects on areas of heavy use; and

(iv) Is applied over a primer or adhesion promoter.

(o) "Mobile equipment" means any equipment which may be drawn or is capable of being drawn or driven on a roadway or rails including but not limited to:

(i) Automobiles;

(ii) Trucks, truck cabs, truck bodies, and truck trailers;

(iii) Buses;

(iv) Motorcycles;

(v) Utility bodies;

(vi) Camper shells;

(vii) Mobile cranes;

(viii) Bulldozers;

(ix) Street cleaners;

(x) Golf carts;

(xi) Ground support vehicles, used in support of aircraft activities at airports;

(xii) Implements of husbandry or agriculture and farming equipment; and

(xiii) Trains and railcars.

(p) Single-Stage Coating.

(i) "Single-stage coating" means a pigmented coating, excluding primers and multicolor coatings, labeled and formulated for application without a subsequent clear coat.

(ii) "Single-staged coating" includes single-stage metallic/iridescent coatings.

(q) "Spot repair" means repair of an area of less than one panel in size on a motor vehicle, piece of mobile equipment, or associated parts or components.

(r) "Temporary protective coating" means a coating labeled and formulated for the purpose of temporarily protecting areas from overspray or mechanical damage.

(s) "Truck bed liner coating" means a coating, excluding clear, color, multicolor, and single-stage coatings, labeled and formulated for application to a truck bed to protect it from surface abrasion.

(t) "Underbody coating" means a coating labeled and formulated for:

(i) Application to wheel wells;

(ii) The inside of door panels or fenders;

(iii) The underside of a truck or hood; or

(iv) The underside of a motor vehicle.

(u) "Vehicle refinishing" means the activity of recoating a motor vehicle, mobile equipment or parts of a motor vehicle or mobile equipment.

B. Test Methods. The following test methods shall be used for the purpose of demonstrating compliance with the provisions of this regulation.

(1) VOC Content of Coatings and Solvents. The VOC content of automotive components, automotive coatings, and solvents shall be determined by either U.S. EPA Reference Method 24 as it exists in Appendix A of 40 CFR Part 60, "Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings or South Coast Air Quality Management District (SCAQMD) Method 304-91 "Determination of Volatile Organic Compounds (VOC) in Various Materials".

(2) Exempt Organic Compounds – Methyl Acetate, Acetone, t-Butyl Acetate, and p-Chlorobenzotrifluoride (PCBTF). The concentration of the exempt organic compounds methyl acetate, acetone, t-butyl acetate, and PCBTF shall be determined by ASTM Designation: D 6133-02, "Standard Test Method for Acetone, p-Chlorobenzotrifluoride, Methyl Acetate or t-Butyl Acetate Content of

Solventborne and Waterborne Paints, Coatings, Resins, and Raw materials by Direct Injection Into a Gas Chromatograph".

(3) *Exempt Organic Compounds – Dichloromethane and 1,1,1-Trichloroethane.* The concentration of the exempt organic compounds dichloromethane and 1,1,1-trichloroethane shall be determined by California Air Resources Board (CARB) Method 432, "Determination of Dichloromethane and 1,1,1-Trichloroethane in Paints and Coatings", adopted September 12, 1989.

(4) *Exempt Organic Compounds.* The concentration of exempt compounds shall be determined by either CARB Method 422, "Determination of Volatile Organic Compounds in Emissions from Stationary Sources" (adopted January 22, 1987) or SCAQMD Method 303-91, "Determination of Exempt Compounds (Approved February 1993).

(5) *Acid Content of Coatings.* The acid content of pretreatment coatings shall be determined by ASTM Designation: D 1613-03, "Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer, and Related Products" (October 2003).

(6) *Metallic Content of Coatings.* The metallic content of a coating shall be determined by South Coast Air Quality Management District (SCAQMD) Method 318-95, "Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction", (Approved July 1996).

(7) *Spray Equipment Transfer Efficiency.* The spray equipment transfer efficiency shall be determined by SCAQMD Test Procedure, "Spray Equipment Transfer Efficiency Test Procedure for Equipment User", (Approved May 24, 1989).

(8) *Spray Equipment HVLP Equivalency.* The spray equipment HVLP equivalency shall be determined by SCAQMD Guidelines, "Guidelines for Demonstrating Equivalency with District Approved Transfer Efficient Spray Guns", (September 26, 2002).

(9) *Spray Gun Cleaning System.* The active and passive solvent losses from the use of an enclosed spray gun cleaning system or equivalent cleaning system shall be determined by SCAQMD Method, "General Test Method for Determining Solvent Losses from Spray Gun Cleaning Systems", (October 3, 1989).

(10) *Emission Control System – Capture Efficiency.* The measurement of capture efficiency shall be conducted and reported in accordance with one or both of the following:

- (a) U.S. EPA Technical Document, "Guidelines for Determining Capture Efficiency" (issued January 9, 1995); or
- (b) 40 CFR 51, Appendix M, Methods 204-204f.

(11) *Emission Control System – Control Efficiency.* The control efficiency shall be determined in accordance with one or more of the following:

(a) U.S EPA Reference Method 25, "Determination of Total Gaseous Nonmethane Organic Emissions as Carbon" as it exists in Subpart D, Appendix A of 40 CFR 60;

(b) U.S EPA Reference Method 25A, "Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer" as it exists in Subpart D, Appendix A of 40 CFR 60; and

(c) U.S EPA Reference Method 25B, "Determination of Total Gaseous Organic Concentration Using a Nondispersive Infrared Analyzer" as it exists in Subpart D, Appendix A of 40 CFR 60.

C. Incorporation by Reference. In this regulation, the following documents are incorporated by reference.

(1) U.S. EPA Reference Method 24: *Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings* (40 CFR Part 60 Appendix A).

(2) SCAQMD Method 304-91: "Determination of Volatile Organic Compounds (VOC) in Various Materials".

(3) ASTM Designation D 6133-02: "Standard Test Method for Acetone, p-Chlorobenzotrifluoride, Methyl Acetate or t-Butyl Acetate

Content of Solvent borne and Waterborne Paints, Coatings, Resins, and Raw materials by Direct Injection Into a Gas Chromatograph".

(4) CARB Method 432: "Determination of Dichloromethane and 1,1,1-Trichloroethane in Paints and Coatings"(adopted September 12, 1989).

(5) CARB Method 422: "Determination of Volatile Organic Compounds in Emissions from Stationary Sources" (adopted January 22, 1987).

(6) SCAQMD Method 303-91: "Determination of Exempt Compounds" (approved February 1993).

(7) ASTM Designation D 1613-03: "Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer, and Related Products".

(8) SCAQMD Method 318-95: "Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction" (approved July 1996).

(9) SCAQMD Test Procedure: *Spray Equipment Transfer Efficiency Test Procedure for Equipment User*, approved May 24, 1989.

(10) SCAQMD Guidelines for Demonstrating Equivalency with District Approved Transfer Efficient Spray Guns, September 26, 2002.

(11) SCAQMD "General Test Method for Determining Solvent Losses from Spray Gun Cleaning Systems" (dated October 3, 1989).

(12) U.S. EPA Technical Document: "Guidelines for Determining Capture Efficiency" (January 9, 1995).

(13) 40 CFR 51, Appendix M: Methods 204-204f.

(14) U.S EPA Reference Method 25: "Determination of Total Gaseous Nonmethane Organic Emissions as Carbon, (40 CFR 60 Subpart D, Appendix A).

(15) U.S EPA Reference Method 25A: "Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer" (40 CFR 60 Subpart D, Appendix A).

(16) U.S EPA Reference Method 25B, "Determination of Total Gaseous Organic Concentration Using a Nondispersive Infrared Analyzer" (40 CFR 60 Subpart D, Appendix A).

D. Applicability and Exemptions.

(1) Except as provided in §D(2) of this regulation, the provisions of this regulation apply to a person who, on or after July 1, 2013:

- (a) Supplies, sells, offers for sale, or distributes an automotive coating or cleaning solvent for use within the State;
- (b) Manufactures an automotive coating or cleaning solvent for use within the State; or
- (c) Uses or applies an automotive coating or cleaning solvent within the State.

(2) This regulation does not apply to the following products:

(a) An automotive coating or cleaning solvent that is offered for sale, sold, or manufactured for:

- (i) Use outside of the State; or
- (ii) Shipment to other manufacturers for reformulation or repackaging;

(b) An aerosol coating product;

(c) An automotive coating that is sold, supplied, or offered for sale in 0.5 fluid ounce or smaller containers intended to be used by the general public to repair minor surface imperfections;

(d) A coating applied to motor vehicles or mobile equipment or their associated parts and components during original equipment manufacture on an assembly line;

(e) An automotive coating used in a surface coating process that is subject to Regulation .03 of this chapter; or

(f) An automotive coating applied to motor vehicles or mobile equipment or their associated parts and components by a person who does not receive compensation for the application of the coating.

(3) The application requirements specified in §G of this regulation do not apply to:

- (a) Graphics arts operations;
- (b) Use of less than one fluid ounce of a coating; or
- (c) The application of:
 - (i) Underbody coatings; and
 - (ii) Truck bed liner coatings.

E. General Requirements and Standards.

(1) VOC Content Limits.

(a) Except as provided in this regulation, effective July 1, 2013, a person who is subject to this regulation may not supply, sell, offer for sale, distribute, or manufacture for use within the State an automotive coating or cleaning solvent with a VOC content in excess of the corresponding limit specified in Table 1 of §E(1) or in §E(5) of this regulation.

(b) A person may not use or apply to a motor vehicle, mobile equipment, or associated parts and components, an automotive coating or cleaning solvent for vehicle refinishing that exceeds the VOC content specified in Table 1 of §E(1) or in §E(5) of this regulation.

Table 1. VOC Content Limits for Automotive Coatings for Motor Vehicle and Mobile Equipment Non-assembly Line Refinishing and Recoating.

Coating Category	VOC Content Limit of Coatings as Applied*	
	Pounds per gallon	Grams per liter
Adhesion promoter	4.5	540
Automotive pretreatment coating	5.5	660
Automotive primer	2.1	250
Clear coating	2.1	250
Color coating, including metallic/iridescent color coating	3.5	420
Multicolor coating	5.7	680
Other automotive coating type	2.1	250
Single-stage coating, including single-stage metallic/iridescent coating	2.8	340
Temporary protective coating	0.5	60
Truck bed liner coating	1.7	200
Underbody coating	3.6	430

* The VOC content is determined as the weight of volatile compounds (prepared to manufacturer's maximum VOC content), less water and exempt compounds, as specified in §E(2) of this regulation.

(2) Calculation of VOC Content.

(a) For the purpose of determining compliance with the VOC content limits in §E(1) of this regulation, the VOC content of an automotive coating shall be determined by using the following procedures, as applicable:

(i) For the VOC regulatory content for coatings, determine the VOC content in units of grams of VOC per liter of coating less water and exempt compounds using the following equation:

$$\text{VOC regulatory content} = (W_v - W_w - W_{ec}) / (V_m - V_w - V_{ec})$$

(ii) For the VOC actual content for coatings, determine the VOC content in units of grams of VOC per liter of coating including the volume of any water, exempt compounds and VOC solvent using the following equation:

$$\text{VOC actual content} = (W_v - W_w - W_{ec}) / (V_m)$$

(iii) For the VOC content for cleaning solvents, determine the VOC content in units of grams of VOC per liter of solvent using the following equation:

$$\text{VOC content} = (W_v - W_w - W_{ec}) / (V_m)$$

Where:

VOC content (or actual) = grams of VOC per liter of coating;

W_v = weight of total volatiles, in grams;

W_w = weight of water, in grams;

W_{ec} = weight of exempt compounds, in grams;

V_m = volume of material (coating or cleaning solvent, including water, exempt compounds, and added solvent) in liters;

V_w = volume of water, in liters; and

V_{ec} = volume of exempt compounds, in liters;

(3) Most Restrictive VOC Limit. If anywhere on the container of an automotive coating, label or sticker affixed to the container, or in any sales, advertising, or technical literature supplied by a manufacturer or anyone acting on behalf of a manufacturer, any representation is made that indicates that the coating meets the definition of or is recommended for use for more than one of the coating categories listed in §E(1) of this regulation, then the most restrictive VOC content limit applies.

(4) Alternative Compliance.

(a) A person subject to this regulation may achieve compliance with the requirements of this regulation through use of an emission control device that has been approved in writing by the Department which achieves an overall emission control efficiency of 85 percent or greater, as determined in accordance with §B(10) and (11) of this regulation.

(b) The approved emission control device shall be maintained and used in proper working condition at all times.

(c) A source is in violation if the measured VOC emissions, as measured by any of the test methods specified in §B(11)(a)—(c) of this regulation, exceed the standards specified in §E(4)(a)—(b) of this regulation.

(d) A person subject to this regulation shall not manufacture, blend, repack for sale, supply, sell, offer for sale, or distribute for use within the State an automotive coating with a VOC content in excess of the limits specified in Table 1 of §E(1) of this regulation unless the automotive coating is used exclusively within an emission control system approved under §E(4)(a)—(b) of this regulation.

(5) VOC Content Limits for Cleaning Solvents.

(a) A person may not use or apply to a motor vehicle, mobile equipment, or associated parts and components, a cleaning solvent other than for bug and tar removal with a VOC content greater than 25 grams per liter.

(b) For cleaning solvents used for bug and tar removal, a person may not use or apply to a motor vehicle, mobile equipment, or associated part a bug and tar remover greater than 40 percent VOC by weight as set forth in COMAR 26.1.32.04B.

F. Prohibitions. A person may not possess the following at a non-assembly line motor vehicle or mobile equipment coating operation:

(1) An automotive coating that is not in compliance with the VOC content limits specified in §E(1) of this regulation;

(2) An automotive coating not for use with an approved emission control device; or

(3) A cleaning solvent that does not meet the limits specified in §E(5) of this regulation.

G. Coating Application Methods.

(1) Beginning July 1, 2013, a person may not apply an automotive coating subject to this regulation to a motor vehicle, mobile equipment, or associated parts and components unless one or more of the following application methods is used:

- (a) Flow or curtain coating;
- (b) Dip coating;
- (c) Roller coating;
- (d) Brush coating;
- (e) Cotton-tipped swab application;
- (f) Electrodeposition coating;
- (g) High volume-low pressure (HVLP) spraying;
- (h) Electrostatic spray;
- (i) Airless spray; or
- (j) An alternative spray equipment coating application method.

(2) A person who uses an alternative spray equipment coating application method must demonstrate to the satisfaction of the Department that the transfer efficiency is equivalent to or higher than HVLP or electrostatic spray application methods using the spray equipment transfer efficiency methods under §B(7) and (8) of this regulation based on the following:

- (a) The manufacturer's published technical material on the design of the spray equipment; and
- (b) The operation of the spray equipment using an air pressure tip gauge from the manufacturer of the spray equipment.

(3) The report of the demonstration shall be submitted in writing to the Department for approval.

(4) An alternative spray coating application method, or an alternative coating application method other than spray application methods, that has been approved by CARB or a California air district for use in applying non-assembly line automotive coatings may also be approved to comply with this regulation, as applicable.

H. Work Practice Standards.

(1) Spray guns used to apply automotive coating components or automotive coatings shall be cleaned by one or a combination of the following:

- (a) A fully enclosed spray gun cleaning system that is kept closed when not in use and is maintained in accordance with the requirements of §L(1)(a)–(c) of this regulation;
- (b) Unatomized discharge of solvent into a paint waste container that is kept closed when not in use;
- (c) Disassembly of the spray gun and cleaning in a vat that is kept closed when not in use; or
- (d) Atomized spray into a paint waste container that is filled with a device designed to capture atomized mist or spray solvent emissions.

(2) The owner or operator of an automotive refinishing facility or non-assembly line operation subject to this regulation shall implement the following work practice standards and training measures:

- (a) Fresh and used automotive coating components, automotive coatings, solvents, and cleaning solvents shall be stored in vaportight, nonabsorbent, nonleaking containers that shall be kept closed at all times except when filling or emptying;
- (b) Cloth or paper, or absorbent applicators, moistened with automotive coatings components, automotive coatings, solvents, or cleaning solvents shall be stored in closed, vaportight, nonabsorbent, nonleaking containers;
- (c) Handling and transfer procedures to minimize spills during the transfer of automotive coating components, automotive coatings, solvents, and cleaning solvents; and

(d) Ensure that a person who uses or applies automotive coating components, automotive coatings, solvents, or cleaning solvents has completed training in the proper use and handling of the automotive coating components, automotive coatings, solvents, and waste products in order to minimize the emission of air contaminants and to comply with the provisions of this regulation.

I. Compliance Procedures and Monitoring Requirements.

(1) Compliance Statement Requirements.

(a) For each automotive coating product or automotive coating component product, a manufacturer and repackager who is subject to the provisions of this regulation shall include the following information on product data sheets or an equivalent documentation:

- (i) The VOC actual content and VOC regulatory content, as supplied, for the coating product or coating component product, expressed in grams per liter, calculated in accordance with §E(2)(a)(i) and (ii) of this regulation;
- (ii) The weight percent of volatiles, water, and exempt compounds;
- (iii) The volume percent of water and exempt compounds; and
- (iv) The density of the material (in grams per liter).

(b) For each ready to spray mixture (based on the manufacturer's and repackager's stated mix ratio) product, the manufacturer and repackager shall include the following information on product data sheets or an equivalent documentation:

- (i) The VOC actual content and the VOC regulatory content, as applied, for the coating product or coating component product, expressed in grams per liter;
- (ii) The weight percent of volatiles, water, and exempt compounds;
- (iii) The volume percent of water and exempt compounds; and
- (iv) The density of the material (in grams per liter).

(c) The manufacturer and repackager of cleaning solvents subject to this regulation shall include the VOC content of the cleaning solvents as supplied, calculated in accordance with the requirements of §E(2)(a)(iii) of this regulation, expressed in grams per liter, on product data sheets or an equivalent documentation.

(2) Container Labeling Requirements. The manufacturer and repackager of automotive coatings or automotive coating components shall include the following information on all containers or on a label affixed to the container:

- (a) The applicable use category or categories;
- (b) The VOC actual content of the coating or coating component, as supplied, calculated in accordance with the requirements of §E(2)(a)(ii) of this regulation) and expressed in grams per liter;
- (c) The VOC regulatory content of the coating or coating component as supplied, calculated in accordance with the requirements of §E(2)(a)(i) of this regulation and expressed in grams per liter; and
- (d) The manufacturer and repackager of cleaning solvents subject to this rule shall include on all containers, or on a label affixed to the container, the VOC content for cleaning solvents, as supplied, calculated in accordance with the requirements of §E(2)(a)(iii) of this regulation) and expressed in grams per liter.

J. Record Keeping.

(1) Record-Keeping Requirements for Coatings, Coating Components and Solvents. A person who uses automotive coatings, automotive coating components, ready-to-spray coatings (based on the manufacturer's stated mix ratio), or cleaning solvents subject to this regulation shall maintain and have available at all times, the following:

- (a) A current list of all coatings, coating components and cleaning solvents used that are subject to this regulation which

includes the following information for each coating, coating component and cleaning solvent:

- (i) Whether the material is a coating, coating component, or cleaning solvent;
- (ii) Coating, coating component or cleaning solvent name and manufacturer;
- (iii) Application method;
- (iv) Coating type;
- (v) The mix ratio specific to the coating, coating component or cleaning solvent; and
- (vi) The VOC actual content and VOC regulatory content as applied, for each ready to spray or ready to apply coating or cleaning solvent and copies of data sheets documenting how the as applied values were determined;

(b) The VOC actual content and VOC regulatory content as supplied and copies of current manufacturer specification sheets, product data sheets, material safety data sheets, technical data sheets, or air quality data sheets documenting the as supplied value; and

(c) Purchase records identifying the following;

- (i) The coating type;
- (ii) Coating, coating component, or cleaning solvent name; and
- (iii) Volume purchased of the coating, coating component or cleaning solvent.

(2) Record-Keeping Requirements for Emission Control Systems. A person using an emission control system shall maintain daily records of the following key system operating parameters which demonstrate continuous operation and compliance of the emission control system during periods of VOC emission producing activities:

- (a) Temperatures;
- (b) Pressure drops; and
- (c) Air flow rates.

(3) The records under this regulation shall be maintained for not less than 3 years and made available to the Department upon request.

K. Administrative Requirements.

(1) Product Dating.

(a) A manufacturer of an automotive coating subject to this regulation shall clearly display on each automotive coating container, on a label affixed to the container or on the package, the month and year on which the automotive coating was manufactured or code indicating that date.

(b) A manufacturer who uses the following code to indicate the date of manufacture will not be subject to the requirements of §K(2)(b) of this regulation if the code is represented separately from other codes on the automotive coating container, label or package so that it is easily recognizable:

YY DDD

Where:

“YY” = two digits representing the year in which the product was manufactured; and

“DDD” = three digits representing the day of the year on which the product was manufactured, with “001” representing the first day of the year, “002” representing the second day of the year, and so forth (that is, the “Julian date”).

(c) The product date or date-code specified in this regulation shall be displayed on each automotive coating container, label or package no later than 30 days before the automotive coating is supplied, sold, offered for sale or distributed in the State.

(d) The date or date-code information shall be located on the automotive coating container, label or package so that it is readily observable without irreversibly disassembling a part of the container or packaging.

(e) For the purposes of this section, information may be displayed on the bottom of a container if it is clearly legible without removing any product packaging.

(f) The requirements of this section do not apply to automotive coatings containing no VOCs.

(2) Additional Product Dating Requirements.

(a) If a manufacturer uses a code indicating the month and year of manufacture for an automotive coating subject to this regulation, an explanation of the code must be filed with the Department no later than 30 days before the automotive coating is supplied, sold, offered for sale or distributed in the State.

(b) If a manufacturer changes a code indicating the month and year of manufacture for an automotive coating subject to §K(2)(a) of this regulation, an explanation of the modified code must be submitted to the Department before products displaying the modified code are supplied, sold, offered for sale or distributed in the State.

(c) A person may not erase, alter, deface or otherwise remove or make illegible a date or code indicating the month and year of manufacture from a regulated product container without the express authorization of the manufacturer.

(d) Date code explanations for codes indicating the month and year of manufacture are public information and may not be claimed as confidential.

(3) Sell-Through of Products. An automotive coating, coating component or cleaning solvent subject to this regulation manufactured before July 1, 2013 may be supplied, sold, offered for sale, or distributed in the State if the product meets the following:

(a) The automotive coating, coating component or cleaning solvent complied with the standards in effect at the time the product was manufactured; and

(b) The automotive coating, coating component or cleaning solvent meets the product dating requirements of §K(1) of this regulation.

L. Testing Requirements.

(1) Testing Requirements for Spray Gun Cleaning Systems.

(a) Active and passive losses from the use of an enclosed spray gun cleaning system or equivalent cleaning system shall be determined in accordance with the test methods listed in §B(9) of this regulation.

(b) The test solvent for this determination shall be a lacquer thinner with a minimum vapor pressure of 105 mm of mercury at 20°C.

(c) The minimum test temperature shall be 15°C.

(2) Alternative Test Methods. The use of other test methods which are determined to be equivalent or better and which are approved in writing by the Department and the Administrator of the U.S. EPA may be used in place of the test methods specified in this regulation.

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

**Title 31
MARYLAND INSURANCE
ADMINISTRATION**

**Subtitle 03 INSURANCE PRODUCERS
AND OTHER INSURANCE
PROFESSIONALS**

31.03.06 Surplus Lines

Authority: Insurance Article, §§2-109, 3-304, 3-306, 3-307, 3-311—3-313, and 3-325(c), Annotated Code of Maryland

Notice of Proposed Action
[11-333-P]

The Insurance Commissioner proposes to amend Regulations .01-1—.03, .05, .06, .10, and .11 under **COMAR 31.03.06 Surplus Lines**.

Statement of Purpose

The purpose of this action is to amend COMAR 31.03.06 to reflect changes to Maryland’s surplus lines and nonadmitted insurance laws made during the 2011 Legislative session. One of the components of last year’s Dodd-Frank Wall Street Reform and Consumer Protection Act was the Nonadmitted and Reinsurance Reform Act of 2010 (“NRRA”). The NRRA established federal standards for surplus lines coverage and other nonadmitted insurance. On May 19, 2011, Governor O’Malley signed into law Chapters 520 and 521, Acts 2011, which provide for the implementation of the NRRA in Maryland and conform Maryland’s nonadmitted insurance laws to federal law. Chapters 520 and 521 took effect July 1, 2011.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Katrina Lawhorn, Regulations Coordinator, Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202, or call 410-468-2450, or email to klawhorn@mdinsurance.state.md.us, or fax to 410-468-2020. Comments will be accepted through January 3, 2012. A public hearing has not been scheduled.

.01-1 Definitions.

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

B. Terms Defined.

- (1) text unchanged)
- (2) *Home State*.

(a) “*Home State*” means, except as provided in §B(2)(b) of this regulation, with respect to an insured:

(i) *The state in which an insured maintains its principal place of business or, in the case of any individual, the individual’s principal residence; or*

(ii) *If 100 percent of the insured risk is located out of the state referred to in §B(2)(a)(i) if this regulation, the state to which the greatest percentage of the insured’s taxable premium for that insurance contract is allocated.*

(b) *If more than 1 insured from an affiliated group are named insureds on a single nonadmitted insurance contract, the term “Home State” means the Home State, as determined pursuant to §B(2)(a) of this regulation, of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract.*

(3) “*Qualified risk manager*” means, with respect to a policyholder of commercial insurance, a person who meets all of the following requirements:

(a) *The person is an employee of, or third-party consultant retained by, the commercial policyholder;*

(b) *The person provides skilled services in loss prevention, loss reduction, or risk and insurance coverage analysis, and purchase of insurance; and*

(c) *The person meets at least one of the following criteria:*

(i) *The person has a bachelor’s degree or higher from an accredited college or university in risk management, business administration, finance, economics, or any other field determined by the Commissioner to demonstrate minimum competence in risk management and has 3 years of experience in risk financing, claims administration, loss prevention, risk and insurance analysis, or purchasing commercial lines of insurance;*

(ii) *The person has a bachelor’s degree or higher from an accredited college or university in risk management, business administration, finance, economics, or any other field determined by the Commissioner to demonstrate minimum competence in risk management, and holds:*

1. *A designation as a Chartered Property and Casualty Underwriter (in this subparagraph referred to as “CPCU”) issued by the American Institute for CPCU/Insurance Institute of America;*

2. *A designation as an Associate in Risk Management (ARM) issued by the American Institute for CPCU/Insurance Institute of America;*

3. *A designation as a Certified Risk Manager (CRM) issued by the National Alliance for Insurance Education and Research;*

4. *A designation as a RIMS Fellow (RF) issued by the Global Risk Management Institute; or*

5. *Any other designation, certification, or license determined by the Commissioner to demonstrate minimum competency in risk management;*

(iii) *The person has at least 7 years of experience in risk financing, claims administration, loss prevention, risk and insurance coverage analysis, or purchasing commercial lines of insurance, and has any one of the designations specified in §B(3)(c)(ii)1 —5 of this regulation;*

(iv) *The person has at least 10 years of experience in risk financing, claims administration, loss prevention, risk and insurance coverage analysis, or purchasing commercial lines of insurance; or*

(v) *The person has a graduate degree from an accredited college or university in risk management, business administration, finance, economics, or any other field determined by the Commissioner to demonstrate minimum competence in risk management.*

[(2)] (4) (text unchanged)

.02 Maryland Surplus Lines Brokers’ Licenses.

Before placing any surplus line or otherwise acting as a surplus lines broker, where Maryland is the Home State of the insured, it will be the responsibility of each individual so acting to acquire a valid Maryland surplus lines broker’s license. The licensee will be held

responsible for securing timely renewals of the licensee's license in order to place new business and provide a continuity of service to clients for whom the licensee has previously acted. Each original surplus lines broker's license shall be issued for a term expiring on June 30 of the next odd-numbered year following the date of issuance and may be renewed biennially thereafter.

.03 Surplus Lines Affidavits.

A surplus lines broker placing a surplus lines coverage shall execute the affidavit required by Insurance Article, §3-307, Annotated Code of Maryland, on a form provided by the Commissioner, or containing all of the information required by the Commissioner, and shall file the affidavit with the Commissioner on or before the 45th day after the last day of the [month] quarter in which the insurance was placed.

.05 Surplus Lines [Semiannual] [Report] Reports and Premium Receipts Tax.

A. [A] Each surplus lines broker shall [make] file with the [a semiannual report to the Commissioner of all surplus lines premiums placed by the surplus lines broker which are] Commissioner a semiannual statement that reports on business subject to the tax imposed by Insurance Article, §3-324, Annotated Code of Maryland during the preceding half calendar year, whether or not the surplus lines broker placed any business. The report shall be made in accordance with the form prescribed by the Commissioner and available from the Commissioner's office.

B. The broker shall deliver the report to the office of the Commissioner on or before March 15 and September 15 of each year. [A report which is mailed and postmarked on or before these respective dates will be considered timely filed.]

C. (text unchanged)

D. The reports shall be open to public inspection and shall include:

(1) The gross amount of each kind of insurance business transacted and the aggregate gross premiums charged;

(2) The aggregate of returned premiums and taxes paid to insureds;

(3) The aggregate of net premiums; and

(4) Any additional information required by the form.

[D.] E. [The broker shall remit with the report the full amount of the premium receipts tax as developed by the report.] All premiums and taxes, including additional and return premiums and taxes, may be reported and paid on a placed or written basis but shall be paid in any case for the full term of the policy, whether or not one or more installments of premium remain unearned and payable at some future date or dates during the term of policy. In computing the tax due, the broker may deduct the expense of any examination made in accordance with Insurance Article, §§2-208 and 3-325[(c)] (d), Annotated Code of Maryland, during the period covered by the report.

.06 [Semiannual Statements] Compliance with Filing and Premium Receipts Tax Payment Requirements.

[Within 60 days following December 31 and June 30 of each year, every surplus lines broker shall file with the Commissioner on a form provided by the Commissioner a semiannual statement which shall be open to public inspection and which reports:

A. The gross amount of each kind of insurance business transacted and the aggregate gross premiums charged;

B. The aggregate of returned premiums and taxes paid to insureds;

C. The aggregate of net premiums; and

D. Any additional information required by the form.]

A. A report, affidavit, or return that must be filed under this chapter complies with the filing requirement if the report, affidavit, or return is:

(1) Mailed or postmarked by the United States Postal Service on or before the filing date;

(2) Delivered on or before the filing date to a private delivery service recognized by the Commissioner, if the delivery is evidenced by a receipt; or

(3) Transmitted electronically on or before the filing date in a manner approved by the Commissioner.

B. Each broker shall remit the full amount of the premium receipts tax appearing on the report filed pursuant to Regulation .05 of this chapter at the time the report is filed.

C. Each broker shall remit the full amount of the premium receipts tax in the manner directed by the Commissioner on the form prescribed by the Commissioner pursuant to Regulation .05 of this chapter.

D. With respect to premium receipts tax due to the State, a surplus lines broker who fails to pay a tax when a report under Regulation .05 of this chapter is due, or fails to file a report, is subject to the provisions of Insurance Article, Title 6, Subtitle 1, Annotated Code of Maryland related to penalties, audits, assessments, limitations, appeals, and refunds.

.10 Surplus Lines Exportable List.

A. — B. (text unchanged)

C. The surplus lines exportable list is as follows:

(1) — (12) (text unchanged)

(13) Directors' and officers' liability for the following:

(a) Coverages:

(i) — (iii) (text unchanged)

[(iv) Year 2000 computer liability;]

[(v)] (iv) Liability for prior acts; or

[(vi)] (v) Fiduciary liability; or

(b) (text unchanged)

.11 Exempt Commercial [Insured] Purchaser — Waiver of Diligent Search Requirement.

A. (text unchanged)

B. In this regulation, "Exempt [commercial] Commercial [insured] Purchaser" means [a sole proprietor, partnership, corporation, or other business entity that:] any person purchasing commercial insurance that, at the time of placement, meets the following requirements:

[(1) Employs or retains a risk manager to represent solely the interest of the commercial insured in the transaction, provided that the risk manager is:

(a) Qualified as a chartered property and casualty underwriter (CPCU) or as an associate in risk management (ARM); or

(b) Licensed as an insurance producer with at least 5 years experience in the surplus lines insurance market; and

(2) Satisfies one of the following criteria:

(a) Generates annual net revenues or sales in excess of \$500,000; or

(b) Employs at least 10 full-time employees at the time that the policy is written or renewed.]

(1) The person employs or retains a qualified risk manager to negotiate insurance coverage;

(2) The person has paid aggregate nationwide commercial property and casualty insurance premiums in excess of \$100,000 in the immediately preceding 12 months; and

**Title 34
DEPARTMENT OF
PLANNING**

**Subtitle 04 HISTORICAL AND
CULTURAL PROGRAMS**

**34.04.09 Maryland Historical Trust African
American Heritage Preservation Grant
Program**

Authority: State Finance and Procurement Article, §§5-7B-01—5-7B-10 and 5A-330, Annotated Code of Maryland; Executive Orders 01.01.1992.27C and 01.01.1998.04

Notice of Proposed Action

[11-338-P]

The Maryland Department of Planning proposes to amend Regulation .08 under **COMAR 34.04.09 Maryland Historical Trust African American Heritage Preservation Grant Program**.

Statement of Purpose

The purpose of this action is to remove the requirement that a historic preservation easement be conveyed on properties that are eligible for listing in the Maryland Register of Historic Properties only as contributing properties in historic districts.

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 Elizabeth Hughes, Deputy Director, Maryland Historical Trust, 100 Community Place, Crownsville, MD 21032-2023, or call 410-514-7604, or email to ehughes@mdp.state.md.us, or fax to 410-514-7678. Comments will be accepted through January 3, 2012. A public hearing has not been scheduled.

.08 Grant Terms and Conditions.

A. — C. (text unchanged)

D. Requirements for Site-Specific Projects. Grants shall have the following additional requirements:

(1) Deeds of Easement and Preservation Agreements.

(a) If the African American heritage property assisted by the grant is historic real property *individually listed in or individually eligible for listing in the Maryland Register of Historic Properties*, the grantee and the owner of the real property if the owner is not the grantee, shall convey to the Trust or an entity acceptable to the Trust a perpetual deed of easement containing preservation covenants applicable to the historic property in form and substance satisfactory to the Trust. The deed of easement may also contain conditional lien provisions and other provisions which require reimbursement of the grant if the encumbrance of the deed of easement is extinguished by the foreclosure of a prior lien or otherwise or if the deed of easement

- (3) *The person meets at least 1 of the following criteria:*
 - (a) *The person possesses a net worth in excess of \$20,000,000, as such amount is adjusted pursuant to §C of this regulation;*
 - (b) *The person generates annual revenues in excess of \$50,000,000, as such amount is adjusted pursuant to §C of this regulation;*
 - (c) *The person employs more than 500 full-time or full-time equivalent employees per individual insured or is a member of an affiliated group employing more than 1,000 employees in the aggregate;*
 - (d) *The person is a not-for-profit organization or public entity generating annual budgeted expenditures of at least \$30,000,000, as such amount is adjusted pursuant to §C of this regulation; or*
 - (e) *The person is a municipality with a population in excess of 50,000 persons.*

C. *Effective on the fifth January 1 occurring after July 21, 2011, and each fifth January 1 occurring thereafter, the amounts in §B(3)(a), (b), and (d) of this regulation shall be adjusted to reflect the percentage change for the 5-year period in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.*

[C.] D. Waiver of Diligent Search Requirement.

(1) [A] *An Exempt [commercial] Commercial [insured] Purchaser may waive the diligent search requirement of Insurance Article, §3-306, Annotated Code of Maryland, for the procurement of a surplus lines insurance policy if:*

(a) [That generates annual premium of not less than \$5,000; and] *The surplus lines broker has disclosed to the Exempt Commercial Purchaser that the insurance may or may not be available from admitted insurers that may be subject to greater protection and regulatory oversight; and*

(b) [Is issued by an insurer with a financial rating of “A” or better by the A.M. Best Company, or an equivalent rating from an independent rating organization approved by the Commissioner.] *The Exempt Commercial Purchaser subsequently has requested the surplus lines broker in writing to procure nonadmitted insurance from or place the nonadmitted insurance with a nonadmitted insurer.*

[(2) The waiver shall be on a form approved by the Commissioner that:

(a) *Requires the commercial insured to certify that it meets the requirements for a waiver under this chapter; and*

(b) *Is signed by a sole proprietor, partner of a partnership, officer of a corporation, or an authorized representative of any other business entity.*

(3)] (2) *The surplus lines broker shall:*

(a) *Retain for at least 3 years a copy of the [waiver form] written request document signed by [the representative of] the Exempt [commercial] Commercial [insured] Purchaser; and*

(b) *Make the [waiver form] written request document available for inspection by the Commissioner on request.*

D. **Procurement That Is Not Authorized By Regulation.** This regulation does not authorize [a] *an Exempt [commercial] Commercial [insured] Purchaser to procure surplus lines insurance:*

(1) — (3) (text unchanged)

E. **Premium Tax.** This regulation does not exempt [a] *an Exempt [commercial] Commercial [insured] Purchaser from payment of the premium tax on surplus lines insurance pursuant to Insurance Article, §3-324, Annotated Code of Maryland.*

THERESE M. GOLDSMITH
Insurance Commissioner

PROPOSED ACTION ON REGULATIONS

1670

is determined not to be legally enforceable by the Trust for any reason. The grantee shall record the deed of easement among the land records of the political subdivision in which the real property is situated.

(b) —(d) (text unchanged)

(2) —(4) (text unchanged)

E. (text unchanged)

RICHARD E. HALL
Secretary of Planning

Errata

COMAR 10.34.35

At 38:23 Md. R. 1421 (November 4, 2011), col. 2, line 3 from the bottom:

For: **Effective Date: November 14, 2011.**

Read: **Effective Date: March 1, 2012.**

[11-25-38]

COMAR 10.38.10

At 38:23 Md.R. 1437 (November 4, 2011), col. 1, line 15 from the top:

For: A. On issuing agency: (R+) \$14,700

Read: A. On issuing agency: (R+) \$28,200

At 38:23 Md.R. 1437 (November 4, 2011), col. 1, line 17 from the bottom:

For: or trade groups: NONE \$14,700

Read: or trade groups: (-) \$28,200

[11-25-39]

Special Documents

DEPARTMENT OF THE ENVIRONMENT SUSQUEHANNA RIVER BASIN COMMISSION

Public Hearing and Commission Meeting

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: The Susquehanna River Basin Commission will hold a public hearing as part of its regular business meeting on December 15, 2011, in Wilkes-Barre, Pennsylvania. At the public hearing, the Commission will consider: (1) the rescission of three docket approvals; (2) action on certain water resources projects; and (3) a request for partial fee waiver from SWEPI LP. Details concerning the matters to be addressed at the public hearing and business meeting are contained in the Supplementary Information section of this notice.

DATE: December 15, 2011, at 8:30 a.m.

ADDRESS: Best Western East Mountain Inn & Suites, 2400 East End Boulevard - Route 115 (Exit 170-A off I-81), Wilkes-Barre, Pa.

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.

SUPPLEMENTARY INFORMATION: In addition to the public hearing and its related action items identified below, the business meeting also includes actions or presentations on the following items: (1) a presentation on the Commission's new Anthracite Remediation Strategy in conjunction with the Eastern Pennsylvania Coalition for Abandoned Mine Reclamation; (2) a resolution concerning the use of lesser quality water; (3) presentation of the Commission's William Jeanes Award; (4) a report on hydrologic conditions in the basin; (5) a resolution concerning FY-2013 federal funding of the Susquehanna Flood Forecast and Warning System and National Streamflow Information Program; (6) a presentation of the Commission's Morrison Cove Report; (7) consideration of a final rulemaking action; (8) consideration of an administrative appeal settlement; (9) a revision of the by-laws relating to the Commission's Investment Policy; (10) presentation of the FY-2011 Audit Report; and (11) ratification/approval of grants/contracts. The Commission will also hear Legal Counsel's report.

Public Hearing – Projects Scheduled for Rescission Action:

Project Sponsor and Facility: EXCO Resources (PA), LLC (Pine Creek) (Docket No. 20081203), Cummings Township, Lycoming County, Pa.

Project Sponsor and Facility: EXCO Resources (PA), LLC (Unnamed Tributary to Sandy Run) (Docket No. 20081209), Burnside Township, Centre County, Pa.

Project Sponsor and Facility: Possum Valley Municipal Authority (Docket No. 20090636), Menallen Township, Adams County, Pa.

Public Hearing – Projects Scheduled for Action:

Project Sponsor: Anadarko E&P Company LP. Project Facility: Sproul State Forest – Council Run, Snow Shoe Township, Centre County, Pa. Application for groundwater withdrawal of up to 0.715 mgd (30-day average) from Well PW-11.

Project Sponsor: Bioenergy International, LLC. Project Facility: Bionol Clearfield, LLC, Clearfield Borough, Clearfield County, Pa. Modification to conditions of the surface water withdrawal approval (Docket No. 20070904).

Project Sponsor: Borough of Ephrata. Project Facility: Ephrata Area Joint Authority, Ephrata Borough, Lancaster County, Pa. Modification to conditions of the groundwater withdrawal approval (Docket No. 20110902).

Project Sponsor and Facility: Carrizo (Marcellus), LLC (Mosquito Creek–2), Karthaus Township, Clearfield County, Pa. Application for surface water withdrawal of up to 2.160 mgd.

Project Sponsor and Facility: Central New York Oil and Gas Company, LLC (Susquehanna River), Wilmot Township, Bradford County, Pa. Application for surface water withdrawal of up to 0.540 mgd.

Project Sponsor and Facility: Central New York Oil and Gas Company, LLC, Wilmot Township, Bradford County, Pa. Application for consumptive water use of up to 0.105 mgd.

Project Sponsor and Facility: Chesapeake Appalachia, LLC (Susquehanna River – Babcock), Ulster Township, Bradford County, Pa. Application for surface water withdrawal of up to 3.000 mgd.

Project Sponsor and Facility: Chesapeake Appalachia, LLC (Susquehanna River – Elmglade), Wilmot Township, Bradford County, Pa. Application for surface water withdrawal of up to 2.016 mgd.

Project Sponsor and Facility: Chesapeake Appalachia, LLC (Towanda Creek – Sechrist), Canton Township, Bradford County, Pa. Application for surface water withdrawal of up to 0.504 mgd.

Project Sponsor: Clark Trucking, LLC. Project Facility: Northeast Division (Lycoming Creek), Lewis Township, Lycoming County, Pa. Application for surface water withdrawal of up to 0.500 mgd.

Project Sponsor: Clark Trucking, LLC. Project Facility: Northeast Division (Muncy Creek), Muncy Creek Township, Lycoming County, Pa. Application for surface water withdrawal of up to 0.700 mgd.

Project Sponsor and Facility: Dunn Lake LLC (Dunn Pond), Ararat Township, Susquehanna County, Pa. Application for surface water withdrawal of up to 0.999 mgd.

Project Sponsor and Facility: EXCO Resources (PA), LLC (Muncy Creek – McClintock), Penn Township, Lycoming County, Pa. Application for surface water withdrawal of up to 1.500 mgd.

Project Sponsor: Glenn O. Hawbaker, Inc. Project Facility: Greens Landing Aggregate Plant, Athens Township, Bradford County, Pa. Application for surface water withdrawal of up to 0.249 mgd.

Project Sponsor: Glenn O. Hawbaker, Inc. Project Facility: Greens Landing Aggregate Plant, Athens Township, Bradford County, Pa. Application for consumptive water use of up to 0.249 mgd.

Project Sponsor: Hazleton Creek Properties, LLC. Project Facility: Hazleton Mine Reclamation, Hazleton City, Luzerne County, Pa. Modification to increase groundwater withdrawal by an additional 0.145 mgd, for a total of 0.200 mgd (30-day average) (Docket No. 20110307).

Project Sponsor and Facility: Keystone Clearwater Solutions, LLC (Babb Creek), Morris Township, Tioga County, Pa. Application for surface water withdrawal of up to 0.950 mgd.

Project Sponsor and Facility: Stanley S. Karp Sr. (Tunkhannock Creek), Nicholson Borough, Wyoming County, Pa. Application for surface water withdrawal of up to 0.510 mgd.

Project Sponsor and Facility: Sugar Hollow Trout Park and Hatchery, Eaton Township, Wyoming County, Pa. Modification to project features and conditions of the groundwater withdrawal approval (Docket No. 20100913).

Project Sponsor and Facility: Sugar Hollow Water Services, LLC (Susquehanna River – Chellis), Eaton Township, Wyoming County, Pa. Application for surface water withdrawal of up to 1.500 mgd.

Project Sponsor: The Municipal Authority of the Borough of Berlin. Project Facility: Berlin Borough Municipal Authority, Allegheny Township, Somerset County, Pa. Modification to conditions of the groundwater withdrawal approval (Docket No. 19980702).

Project Sponsor and Facility: Walker Township Water Association, Walker Township, Centre County, Pa. Modification to increase the total groundwater system withdrawal limit from 0.523 mgd to 0.753 mgd (30-day average) (Docket No. 20070905).

Project Sponsor and Facility: Williams Production Appalachia, LLC (Middle Branch Wyalusing Creek), Forest Lake Township, Susquehanna County, Pa. Application for surface water withdrawal of up to 0.750 mgd.

Project Sponsor and Facility: Williams Production Appalachia, LLC (Snake Creek–2), Franklin Township, Susquehanna County, Pa. Application for surface water withdrawal of up to 0.999 mgd.

Project Sponsor and Facility: Williams Production Appalachia, LLC (Susquehanna River), Great Bend Township, Susquehanna County, Pa. Commission-initiated modification to project features and conditions of the surface water withdrawal approval (Docket No. 20090303), making a correction and reducing the approved surface water withdrawal amount from 3.00 mgd to 1.00 mgd.

Project Sponsor and Facility: Williams Production Appalachia, LLC (Susquehanna River–2), Great Bend Township, Susquehanna County, Pa. Application for surface water withdrawal of up to 2.000 mgd.

Opportunity to Appear and Comment:

Interested parties may appear at the above hearing to offer written or oral comments to the Commission on any matter on the hearing agenda, or at the business meeting to offer written or oral comments on other matters scheduled for consideration at the business meeting. The chair of the Commission reserves the right to limit oral statements in the interest of time and to otherwise control the course of the hearing and business meeting. Written comments may also be mailed to the Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, Pennsylvania 17102-2391, or submitted electronically to Richard A. Cairo, General Counsel, e-mail: rcairo@srbc.net or Stephanie L. Richardson, Secretary to the Commission, e-mail: srichardson@srbc.net. Comments mailed or electronically submitted must be received prior to December 9, 2011, to be considered.

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

Dated: November 10, 2011.

THOMAS W. BEAUDUY
Deputy Executive Director

[11-25-40]

MARYLAND HEALTH CARE COMMISSION

NUMBER OF CHRONIC HOSPITAL BEDS AND PATIENT DAYS AND PERCENT OCCUPANCY, BY FACILITY: MARYLAND 2010

Jurisdiction/Facility	Number of Beds	Number of Days	Occupancy (%)
Baltimore City			
James Lawrence Kernan Hospital ¹	40	12,968	88.82%
Johns Hopkins Bayview Medical Center ²	76	23,302	84.00%
Levindale Hebrew Geriatric Center and Hospital	100	31,460	86.19%
University Specialty Hospital	180	45,126	68.69%
Prince George's County			
Gladys Spellman Specialty Hospital and Nursing Center ³	46	8,249	47.49%
SUBTOTAL: Private Chronic Hospitals	442	121,105	74.80%
Washington County			
Western Maryland Hospital Center ⁴	60	5,360	24.48%
Wicomico County			
Deer's Head Hospital Center ⁵	66	6,039	25.07%
SUBTOTAL: State-operated Chronic Hospitals⁶	126	11,399	24.79%
STATEWIDE TOTAL⁷	568	132,504	63.73%

Sources: Maryland Health Care Commission. The number of licensed chronic hospital beds maintained in the Commission's inventory is based on the Commission's Certificate of Need files and licensing information provided by the Office of Health Care Quality. The number of FY 2010 patient days for the private chronic hospitals is obtained from the Financial Data Base, as reported by private chronic hospitals to the Health Services Cost Review Commission (HSCRC), as of September 15, 2011. The number of FY 2010 patient days for the two state-operated chronic hospitals is obtained from the Hospital Management Information System (HMIS), as maintained by the Maryland Department of Health and Mental Hygiene.

Notes: The number of beds reflects the number of licensed chronic hospital beds at each facility as of June 30, 2010 (the end of the 2010 fiscal year reporting period). Occupancy is calculated based on licensed beds.

[11-25-32]

¹ Kernan Hospital's 40 chronic hospital beds include 16 dually licensed chronic/rehabilitation beds.

² Johns Hopkins Bayview Medical Center's 23,302 patient days is the combined number of patient days for the separately licensed 76 chronic hospital beds and nine comprehensive inpatient rehabilitation (CIR) beds.

³ Gladys Spellman Specialty Hospital and Nursing Center reduced the number of its licensed chronic hospital beds from 52 to 46 beds, effective October 6, 2009. Occupancy reflects this change in chronic hospital bed capacity for the 2010 fiscal year period.

⁴ Western Maryland Hospital Center's occupancy, based on its 23 *budgeted* chronic hospital beds, would be 63.85 percent.

⁵ Deer's Head Hospital Center's chronic hospital occupancy, based on its 15 *budgeted* chronic hospital beds, would be 110.30 percent.

⁶ The occupancy for the two State-operated chronic hospitals, based on the total 38 *budgeted* chronic hospital beds, would be 82.19 percent.

⁷ The statewide chronic hospital occupancy based on the 442 *licensed* beds at the five *private* facilities plus the 38 *budgeted* beds at the two *state-operated* facilities would be 75.38 percent.

General Notices

Notice of ADA Compliance

The State of Maryland is committed to ensuring that individuals with disabilities are able to fully participate in public meetings. Anyone planning to attend a meeting announced below who wishes to receive auxiliary aids, services, or accommodations is invited to contact the agency representative at least 48 hours in advance, at the telephone number listed in the notice or through Maryland Relay.

BOARD OF CHIROPRACTIC AND MASSAGE THERAPY EXAMINERS

Subject: Public Meeting
Date and Time: December 8, 2011, 10 a.m. — 1 p.m.
Place: Dept. of Health and Mental Hygiene, 4201 Patterson Ave., Rm. 108/109, Baltimore, MD
Contact: Maria Ware (410) 764-5902
 [11-25-23]

BOARD OF COSMETOLOGISTS

Subject: Public Meeting
Date and Time: January 9, 2012, 9:30 a.m. — 4:30 p.m.
Place: 500 N. Calvert St., 2nd Fl., Baltimore, MD
Add'l. Info: Centre St. Entrance
Contact: Robert Wood (410) 230-6195
 [11-25-06]

GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

Subject: Public Meeting
Date and Time: January 9, 2012, 3 — 5 p.m.
Place: Baltimore Co. Loch Raven Library, Baltimore, MD
Contact: Debra Arnold (410) 821-2852
 [11-25-35]

GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

Subject: Public Meeting
Date and Time: March 12, 2012, 3 — 5 p.m.
Place: Baltimore Co. Loch Raven Library, Baltimore, MD
Contact: Debra Arnold (410) 821-2852
 [11-25-36]

GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

Subject: Public Meeting
Date and Time: May 14, 2012, 3 — 5 p.m.
Place: Baltimore Co. Loch Raven Library, Baltimore, MD
Contact: Debra Arnold (410) 821-2852
 [11-25-37]

CRIMINAL JUSTICE INFORMATION ADVISORY BOARD

Subject: Public Meeting
Date and Time: December 12, 2011, 1 — 3 p.m.
Place: Judicial Training Center, 2009D Commerce Park Dr., Rm. 5-6, Annapolis, MD
Contact: Robyn Lyles (410) 585-3185
 [11-25-24]

COMMISSION ON CRIMINAL SENTENCING POLICY

Subject: Public Meeting
Date and Time: December 13, 2011, 5 — 5:45 p.m.
Place: Judiciary Committee Hearing Rm., House Office Bldg., Annapolis, MD
Contact: David Soule (301) 403-4165
 [11-25-17]

COMMISSION ON CRIMINAL SENTENCING POLICY

Subject: Public Hearing
Date and Time: December 13, 2011, 6:15 — 8 p.m.
Place: Judiciary Committee Hearing Rm., House Office Bldg., Annapolis, MD
Contact: David Soule (301) 403-4165
 [11-25-18]

EMERGENCY MEDICAL SERVICES BOARD

Subject: Public Meeting
Date and Time: December 13, 2011, 9 — 11 a.m. (Part of the meeting may include a closed session.)
Place: 653 W. Pratt St., Ste., Baltimore, MD
Add'l. Info: The State Emergency Medical Services Board (EMS Board) meets regularly on the 2nd Tuesday of each month.
Contact: Leandrea Gilliam (410) 706-4449
 [11-25-05]

BOARD OF ENVIRONMENTAL SANITARIANS

Subject: Public Meeting
Date and Time: January 4, 2012, 10 a.m. — 4:30 p.m.
Place: Howard Co. Bureau of Utilities, 8270 Old Montgomery Rd., Columbia, MD

Add'l. Info: A portion of this meeting may be held in closed session.
Contact: Pat Kratochvil (410) 537-3597
 [11-25-13]

DEPARTMENT OF HEALTH AND MENTAL HYGIENE/MARYLAND BOARD OF PHYSICIANS

Subject: Public Meeting
Date and Time: December 21, 2011, 9 — 10 a.m.
Place: 4201 Patterson Ave., Rms. 108/109, Baltimore, MD
Add'l. Info: Appropriate auxiliary aids services provided for qualified individuals upon request. Call Ellen D. Smith at (410) 764-2477.
Contact: Tammy Austin (410) 764-4769
 [11-25-15]

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subject: Public Meeting
Date and Time: December 7, 2011, 10 a.m. — 1 p.m.
Place: Crofton Library, 1681 Riedel Rd., Side A, Crofton, MD
Add'l. Info: The Youth Camp Safety Advisory Council meets quarterly each year to advise the Department of Health and Mental Hygiene on Maryland laws and regulations concerning youth camps.
Contact: Linda Rudie (410) 767-8419
 [11-25-30]

DEPARTMENT OF HEALTH AND MENTAL HYGIENE/OFFICE OF HEALTH SERVICES

Subject: Maryland State Plan Amendment
Add'l. Info: The Secretary of Health and Mental Hygiene proposes to amend Regulations .01 — .06 under COMAR 10.09.32 Targeted Case Management for HIV-Infected Individuals. The purpose of this proposal is to update language within the HIV Targeted Case Management regulations to ensure consistency with the provision of case management services across the Department and to implement an incremental reimbursement system that is cost neutral with current projected funding. Copies of the amendments may be obtained by calling (410) 767-1458 or faxing (410)

GENERAL NOTICES

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333-5362 and are available for public review at the local health department in each county and Baltimore City. Written comments may be sent to Eric Saber, Long Term Care, DHMH, 201 W. Preston St., Rm. 134, Baltimore, MD 21201, or fax to (410) 333-5362, or e-mail to esaber@dhhm.state.md.us.

Contact: Eric Saber (410) 767-1458
[11-25-42]

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

Subject: Public Meeting
Date and Time: December 14, 2011, 9:30 a.m. — 12 p.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Steve Smitson (410) 230-6169
[11-25-12]

MARYLAND STATEWIDE INDEPENDENT LIVING COUNCIL

Subject: Public Meeting
Date and Time: December 16, 2011, 12 — 3 p.m.
Place: Workforce & Technology Center, 2301 Argonne Dr., Rm. T130, Baltimore, MD
Contact: Tonya Gilchrist (410) 554-5412
[11-25-27]

MARYLAND INSURANCE ADMINISTRATION

Subject: Public Hearing
Date and Time: December 13 and 14, 2011, 10 a.m.
Place: Maryland Insurance Administration, 200 St. Paul Pl., 24th Fl., Hearing Rm., Baltimore, MD
Add'l. Info: The purpose of this hearing is to receive information regarding the current availability and affordability of personal and commercial property and casualty insurance in Maryland's coastal areas.
Contact: Megan Hayes (410) 468-2018
[11-25-22]

DIVISION OF LABOR AND INDUSTRY/AMUSEMENT RIDE SAFETY ADVISORY BOARD

Subject: Public Meeting
Date and Time: December 14, 2011, 10 a.m.
Place: 312 Marshall Ave., Ste. 602, Laurel, MD

Add'l. Info: The Amusement Ride Safety Advisory Board will be meeting to discuss issues related to amusement ride safety.
Contact: Debbie Stone (410) 767-2225
[11-25-29]

DIVISION OF LABOR AND INDUSTRY/BOARD OF BOILER RULES

Subject: Public Meeting
Date and Time: December 20, 2011, 9 a.m.
Place: 10946 Golden West Dr., Ste. 160, Hunt Valley, MD
Add'l. Info: This will be a general meeting of the Board of Boiler Rules.
Contact: Debbie Stone (410) 767-2225
[11-25-19]

DIVISION OF LABOR AND INDUSTRY/MARYLAND OCCUPATIONAL SAFETY AND HEALTH (MOSH) ADVISORY BOARD

Subject: Public Meeting
Date and Time: December 7, 2011, 10 a.m.
Place: 10946 Golden West Dr., Ste. 160, Hunt Valley, MD
Add'l. Info: This will be a general meeting. The MOSH Advisory Board may consider regulations on tree care.
Contact: Debbie Stone (410) 767-2225
[11-25-28]

MARYLAND STATE LOTTERY COMMISSION

Subject: Public Meeting
Date and Time: December 15, 2011, 10 a.m. — 12 p.m.
Place: Montgomery Park Business Center, 1800 Washington Blvd., Ste. 330, Baltimore, MD
Contact: Marie A. Torosino (410) 230-8790
[11-25-41]

MARYLAND HEALTH CARE COMMISSION

Subject: Public Meeting
Date and Time: December 15, 2011, 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

days the meeting to make arrangements.
Contact: Valerie Wooding (410) 764-3460
[11-25-01]

MINORITY BUSINESS ENTERPRISE ADVISORY COMMITTEE

Subject: Public Meeting
Date and Time: December 21, 2011, 8:30 a.m. — 5 p.m.
Place: Harry R. Hughes Dept. of Transportation Bldg., 7201 Corporate Center Dr., Hanover, MD
Contact: Pam Gregory (410) 865-1253
[11-25-11]

BOARD OF MORTICIANS AND FUNERAL DIRECTORS

Subject: Public Meeting
Date and Time: December 14, 2011, 10:30 a.m. — 12:30 p.m.
Place: 4201 Patterson Ave., Rms. 108/109, Baltimore, MD
Add'l. Info: Review statutes and regulations and vote as necessary. Sign language interpreter and/or other appropriate accommodations for qualified individuals with disabilities will be provided upon request.
Contact: LouAnn Cox (410) 764-4792
[11-25-10]

BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

Subject: Public Meeting
Date and Time: December 14, 2011, 9:30 a.m.
Place: 4201 Patterson Ave., Rm. 110, Baltimore, MD
Contact: Patricia A. Hannigan (410) 764-4750
[11-24-16]

BOARD OF PLUMBING

Subject: Public Meeting
Date and Time: December 15, 2011, 10 a.m. — 12:30 p.m.
Place: 500 N. Calvert St., Rm. 302, Baltimore, MD
Contact: Brenda Clark (410) 230-6164
[11-25-09]

BOARD OF PODIATRIC MEDICAL EXAMINERS

Subject: Public Meeting
Date and Time: December 8, 2011, 1 p.m.
Place: 4201 Patterson Ave., Rm. 110, Baltimore, MD
Contact: Sheri Henderson (410) 764-4785
[11-25-03]

RACING COMMISSION

Subject: Public Meeting
Date and Time: December 20, 2011, 12:30
— 1 p.m.
Place: Laurel Park, Laurel, MD
Contact: J. Michael Hopkins (410) 296-
9682

[11-25-34]

**COMMISSION OF REAL ESTATE
APPRAISERS AND HOME
INSPECTORS**

Subject: Public Meeting
Date and Time: December 13, 2011, 10:30
a.m. — 12 p.m.
Place: 500 N. Calvert St., Baltimore, MD
Contact: Patti Schott (410) 230-6165

[11-25-02]

REAL ESTATE COMMISSION

Subject: Public Meeting
Date and Time: December 21, 2011, 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

[11-25-07]

REAL ESTATE COMMISSION

Subject: Public Hearing
Date and Time: December 21, 2011, 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

[11-25-08]

BOARD OF REVENUE ESTIMATES

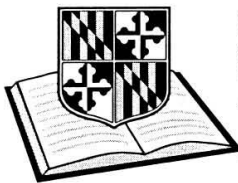
Subject: Public Meeting
Date and Time: December 9, 2011, 2 —
3:30 p.m.
Place: Governor's Reception Rm.,
Annapolis, MD
Contact: Linda Vasbinder (410) 260-7450

[11-25-20]

**BOARD OF SOCIAL WORK
EXAMINERS**

Subject: Public Hearing
Date and Time: December 9, 2011, 11
a.m. — 3 p.m.
Place: 4201 Patterson Ave., Rm. 109,
Baltimore, MD
Add'l. Info: The Board may discuss/vote
on proposed regulations. A portion of the
meeting may be held in closed session.
Contact: James T. Merrow (410) 764-4788

[11-25-31]



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