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# Maryland Register

Issue Date: October 5, 2012

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Volume 39 • Issue 20 • Pages 1293—1358

## IN THIS ISSUE

Judiciary  
Regulatory Review and  
Evaluation  
Regulations  
Errata  
Special Documents  
General Notices

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before September 17, 2012, 5 p.m.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 September 17, 2012.

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](http://www.dsd.state.md.us/CumulativeIndex.pdf). This table lists the regulations in numerical order, by their COMAR number, followed by the citation to the Maryland Register in which the change occurred. The Maryland Register serves as a temporary supplement to COMAR, and the two publications must always be used together. A Research Guide for Maryland Regulations is available. For further information, call 410-260-3876.

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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)

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## CLOSING DATES AND ISSUE DATES through JANUARY 25, 2013

| Issue Date    | Emergency and Proposed Regulations 5:00 p.m.* | Final Regulations 10:30 a.m. | Notices, etc. 10:30 a.m. |
|---------------|---|------------------------------|--------------------------|
| October 19**  | October 1                                     | October 10                   | October 5                |
| November 2    | October 15                                    | October 24                   | October 22               |
| November 16   | October 29                                    | November 7                   | November 5               |
| November 30** | November 9                                    | November 16                  | November 15              |
| December 14   | November 26                                   | December 5                   | December 3               |
| December 28** | December 10                                   | December 17                  | December 14              |
| January 11**  | December 20                                   | January 2                    | December 27              |
| January 25    | January 7                                     | January 16                   | January 14               |

\* 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](http://www.dsd.state.md.us) as a free service of the Office of the Secretary of State, Division of State Documents. The full text of regulations is available and searchable. Note, however, that the printed COMAR continues to be the only official and enforceable version of COMAR.

The Maryland Register is also available at [www.dsd.state.md.us](http://www.dsd.state.md.us).

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

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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.

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## REGULATIONS CODIFICATION SYSTEM

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

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

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

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

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

### Table of Pending Proposals

The table below lists proposed changes to COMAR regulations. The proposed changes are listed by their COMAR number, followed by a citation to that issue of the Maryland Register in which the proposal appeared. Errata pertaining to proposed regulations are listed, followed by “(err)”. Regulations referencing a document incorporated by reference are followed by “(ibr)”. None of the proposals listed in this table have been adopted. A list of adopted proposals appears in the Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed.

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**01.04.01.01—11** • 39:19 Md. R. 1239 (9-21-12)

**01.04.02.01—10** • 39:19 Md. R. 1239 (9-21-12)

**01.04.03.01—10** • 39:19 Md. R. 1239 (9-21-12)

#### 03 COMPTROLLER OF THE TREASURY

**03.06.01.43** • 38:23 Md. R. 1425 (11-4-11)

**03.06.01.44** • 38:13 Md. R. 758 (6-17-11)

**03.06.02.06** • 39:3 Md. R. 261 (2-10-12)

**03.10.01.01—06** • 39:17 Md. R. 1150 (8-24-12)

#### 05 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

**05.01.02.14** • 39:20 Md. R. 1311 (10-5-12)

**05.02.07.03—05** • 39:16 Md. R. 1084 (8-10-12) (ibr)

#### 07 DEPARTMENT OF HUMAN RESOURCES

**07.01.15.01—12** • 39:19 Md. R. 1239 (9-21-12)

**07.01.14.01—10** • 39:19 Md. R. 1239 (9-21-12)

**07.01.16.01—10** • 39:19 Md. R. 1239 (9-21-12)

**07.02.04.08** • 39:20 Md. R. 1312 (10-5-12)

**07.02.14.01—10** • 39:6 Md. R. 413 (3-23-12)

**07.07.19.02** • 39:20 Md. R. 1313 (10-5-12)

#### 08 DEPARTMENT OF NATURAL RESOURCES

**08.01.07.02** • 39:17 Md. R. 1152 (8-24-12)

**08.02.01.11** • 39:17 Md. R. 1152 (8-24-12)

**08.02.05.12** • 39:17 Md. R. 1153 (8-24-12)

**08.02.05.21** • 39:18 Md. R. 1199 (9-7-12)

**08.18.01.03,09,10** • 39:17 Md. R. 1156 (8-24-12)

**08.18.02** • 39:14 Md. R. 850 (7-13-12) (err)

**08.18.19.03** • 39:17 Md. R. 1156 (8-24-12)

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

**09.03.12.01—12** • 38:21 Md. R. 1289 (10-7-11)

**09.10.02.43** • 39:18 Md. R. 1202 (9-7-12)

**09.10.03.01,04,08** • 38:25 Md. R. 1600 (12-2-11)

**09.11.01.27** • 39:16 Md. R. 1086 (8-10-12)

**09.19.02.04** • 39:20 Md. R. 1313 (10-5-12)

**09.19.12.02** • 39:20 Md. R. 1314 (10-5-12)

**09.19.05.01** • 39:13 Md. R. 798 (6-29-12) (ibr)

**09.20.01.03** • 39:1 Md. R. 26 (1-13-12)

39:13 Md. R. 798 (6-29-12)

**09.20.02.10** • 39:14 Md. R. 841 (7-13-12)

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

38:3 Md. R. 176 (1-28-11)

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**09.34.05.01,02** • 39:20 Md. R. 1315 (10-5-12)

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#### 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

##### Subtitles 01 — 08 (1st Volume)

**10.01.21.01—07** • 39:16 Md. R. 1087 (8-10-12)

**10.05.05.03** • 39:15 Md. R. 976 (7-27-12)

**10.06.04.03** • 39:17 Md. R. 1157 (8-24-12)

**10.07.05.04** • 39:15 Md. R. 977 (7-27-12)

**10.07.14.07** • 39:15 Md. R. 978 (7-27-12)

**10.09.20.07** • 39:19 Md. R. 1241 (9-21-12)

**10.09.26.01—30** • 39:19 Md. R. 1242 (9-21-12)

**10.09.33.01—12** • 39:16 Md. R. 1089 (8-10-12)

**10.09.36.03** • 39:18 Md. R. 1203 (9-7-12)

**10.09.49.01—13** • 39:16 Md. R. 1090 (8-10-12)

10.09.62.01 • 39:18 Md. R. 1203 (9-7-12)  
 10.09.63.01,.02,.04 • 39:18 Md. R. 1203 (9-7-12)  
 10.09.64.06,.08 • 39:18 Md. R. 1203 (9-7-12)  
 10.09.65.02,.03,.08,.19-3,.20 • 39:18 Md. R. 1203 (9-7-12)  
 10.09.65.19 • 39:19 Md. R. 1256 (9-21-12)  
 10.09.66.04 • 39:18 Md. R. 1203 (9-7-12)  
 10.09.67.06,.07,.12,.20,.21,.27 • 39:18 Md. R. 1203 (9-7-12)  
 10.09.69.04,.17 • 39:18 Md. R. 1203 (9-7-12)  
 10.09.75.04 • 39:18 Md. R. 1203 (9-7-12)  
 10.09.76.14 • 39:19 Md. R. 1256 (9-21-12)

**Subtitles 10 — 22 (3rd Volume)**

10.10.03.02 • 39:17 Md. R. 1159 (8-24-12)  
 10.10.04.02 • 39:15 Md. R. 979 (7-27-12)  
 10.11.07.01—.03 • 39:14 Md. R. 842 (7-13-12)  
 10.21.07.02—.07,.09,.11—.14 • 39:20 Md. R. 1324 (10-5-12)  
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 10.21.25.03,.03-2,.05—.11 • 39:19 Md. R. 1260 (9-21-12)

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10.24.11 • 39:17 Md. R. 1177 (8-24-12) (err)  
 10.24.11.01 • 39:15 Md. R. 980 (7-27-12) (ibr)  
 10.26.02.07 • 39:16 Md. R. 1090 (8-10-12)  
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 10.29.17.01—.10 • 39:20 Md. R. 1326 (10-5-12)  
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 11.03.02.10 • 39:18 Md. R. 1210 (9-7-12)  
 11.04.04.06 • 39:20 Md. R. 1336 (10-5-12)  
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 11.15.13.01,.02 • 39:15 Md. R. 1005 (7-27-12)  
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 11.19.03.02,.08,.19,.23—.26,.28—.30,.32,.33,  
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**12 DEPARTMENT OF PUBLIC SAFETY AND  
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 12.04.07.01—.11 • 39:16 Md. R. 1100 (8-10-12)  
 12.12.30.02—.09,.12,.13,.15—27,.30—37,  
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 12.15.03.01—.11 • 39:8 Md. R. 559 (4-20-12)  
 12.15.04.01,.03—.06,.08,.09 • 39:8 Md. R. 559 (4-20-12)  
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 13A.11.01.03-1,.15 • 39:20 Md. R. 1340 (10-5-12)  
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 13A.11.08.05,.12,.14 • 39:20 Md. R. 1340 (10-5-12)  
 13A.14.06.02,.05,.08,.09 • 39:17 Md. R. 1166 (8-24-12)

**13B MARYLAND HIGHER EDUCATION COMMISSION**

13B.02.04.05 • 39:14 Md. R. 845 (7-13-12)  
 13B.05.01.01—.11 • 39:17 Md. R. 1167 (8-24-12)

**14 INDEPENDENT AGENCIES**

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**17 DEPARTMENT OF BUDGET AND MANAGEMENT**

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**21 STATE PROCUREMENT REGULATIONS**

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 21.11.12.01—.09 • 38:20 Md. R. 1249 (9-23-11)

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- 26.11.29 • 39:17 Md. R. 1177 (8-24-12) (err)
- 26.11.29.01—.05 • 39:16 Md. R. 1124 (8-10-12)
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- 27.01.01.01 • 39:13 Md. R. 810 (6-29-12)
- 27.01.02.03—.05,.08 • 39:13 Md. R. 810 (6-29-12)
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- 27.02.01.01 • 39:13 Md. R. 810 (6-29-12)
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### 29 DEPARTMENT OF STATE POLICE

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### 31 MARYLAND INSURANCE ADMINISTRATION

- 31.08.05.02,.03 • 39:20 Md. R. 1345 (10-5-12)
- 31.08.12.02—.06 • 39:20 Md. R. 1346 (10-5-12)
- 31.12.08.04 • 38:17 Md. R. 1039 (8-12-11)
- 31.12.08.04,.06 • 39:2 Md. R. 223 (1-27-12)
- 31.16.10.01—.09 • 39:17 Md. R. 1173 (8-24-12)
- 31.16.11.01—.03 • 39:20 Md. R. 1348 (10-5-12)
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### 33 STATE BOARD OF ELECTIONS

- 33.04.02.01 • 39:16 Md. R. 1127 (8-10-12)
- 33.08.01.01,.10 • 39:14 Md. R. 847 (7-13-12)
- 33.08.05.01—.06 • 39:14 Md. R. 847 (7-13-12)
- 33.10.02.38 • 39:14 Md. R. 847 (7-13-12)
- 33.10.11.38 • 39:14 Md. R. 847 (7-13-12)
- 33.13.02.02 • 39:16 Md. R. 1127 (8-10-12)



# The Judiciary

## COURT OF APPEALS OF MARYLAND SCHEDULE

**Thursday, November 1, 2012**  
Bar Admissions

- AG 44 Attorney Grievance Commission of Maryland v. Gerald (2011 T.) Frederick Chapman
- No. 29 Employees' Retirement System of the City of Baltimore v. Sylvester Dorsey
- No. 27 Michael Lee Philips, et al. v. Board of Trustees of Montgomery College

**Friday, November 2, 2012**

- No. 26 Edward Bruce Lowery, Jr. v. State of Maryland
- No. 30 Pines Plaza Limited Partnership v. Berkley Trace, LLC The Hampton Company, Inc. and James P. Joyce

**Monday, November 5, 2012**

- No. 15 Exxon Mobil Corporation v. Thomas M. Albright, et al.
- No. 16 Exxon Mobil Corporation v. Paul D. Ford, et al.

**Wednesday, November 7, 2012**

- Misc. 2 Christopher Eric Bouchat v. The State of Maryland
- Misc. 3 Petition of Delores Kelley and James Brochin
- Misc. 5 Petition of Cynthia Houser, et al. v. Martin O'Malley

On the day of argument, counsel are instructed to register in the Clerk's Office no later than 9:30 a.m. unless otherwise notified.

After November 7, 2012, the Court will recess until November 29, 2012.

BESSIE M. DECKER  
Clerk

[12-20-32]

## DISCIPLINARY PROCEEDINGS

This is to certify that by an Order of this Court dated September 7, 2012, CHIKE IJEABUONWU, 6495 New Hampshire Avenue, Suite 211, Hyattsville, Maryland 20783, has been suspended for thirty (30) days by consent, effective immediately, from the further practice of law in this State and his name as an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 16-772(d)).

\* \* \* \* \*

This is to certify that the name JOE DONALD WATSON, JR., 401 E. Jefferson Street, Suite 208, Rockville, Maryland 20850, has been replaced upon the register of attorneys in this Court as of September 13, 2012. Notice of this action is certified in accordance with Maryland Rule 16-781(1).

\* \* \* \* \*

This is to certify that the name MICHAEL LOUIS SUBIN, 822 Still Creek Lane, Gaithersburg, Maryland 20878, has been replaced upon the register of attorneys in this Court as of September 20, 2012.

Notice of this action is certified in accordance with Maryland Rule 16-781(1).

\* \* \* \* \*

This is to certify that the name JAGJOT SINGH KHANDPUR, 11704 Centurion Way, Potomac, Maryland 20854, has been replaced upon the register of attorneys in this Court as of September 20, 2012. Notice of this action is certified in accordance with Maryland Rule 16-781(1).

[12-20-33]

# Regulatory Review and Evaluation

Regulations promulgated under the Administrative Procedure Act will undergo a review by the promulgating agency in accordance with the Regulatory Review and Evaluation Act (State Government Article, §§10-130 — 10-139; **COMAR 01.01.2003.20**). This review will be documented in an evaluation report which will be submitted to the General Assembly's Joint Committee on Administrative, Executive, and Legislative Review. The evaluation reports have been spread over an 8-year period (see **COMAR 01.01.2003.20** for the schedule). Notice that an evaluation report is available for public inspection and comment will be published in this section of the Maryland Register.

## TITLE 24 DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT

### Notice of Opportunity for Public Inspection and Comment

In accordance with the Regulatory Review and Evaluation Act, State Government Article, §§10-130—10-139, Annotated Code of Maryland, the Department of Business and Economic Development (DBED) is currently reviewing and evaluating the regulations codified in the following subtitles of COMAR Title 24:

#### Subtitle 01 Office of the Secretary

#### Subtitle 05 Economic Development

The purpose of the review and evaluation is to determine whether existing regulations continue to accomplish the purposes for which they were adopted, clarify ambiguous or unclear language, and repeal obsolete or duplicative provisions.

Pursuant to its work plan, DBED will evaluate the need to retain, amend, or repeal the regulations based on whether the regulations are:

- Still necessary to the public interest;
- Drafted in a clear and understandable manner;
- Still supported by statutory authority and judicial opinions and consistent with federal regulations and other State regulations;
- Still effective in accomplishing the intended purpose of the regulations; and
- Obsolete, duplicative, or otherwise appropriate for amendment or repeal.

DBED would like to provide interested parties with an opportunity to participate in the review and evaluation process by submitting comments on the regulations. The comments may address any concerns about the regulations, please be as specific as possible and provide language for the suggested changes. Comments should be directed to Anita Lydic Diven, Regulations Coordinator, and transmitted by mail to 401 East Pratt Street, Suite 533, Baltimore, Maryland 21202, or by fax to (410) 333-8298, or by email to [adiven@choosemaryland.org](mailto:adiven@choosemaryland.org). Comments to the regulations must be received by October 25, 2012.

[12-20-23]

# Emergency Action on Regulations

## Symbol Key

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

## Emergency Regulations

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

## Title 08

# DEPARTMENT OF NATURAL RESOURCES

## Subtitle 02 FISHERIES SERVICE

### 08.02.23 Shellfish Aquaculture and Leasing

Authority: Natural Resources Article, §§4-11A-02, 4-11A-09, 4-11A-12, and 4-11A-19, Annotated Code of Maryland

#### Notice of Emergency Action

[12-278-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to amendments to Regulations .02 — .04 under COMAR 08.02.23 Shellfish Aquaculture and Leasing.

Emergency status began: September 13, 2012.

Emergency status expires: January 15, 2013.

#### Comparison to Federal Standards

There is no corresponding federal standard to this emergency action.

#### Economic Impact on Small Businesses

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

The action has a positive economic impact on shellfish aquaculturalists.

#### .02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (9) (text unchanged)

(10) “Seed oyster” means an oyster that is no more than 1 inch in size from hinge to bill.

[(10)] (11) — [(12)] (13) (text unchanged)

#### .03 Lease Procedures.

A. (text unchanged)

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

(1) (text unchanged)

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

(a) Apply for:

(i) [Shellfish] A shellfish aquaculture harvester permit as described in Regulation .04 of this chapter; and

[(b)] (ii) [Water-column] A water column lease by submitting an application on a form provided by the Department[.]; and

(b) Submit a nonrefundable fee of \$300.

C. — D. (text unchanged)

E. Rent.

(1) (text unchanged)

(2) Except as provided in §E(3) of this regulation, the rental rate for a water column lease [in areas listed in Regulation .05 of this chapter] is [\$40] \$25 per acre per year and is due to the Department by December 31 of the preceding year.

(3) (text unchanged)

F. — K. (text unchanged)

#### .04 Shellfish Aquaculture Harvester Permit.

A. — E. (text unchanged)

F. A shellfish aquaculture harvester permittee or permit registrant:

(1) — (2) (text unchanged)

(3) Except as provided in [§F(4)] §F(5) and §G of this regulation, may not harvest oysters that are less than 3 inches from hinge to bill from October 1 through the following March 31;

(4) Except as provided in §F(5) and §G of this regulation, may not harvest oysters that are less than 2 inches from hinge to bill from April 1 through September 30;

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

(6) May possess seed oysters;

[(5)] (7) — [(6)] (8) (text unchanged)

G. Tolerance Limit.

(1) A shellfish aquaculture harvester permittee or permit registrant shall not possess oysters that have a combined total of more than 5 percent of oysters which measure less than 2 inches from hinge to bill from April 1 through September 30 or less than 3 inches from hinge to bill from October 1 through March 31.

(2) In ascertaining this percentage the Department shall select by random sample an amount of oysters from any pile, hold, bin, house, or place as deemed proper, cull the sample, and require any undersized oysters to be returned to the lease area.

(3) All small oysters and cultch that adhere to marketable oysters shall be separated, and the marketable oysters shall be excluded from any measurement of small oysters and cultch.

(4) *A person may possess marketable oysters that have undersized oysters or spat less than 1 inch in distance between their longest or widest points attached to them that cannot be separated without destroying the small oyster.*

JOHN R. GRIFFIN  
Secretary of Natural Resources

## Title 11 DEPARTMENT OF TRANSPORTATION

### Subtitle 18 MOTOR VEHICLE ADMINISTRATION — FINANCIAL RESPONSIBILITY REQUIREMENTS

#### 11.18.04 Reporting Requirements for Lapse or Termination of Required Security

Authority: Transportation Article, [§§17-101(c), 17-104(c), 17-106(b), and 27-608)] §§12-104(b), 17-101, 17-103, 17-104, 17-106; Insurance Article, §27-611; Annotated Code of Maryland

##### Notice of Emergency Action [12-276-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to amendments to Regulations .01—.03 under **COMAR 11.18.04 Reporting Requirements for Lapse or Termination of Required Security.**

**Emergency status began: October 1, 2012.**

**Emergency status expires: March 20, 2013.**

Editor's Note: The text of this document will not be printed here because it appears as a Notice of Proposed Action on pages 1339 — 1340 of this issue, referenced as [12-276-P].

JOHN T. KUO  
Administrator  
Motor Vehicle Administration

## Title 13A STATE BOARD OF EDUCATION

### Subtitle 06 SUPPORTING PROGRAMS

#### 13A.06.08 School Athletics Safety Program

Authority: Education Article, §7-433, Annotated Code of Maryland

##### Notice of Emergency Action [12-277-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to new Regulation .01 under a new chapter, **COMAR 13A.06.08 School Athletics Safety Program.**

**Emergency status began: September 12, 2012.**

**Emergency status expires: February 4, 2013.**

#### Comparison to Federal Standards

There is no corresponding federal standard to this emergency action.

#### Economic Impact on Small Businesses

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

#### *.01 Head Injuries and Concussions in Extracurricular Athletic Events.*

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

B. *Terms Defined.*

(1) *“Concussion” means a type of traumatic brain injury (TBI) caused by a bump, blow, or jolt to the head that can alter the way the brain works.*

(2) *“Licensed health care provider” means a licensed physician or physician assistant, a licensed psychologist with specialty training in neuropsychology, (Neuropsychologist), or a licensed nurse practitioner, practicing consistent with State law.*

(3) *“Return to play” means participation in a non-medically supervised practice or athletic competition after a period of exclusion.*

(4) *“Student-athlete” means a student participating in any try-out, practice or contest of a school team.*

(5) *“School personnel” means those directly responsible for administering or coaching interscholastic athletic program within a school or county and those employees of the school or school system with overall responsibility for student-athletes’ academic performance and medical well-being.*

(6) *“Youth sports program” means a program organized for recreational athletic competition instruction for participants who are younger than 19 years old.*

C. *Training.*

(1) *By August 31, 2012, each local school system shall train each coach in concussion risk and management. At a minimum, the coach’s training shall include:*

- (a) *The nature of the risk of a brain injury;*
- (b) *The risk of not reporting a brain injury;*
- (c) *Criteria for removal and return to play;*
- (d) *Understanding concussions;*
- (e) *Recognizing concussions;*
- (f) *Signs and symptoms;*
- (g) *Response and action plan.*

(2) *Each school system shall require a certificate of completion from a coaches’ training course as a condition of coaching employment.*

D. *Policies and Procedures.*

(1) *By August 31, 2012, each school system shall implement policies that assure student-athletes, parents, or guardians and school personnel receive an informational sheet describing:*

- (a) *The nature and risk of a concussion or head injury;*
- (b) *The criteria for removal from play and return to play;*
- (c) *The risks of not reporting injury and continuing to play;*

*and*

(d) *Appropriate academic accommodations for diagnosed concussion victims.*

(2) *Under the policy, each school system shall require every student-athlete and at least one parent or guardian to verify in writing that they have received information on concussions and sign a statement acknowledging receipt of the information.*

E. *Removal and Return to Play.*

(1) *After an appropriate medical assessment, any student-athlete suspected of sustaining a concussion shall immediately be removed from practice or play. The student-athlete may not return to play until cleared by a licensed health care provider authorized to*

*provide sports physical examinations and trained in the evaluation and management of concussions.*

*(2) To assist student-athletes, parents, and school personnel, to deal with concussion events, each local school system shall provide to all involved persons:*

*(a) Written notification of possible head injury;*

*(b) Medical clearance forms for gradual return to sports participation following concussion;*

*(c) Graduated return to play protocols.*

*F. Youth Sports Programs Use of School Property.*

*(1) Youth sports programs seeking to use school facilities shall verify in writing distribution of concussion information to parents or guardians and receive verifiable acknowledgement of receipt.*

*(2) Each youth sports program will annually affirm to the local school system their compliance with concussion information procedures.*

LILLIAN M. LOWERY, Ed.D.  
State Superintendent of Schools

# 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 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 Final Action

[12-164-F]

On September 19, 2012, the Maryland Racing Commission adopted amendments to Regulation **.01** under **COMAR 09.10.03 Prohibited Acts**. This action, which was proposed for adoption in 39:14 Md. R. 841 (July 13, 2012), has been adopted as proposed.

**Effective Date: October 15, 2012.**

J. MICHAEL HOPKINS  
Executive Director

## Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

### Subtitle 15 FOOD

#### 10.15.06 Production, Processing, Transportation, Storage, and Distribution of Grade A Milk

Authority: Health-General Article, §§2-104, 2-105, 21-207, 21-208, 21-210, 21-211, 21-406, and 21-428, Annotated Code of Maryland

#### Notice of Final Action

[12-155-F-I]

On September 20, 2012, the Secretary of Health and Mental Hygiene adopted amendments to Regulation **.03** under **COMAR 10.15.06 Production, Processing, Transportation, Storage, and Distribution of Grade A Milk**. This action, which was proposed for adoption in 39:13 Md. R. 800 (June 29, 2012), has been adopted as proposed.

**Effective Date: October 15, 2012.**

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

## Subtitle 54 SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

### 10.54.02 Local Agency

Authority: Health-General Article, §§18-107(a) and 18-108, Annotated Code of Maryland

#### Notice of Final Action

[12-182-F]

On September 24, 2012, the Secretary of Health and Mental Hygiene adopted amendments to Regulation **.18** under **COMAR 10.54.02 Local Agency**. This action, which was proposed for adoption in 39:15 Md. R. 999-1000 (July 27, 2012), has been adopted as proposed.

**Effective Date: October 15, 2012.**

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

## Title 11 DEPARTMENT OF TRANSPORTATION

### Subtitle 11 MOTOR VEHICLE ADMINISTRATION — ADMINISTRATIVE PROCEDURES

#### 11.11.02 Administrative Hearings

Authority: Transportation Article, §§12-104(b) and (e), 12-108, and 12-201—12-209; State Government Article, §§10-201—10-222; Annotated Code of Maryland  
Ch. 14, Acts of 2004

#### Notice of Final Action

[12-174-F]

On September 11, 2012, the Administrator of the Motor Vehicle Administration adopted amendments to Regulations **.02**, **.07**, **.10**, and **.13** and the repeal of Regulations **.04** and **.06** under **COMAR 11.11.02 Administrative Hearings**. This action, which was proposed for adoption in 39:15 Md. R. 1000 (July 27, 2012), has been adopted as proposed.

**Effective Date: October 15, 2012.**

JOHN T. KUO  
Administrator  
Motor Vehicle Administration

**Notice of Final Action**

[12-173-F]

On September 11, 2012, the Administrator of the Motor Vehicle Administration adopted:

(1) Amendments to Regulation **.06** under **COMAR 11.11.05 Motor Vehicle Fees**;

(2) The repeal of existing Regulations **.01—.03** under **COMAR 11.11.07 Gratis and Complimentary Records**;

(3) Amendments to Regulations **.01—.07** and new Regulations **.02-1** and **.08** under **COMAR 11.11.09 Access to Public Motor Vehicle Administration Records**; and

(4) The repeal of existing Regulations **.01—.05** under **COMAR 11.17.10 Drivers' Records**.

This action, which was proposed for adoption in 39:15 Md. R. 1003—1003 (July 27, 2012), has been adopted as proposed.

**Effective Date: October 15, 2012.**

JOHN T. KUO  
Administrator  
Motor Vehicle Administration

**Notice of Final Action**

[12-177-F]

On September 11, 2012, the Administrator of the Motor Vehicle Administration adopted:

(1) The repeal of existing Regulations **.19** and **.24** under **COMAR 11.12.01 Dealers and Salesmen**; and

(2) Amendments to Regulation **.01**, new Regulation **.02**, and the recodification of existing Regulation **.02** to be Regulation **.03** under **COMAR 11.15.25 Certificate of Origin**.

This action, which was proposed for adoption in 39:15 Md. R. 1003—1004 (July 27, 2012), has been adopted as proposed.

**Effective Date: October 15, 2012.**

JOHN T. KUO  
Administrator  
Motor Vehicle Administration

## Subtitle 15 MOTOR VEHICLE ADMINISTRATION — VEHICLE REGISTRATION

### 11.15.12 *Titling and Multiyear Registration for Fleet Vehicles*

Authority: Transportation Article, §§12-104, 13-405, 13-413, and 13-502.1, Annotated Code of Maryland

**Notice of Final Action**

[12-176-F]

On September 11, 2012, the Administrator of the Motor Vehicle Administration adopted the repeal of existing Regulations **.01—.05** and new Regulations **.01—.06** under **COMAR 11.15.12 Titling and Multiyear Registration for Fleet Vehicles**. This action, which was proposed for adoption in 39:15 Md. R. 1004—1005 (July 27, 2012), has been adopted as proposed.

**Effective Date: October 15, 2012.**

JOHN T. KUO  
Administration  
Motor Vehicle Administration

## Title 14 INDEPENDENT AGENCIES

### Subtitle 09 WORKERS' COMPENSATION COMMISSION

#### 14.09.01 Procedural Regulations

Authority: Health-General Article, §4-303; Labor and Employment Article, §§9-307, 9-309, 9-310.2, 9-314, 9-404, 9-405, 9-410, 9-602, 9-603, 9-610.1, 9-625, 9-635, 9-689, 9-701, 9-709, 9-710, 9-711, 9-721, 9-731, 9-736, 9-739, and 9-6A-07; Insurance Article, §§19-405 and 19-406; State Government Article, §10-1103; Annotated Code of Maryland

**Notice of Final Action**

[12-179-F]

On September 13, 2012, the Workers' Compensation Commission adopted amendments to Regulation **.07** under **COMAR 14.09.01 Procedural Regulations** to establish a clear procedure and time line for determining the average weekly wage. This action, which was proposed for adoption in 39:15 Md. R. 1007—1008 (July 27, 2012), has been adopted as proposed.

**Effective Date: October 15, 2012.**

R. KARL AUMANN  
Chairman  
Workers' Compensation Commission

### Subtitle 22 COMMISSION ON CRIMINAL SENTENCING POLICY

**Notice of Final Action**

[12-203-F]

On September 25, 2012, the Maryland State Commission on Criminal Sentencing Policy adopted amendments to:

(1) Regulations **.07** and **.10** under **COMAR 14.22.01 General Regulations**; and

(2) Regulation **.02** under **COMAR 14.22.02 Criminal Offenses and Seriousness Categories**.

This action, which was proposed for adoption in 39:16 Md. R. 1104—1106 (August 10, 2012), has been adopted as proposed.

**Effective Date: November 1, 2012.**

DAVID A. SOULE  
Executive Director  
Commission on Criminal Sentencing Policy

## Title 15 DEPARTMENT OF AGRICULTURE

### Subtitle 14 BOARD OF VETERINARY MEDICAL EXAMINERS

#### Notice of Final Action

[12-212-F]

On September 26, 2012, the State Board of Veterinary Medical Examiners adopted:

(1) Amendments to Regulations **.03**, **.05**, and **.10** under **COMAR 15.14.01 Standards of Practice and Code of Ethics for the Practice of Veterinary Medicine in the State**;

(2) Amendments to Regulation **.01**, new Regulations **.02—04**, amendments to and the recodification of existing Regulation **.06** to be Regulation **.09**, and the recodification of existing Regulations **.02—05** and **.07—10** to be Regulations **.05—08** and **.10—13** under **COMAR 15.14.02 Board Hearings**;

(3) Amendments to Regulation **.05** and new Regulation **.07** under **COMAR 15.14.07 Minimum Standards for Mobile Veterinary Clinics**;

(4) Amendments to Regulation **.04** under **COMAR 15.14.11 Civil Penalty Standards for Veterinarians**;

(5) Amendments to Regulations **.02**, **.03**, **.11**, and **.13** under **COMAR 15.14.13 Qualifications for Examination and Registration of a Veterinary Technician**; and

(6) Amendments to Regulation **.04** under **COMAR 15.14.14 Minimum Standards for a Limited Use Veterinary Hospital**.

This action, which was proposed for adoption in 39:16 Md. R. 1106—1111 (August 10, 2012), has been adopted with the nonsubstantive changes shown below.

**Effective Date: October 15, 2012.**

#### Attorney General's Certification

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

COMAR 15.14.02: Board Hearings — On advice of counsel, an additional authority was added because the chapter includes information about the disclosure of public records.

EARL F HANCE  
Secretary of Agriculture

## Subtitle 20 SOIL AND WATER CONSERVATION

### 15.20.07 Agricultural Operation Nutrient Management Plan Requirements

Authority: Agriculture Article, §§8-801—8-806, Annotated Code of Maryland

#### Notice of Final Action

[12-152-F-I]

On September 25, 2012, the Secretary of Agriculture adopted the amendment to Regulation **.02** under **COMAR 15.20.07 Agricultural Operation Nutrient Management Plan Requirements**. This action, which was proposed for adoption in 39:13 Md. R. 808—810 (June 29, 2012), has been adopted as proposed.

**Effective Date: October 15, 2012.**

EARL F. HANCE  
Secretary of Agriculture

## Title 19A STATE ETHICS COMMISSION

### Subtitle 02 CONFLICTS OF INTEREST

#### Notice of Final Action

[12-208-F]

On September 13, 2012, the State Ethics Commission adopted amendments to:

(1) Regulations **.01—04** under **COMAR 19A.02.01 Exception to Outside Employment Prohibition**; and

(2) Regulations **.01—05** under **COMAR 19A.02.02 Exception to Financial Interest Prohibition**.

This action, which was proposed for adoption in 39:16 Md. R. 1111—1114 (August 10, 2012), has been adopted as proposed.

**Effective Date: October 15, 2012.**

MICHAEL LORD  
Executive Director  
State Ethics Commission

### Subtitle 02 CONFLICTS OF INTEREST

#### *19A.02.03 Exception to Participation Restriction*

Authority: State Government Article, §§15-206 and 15-501, Annotated Code of Maryland

#### Notice of Final Action

[12-209-F]

On September 13, 2012, the State Ethics Commission adopted Regulations **.01** and **.02** under a new chapter, **COMAR 19A.02.03 Exception to Participation Restriction**. This action, which was proposed for adoption in 39:16 Md. R. 1114 (August 10, 2012), has been adopted as proposed.

**Effective Date: October 15, 2012.**

MICHAEL LORD  
Executive Director  
State Ethics Commission



**Subtitle 03 FINANCIAL DISCLOSURE****Notice of Final Action**  
[12-210-F]

On September 13, 2012, the State Ethics Commission adopted:

(1) Amendments to Regulations **.01** and **.02**, the repeal of existing Regulations **.03** and **.04**, and new Regulations **.03** and **.04** under **COMAR 19A.03.01 Disclosure Required by Members of Boards and Commissions**; and

(2) Amendments to Regulation **.01** under **COMAR 19A.03.03 Disclosure by Public Officials, State Officials, and Candidates to Be State Officials**.

This action, which was proposed for adoption in 39:16 Md. R. 1117—1118 (August 10, 2012), has been adopted as proposed.

**Effective Date: October 15, 2012.**

MICHAEL LORD  
Executive Director  
State Ethics Commission

**Subtitle 07 LOBBYING****19A.07.01 General**

Authority: State Government Article, §15-206 and Title 15, Subtitle 7, Annotated Code of Maryland

**Notice of Final Action**  
[12-211-F]

On September 13, 2012, the State Ethics Commission adopted amendments to Regulation **.07** under **COMAR 19A.07.01 General**. This action, which was proposed for adoption in 39:16 Md. R. 1117—1118 (August 10, 2012), has been adopted as proposed.

**Effective Date: October 15, 2012.**

MICHAEL LORD  
Executive Director  
State Ethics Commission

## Title 22

# STATE RETIREMENT AND PENSION SYSTEM

**Subtitle 01 GENERAL REGULATIONS****22.01.06 Payment of Allowance**

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

**Notice of Final Action**  
[12-160-F]

On September 20, 2012, the Board of Trustees for the State Retirement and Pension System adopted amendments to Regulations **.03** and **.04** under **COMAR 22.01.06 Payment of Allowance**. This action, which was proposed for adoption in 39:14 Md. R. 845—846 (July 13, 2012), has been adopted as proposed.

**Effective Date: October 15, 2012.**

R. DEAN KENDERDINE  
Executive Director  
State Retirement Agency

**Subtitle 01 GENERAL REGULATIONS****22.01.12 Enrollment in the State System**

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

**Notice of Final Action**  
[12-168-F]

On September 20, 2012, the Board of Trustees for the State Retirement and Pension System adopted amendments to Regulations **.01—03** under **COMAR 22.01.12 Enrollment in the State System**. This action, which was proposed for adoption in 39:14 Md. R. 846 (July 13, 2012), has been adopted as proposed.

**Effective Date: October 15, 2012.**

R. DEAN KENDERDINE  
Executive Director  
State Retirement Agency

**Subtitle 06 DISABILITY RETIREMENT****Notice of Final Action**  
[12-189-F]

On September 20, 2012, the Board of Trustees for the State Retirement and Pension System adopted:

(1) Amendments to Regulation **.02**, the repeal of existing Regulations **.03—06**, **.09**, and **.10**, new Regulations **.03** and **.04**, and amendments to and the recodification of existing Regulations **.07** and **.08** to be Regulations **.05** and **.06** under **COMAR 22.06.01 Definitions and General Provisions**;

(2) The repeal of existing Regulations **.01—03**, **.05**, and **.07**, new Regulations **.01—03** and **.05**, amendments to Regulation **.04**, and amendments to and the recodification of existing Regulation **.08** to be Regulation **.06** under **COMAR 22.06.02 Filing for Disability Retirement**;

(3) The repeal of existing Regulations **.01** and **.03**, new Regulations **.01** and **.03**, and amendments to Regulation **.02** under **COMAR 22.06.03 Review of Claims for Disability Retirement**;

(4) The repeal of existing Regulations **.01—04** and new Regulation **.01** under **COMAR 22.06.04 Reconsideration**;

(5) Amendments to Regulations **.01—06** under **COMAR 22.06.05 Board of Trustees Review**;

(6) Amendments to Regulation **.02** under **COMAR 22.06.06 Hearings Before the Office**; and

(7) Amendments to Regulations **.01** and **.07—10**, the repeal of existing Regulation **.02**, the recodification of existing Regulation **.03** to be Regulation **.02**, amendments to and the recodification of existing Regulations **.04—06** to be Regulations **.03—05**, and new Regulation **.06** under **COMAR 22.06.07 Final Decision by the Board of Trustees**.

This action, which was proposed for adoption in 39:15 Md. R. 1008—1019 (July 27, 2012), has been adopted as proposed.

**Effective Date: October 15, 2012.**

R. DEAN KENDERDINE  
Executive Director  
State Retirement Agency

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

**Subtitle 01 GENERAL**

**30.01.02 Documents Incorporated by Reference**

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

**Notice of Final Action**

[12-159-F-I]

On September 11, 2012, the Maryland State Emergency Medical Services Board adopted amendments to Regulation .01 under **COMAR 30.01.02 Documents Incorporated by Reference**. This action was taken at a public meeting notice of which was given by publication in 39:17 Md. R. 1178 (August 24, 2012) under State Government Article, §10-506(c), Code of Maryland. This action, which was proposed for adoption in 39:14 Md. R. 847 (July 13, 2012), has been adopted as proposed.

**Effective Date: October 15, 2012.**

ROBERT R. BASS, M.D.  
Executive Director

# Proposed Action on Regulations

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

### Symbol Key

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

### Promulgation of Regulations

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

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

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

## Title 05

# DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

## Subtitle 01 GENERAL PROVISIONS

### 05.01.02 Public Information Requests

Authority: State Government Article, §§10-613 and 10-621, Annotated Code of Maryland

#### Notice of Proposed Action

[12-263-P]

The Secretary of Housing and Community Development proposes to amend Regulation .14 under **COMAR 05.01.02 Public Information Requests**.

#### Statement of Purpose

The purpose of this action is to amend the regulations to increase the fees and charges of the Department for public information requests and to be consistent with fees and charges of other State agencies.

#### Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

#### Estimate of Economic Impact

**I. Summary of Economic Impact.** The proposed amendments would allow the Department to charge 25 cents per page for making copies of records and charge a reasonable fee for searching for a record. Currently, the Department charges 10 cents per page for copies and \$10 per hour for public records. The exact amount of increase the Department would receive each year is indeterminable due to the fluctuations in the type and amount of requests the Department receives each year. To lessen the burden on citizens and businesses that cannot afford to pay for public records, existing

Regulation .14 permits the Department to waive the fees when it is in the public interest.

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

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

A. The regulation amendments would allow the Department to charge more for copying, preparing, and searching records in response to a request. The increase would allow the Department to recover most of its costs for labor and expenses in relation to a request. The Department also assumes that there will be some waivers of the costs granted when it is in the public interest in which the Department may be responsible to absorb some or all of the costs. The type and amount of yearly records requests and waiver requests is indeterminable.

E. and F. The public, nonprofit organizations and businesses may have to pay 10 cents more a page for copies and a reasonable charge for searching for and preparing the records. However, the Department's fees and charges will be consistent with other State agencies. Also, the Department may waive the fees and charges when it is in the public interest, which includes the ability of the applicant to pay. The actual amount of increase is indeterminable due to the fluctuating types of records and waiver requests the Department receives.

**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 Susan Traylor, Director of the Division of Finance and Administration, Department of Housing and Community Development, 100 Community Place, Crownsville, MD 21032, or call 410-514-7119, or email to Traylor@mdhousing.org, or fax to 410-987-4676. Comments will be accepted through November 5, 2012. A public hearing has not been scheduled.

**.14 Fees.**

A. The Department may charge reasonable fees in accordance with the following fee schedule:

(1) Copies. The fee for each copy is [15] 25 cents per page when reproduction can be made by a photocopying machine within the Department. When records are not amenable to photocopying (for example, punch cards, magnetic tapes, blueprints and microfilm), the fee for reproducing the record will be based on the actual cost of reproduction.

(2) (text unchanged)

(3) Searching or Record Preparation. There is no charge for the first 2 hours that are needed to search for a public record and prepare it for inspection. [The charge for the Department to search for or prepare any records for inspection or copying is \$10 per hour for any additional time required.] *The custodian may charge a reasonable fee for time that an official or employee of the Department spends to search for records, or prepare records for inspection and copying.*

(4) A charge may not be made when the amount of the fee is \$1 or less[, and a charge for searching or record preparation may not be made when the fee is \$20 or less].

B. — C. (text unchanged)

D. Before *searching for, preparing, or copying* a record, the custodian shall estimate the cost of *searching for, preparing and copying the record* and obtain the agreement of the applicant that the cost shall be paid. The custodian may demand pre-payment of any estimated fee before *searching for, preparing and copying* the record. If such a payment is required, the time limitations contained elsewhere in these regulations may not commence until the payment is made.

**.08 Schedule.**

| <p style="text-align: center;">SCHEDULE A<br/>Income by Family Size<br/>(For the period July 1, 2012 — June 30, 2013)</p> |               |          |          |          |          |
|---|---------------|----------|----------|----------|----------|
| Family Size/Percent   | Median Income | 40%      | 50%      | 80%      | 115%     |
| 1 person — (52%)  | \$53,041      | \$21,216 | \$26,521 | \$42,433 | \$60,997 |

E. — F. (text unchanged)

RAYMOND A. SKINNER  
Secretary of Housing and Community Development

## Title 07 DEPARTMENT OF HUMAN RESOURCES

### Subtitle 02 SOCIAL SERVICES ADMINISTRATION

#### 07.02.04 Social Services Eligibility Requirements Based on Income

Authority: Human Services Article, §§4-205 and 4-207, Annotated Code of Maryland  
Federal Statutory Reference: 42 U.S.C. §§621 and 9902

**Notice of Proposed Action**

[12-270-P]

The Secretary of Human Resources proposes to repeal existing Regulation .08 and adopt new Regulation .08 under COMAR 07.02.04 Social Services Eligibility Requirements Based on Income.

**Statement of Purpose**

The purpose of this action is to adjust the social services income eligibility table to reflect the increase in State median income for FY 2013. The social services income eligibility table is used in determining financial eligibility for various social services programs including the Social Services to Adults, Services to Families with Children, and In-Home Services Programs. The updated figures are based on federal guidelines.

**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 St, Baltimore, MD 21201, or call 410-767-2149, or email to regulations@dhr.state.md.us, or fax to 410-333-0637. Comments will be accepted through November 5, 2012. A public hearing has not been scheduled.

|                     |         |        |        |         |         |
|---------------------|---------|--------|--------|---------|---------|
| 2 persons — (68%)   | 69,361  | 27,745 | 34,681 | 55,489  | 79,766  |
| 3 persons — (84%)   | 85,682  | 34,273 | 42,841 | 68,545  | 98,534  |
| 4 persons — (100%)  | 102,002 | 40,801 | 51,001 | 81,602  | 117,302 |
| 5 persons — (116%)  | 118,322 | 47,329 | 59,161 | 94,658  | 136,071 |
| 6 persons — (132%)  | 134,643 | 53,857 | 67,321 | 107,714 | 154,839 |
| 7 persons — (135%)  | 137,703 | 55,081 | 68,851 | 110,162 | 158,358 |
| 8 persons — (138%)  | 140,763 | 56,305 | 70,381 | 112,610 | 161,877 |
| 9 persons — (141%)  | 143,823 | 57,529 | 71,911 | 115,058 | 165,396 |
| 10 persons — (144%) | 146,883 | 58,753 | 73,441 | 117,506 | 168,915 |

For each additional family member above 10 persons, add \$3,060 to the median income for a family of 10.

THEODORE DALLAS  
Secretary of Human Resources

**Subtitle 07 CHILD SUPPORT  
ENFORCEMENT ADMINISTRATION**

**07.07.19 Administrative Earnings Withholding**

Authority: Family Law Article, §§10-114, 10-120—10-138, and 12-105,  
Annotated Code of Maryland  
Agency Note: Federal Regulatory Reference—45 CFR §§302.35 and 303.100

**Notice of Proposed Action**  
[12-271-P]

The Secretary of Human Resources proposes to amend Regulation .02 under **COMAR 07.07.19 Administrative Earnings Withholding**.

**Statement of Purpose**

The purpose of this action is to amend COMAR 07.07.19.02 so that it is in compliance with changes to federal statute. The Child Support Enforcement Administration is adding the new federal definition of a newly hired employee to State regulations. Maryland employers are required to report newly hired employees to the State Directory of New Hires (SDNH). The SDNH and the National Directory of New Hires assist child support enforcement agencies in administratively issuing earnings withholding notices to noncustodial parents' employers.

**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 Andrea Shuck, Acting Regulations Coordinator, Department of Human Resources, Office of Government, Corp. and Comm. Affairs, 311 W. Saratoga Street, Room 270, Baltimore, MD 21201-3521, or call 410-767-2149, or email to AShuck@dhr.state.md.us, or fax to 410-333-0637. Comments will be accepted through November 5, 2012. A public hearing has not been scheduled.

**.02 Definitions.**

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

(1) (text unchanged)

(2) "New hire data match" means the automated process of matching obligors who owe a child support obligation with information on [new employees] a newly hired employee reported by employers under 42 U.S.C. §653(a) [(2001)].

(3) "Newly hired employee" means an employee who:

(a) Has not been previously employed by the employer; or

(b) Was previously employed by the employer but has been separated from such prior employment for at least 60 consecutive days.

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

THEODORE DALLAS  
Secretary of Human Resources

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

**Subtitle 19 COMMISSION OF REAL  
ESTATE APPRAISERS, APPRAISAL  
MANAGEMENT COMPANIES, AND  
HOME INSPECTORS — REAL  
ESTATE APPRAISERS**

**09.19.02 Educational Requirements**

Authority: Business Occupations and Professions Article, §§16-216, 16-220, 16-309, and 16-511, Annotated Code of Maryland

**Notice of Proposed Action**  
[12-269-P]

The Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors proposes to amend Regulation .04 under **COMAR 09.19.02 Educational Requirements**. This action was considered at a public meeting of the

Commission held on December 14, 2010, notice of which was given in 37:25 Md. R 1772 (December 3, 2010) pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to establish a maximum number of continuing education hours that an appraiser may acquire in one calendar day. This action is being proposed in response to the Commission's determination that some appraisers have been issued certificates of completion for online courses that reflect significant inconsistencies between the number of hours granted versus the number of hours the applicant actually spent taking the course. This action is sought to enhance the primary intent of continuing education, and to encourage the mastery and fluency of the material covered in a course.

Under the provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Appraiser Qualifications Board (AQB) establishes the minimum education, experience and examination requirements for real property appraisers. At the request of and as a service to state appraiser regulatory agencies and providers of real estate appraisal education, the AQB established a Course Approval Program (CAP) to offer a voluntary national system for the approval of real property appraisal courses of instruction that satisfy the education criteria established by the AQB for the licensure and certification of real estate appraisers. The Commission voluntarily recognizes all appraisal courses that are approved through the AQB CAP. This proposed action is consistent with the AQB CAP course scheduling policy which requires a course owner to have an established policy that provides for a maximum of 8 classroom hours of instruction in any given 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 Patti Schott, Administrator, Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors, 500 N. Calvert Street, Baltimore, MD 21202, or call 410-230-6165, or email to pschott@dllr.state.md.us, or fax to 410-333-6314. Comments will be accepted through December 3, 2012. A public hearing has not been scheduled.

**Open Meeting**

Final action on the proposal will be considered by Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors during a public meeting to be held on December 11, 2012, at 10:30 a.m., at 500 N. Calvert Street, Baltimore, MD 21202.

**.04 Continuing Education.**

A.—E. (text unchanged)

F. *The Commission may grant a licensee or certificate holder no more than 8 hours of credit for instruction per day for courses of continuing education.*

GEORGE FAIR  
Chairman

Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors

**Subtitle 19 COMMISSION OF REAL ESTATE APPRAISERS, APPRAISAL MANAGEMENT COMPANIES, AND HOME INSPECTORS — REAL ESTATE APPRAISERS**

**09.19.12 General Regulations**

Authority: Business Occupations and Professions Article, §§ 16-101(r), 16-216 and 16-220, Annotated Code of Maryland

**Notice of Proposed Action**

[12-268-P]

The Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors proposes to amend Regulation .02 under **COMAR 09.19.12 General Regulations**. This action was considered at a public meeting of the Commission held on June 12, 2012, notice of which was given in 39:10 Md. R 675 (May 18, 2012) pursuant to State Government Article, §10-506(c) Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to establish a requirement that an individual must hold a residential or general real estate appraiser certificate for at least 2 years before the individual is eligible to become a supervising appraiser. This action is being proposed to comply with the anticipated change in supervising appraiser requirements of the Real Property Appraiser Qualification Criteria, by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation. Under the provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), the AQB establishes the minimum education, experience and examination requirements for real property appraisers. Under the FIRREA and the recent enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act, States are required to implement appraiser certification requirements that are no less stringent than those issued by the AQB in the Real Property Appraiser Qualification Criteria. This action is intended to enhance the public trust by assuring that supervising appraisers, who provide a critical role in the mentoring, training and development of future appraisers, are experienced, competent, and qualified to supervise trainee appraisers.

**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 Patti Schott, Administrator, Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors, 500 N. Calvert Street, Baltimore, MD 21202, or call 410-230-6165, or email to pschott@dllr.state.md.us, or fax to 410-333-6314. Comments will be accepted through December 3, 2012. A public hearing has not been scheduled.

**Open Meeting**

Final action on the proposal will be considered by Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors during a public meeting to be held on December 11, 2012, at 10:30 a.m., at 500 N. Calvert Street, Baltimore, MD 21202.

**.02 Supervising Appraisers.**

A. To be eligible to serve as a supervising appraiser, an individual:

- (1) Shall be in good standing; [and]
- (2) May not have been subject to any disciplinary action within the immediately preceding 2 years[.]; and

(3) Shall have held a certified residential or certified general real estate appraisal license for at least 2 years.

B. (text unchanged)

GEORGE FAIR  
Chairman

Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors

**Subtitle 34 OFFICE OF CEMETERY OVERSIGHT**

**Notice of Proposed Action**

[12-261-P]

The Director of the Office of Cemetery Oversight proposes to adopt:

(1) New Regulations .01 and .02 under a new chapter, **COMAR 09.34.05 Crematories — Definitions;**

(2) New Regulations .01 — .13 under a new chapter, **COMAR 09.34.06 Crematories — Permit and Registration Process and Fees;**

(3) New Regulations .01 — .06 under a new chapter, **COMAR 09.34.07 Crematories — Inspections, Complaints, and Discipline;**

(4) New Regulations .01 — .12 under a new chapter, **COMAR 09.34.08 Crematories — Cremation Procedures;** and

(5) New Regulations .01 and .02 under a new chapter, **COMAR 09.34.09 Crematories — Code of Ethics.**

**Statement of Purpose**

The purpose of this action is to implement the provisions in Ch. 450, Acts of 2010, requiring the Office of Cemetery Oversight and the State Board of Morticians and Funeral Directors to establish a specified process and adopt specific regulations for regulating crematories. Such regulations specifically include regulations governing registration or licensure and renewal; applications, including certification of ownership and identification of individuals who will perform cremation; registration or licensure fees; cremation containers; holding facilities; authorization forms; waiting period before cremation; delegation of authority to cremate; liability of authorizing agent and crematory; receipts and records of cremation; resolution of disputes regarding cremation; prohibitions against requiring caskets and embalming; identification of human remains before and after cremation; storage of human remains before cremation; hazardous implants; prohibition against simultaneous cremation of more than one person without authorization; inspection and copying of records by regulating authority; approved containers for cremains; disposition of unclaimed cremains; inspections; registration or licensure fees; providing identification of and updates on individuals performing cremation to the regulating authority; and any other issue determined to be necessary to carry out the provisions of Ch. 450, Acts of 2010.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** The Office of Cemetery Oversight will incur a modest increase in workload as a result of establishing a regulatory program governing crematories. This will include reviewing applications, responding to inquiries, maintaining files and a data system, handling disciplinary actions, etc. A moderate fee will be imposed on crematories and operators, generating a limited amount of additional revenue. Existing staff will absorb the additional workload. Crematories will bear the additional cost of the licensing fee, which may be passed through to consumers. Consumers will have the benefit of the standards established for the operation of a crematory and the conduct of cremations, as well as specific recourse to a State regulator for complaints.

| II. Types of Economic Impact.                         | Revenue (R+/R-)         | Magnitude  |
|---|-------------------------|--|
|   | Expenditure (E+/E-)     |  |
| A. On issuing agency:<br>Office of Cemetery Oversight | (R+)                    | Less than \$5,000 in new revenue from biennial fees  |
| B. On other State agencies:                           | NONE                    |  |
| C. On local governments:                              | NONE                    |  |
|   | Benefit (+)<br>Cost (-) | Magnitude  |
| D. On regulated industries or trade groups:           | (+)                     | All crematories, new biennial fees less than \$5,000 |
| E. On other industries or trade groups:               | NONE                    |  |
| F. Direct and indirect effects on public:             | (+)                     | Indeterminable                                       |

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

A. It is estimated that the office will license fewer than ten crematories.

D. Crematories will bear the cost of any pertinent fees imposed by the Office.

F. Consumers will benefit from a regulatory program designed to protect the public through the administration of standards. State regulators will provide recourse for consumers aggrieved by actions in violation of pertinent laws and regulations.

**Economic Impact on Small Businesses**

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

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Marilyn Harris Davis, Executive Director, Office of Cemetery Oversight, 500 N. Calvert St., 3rd Floor, Baltimore, MD 21202, or call 410 265-1845, or email to mharrisdavis@dllr.state.md.us, or fax to 410 333-6314. Comments

will be accepted through November 5, 2012. A public hearing has not been scheduled.

### 09.34.05 Crematories — Definitions

Authority: Business Regulation Article, §5-204, Annotated Code of Maryland

#### .01 Scope.

This chapter governs the definition of terms used in COMAR 09.34.06, COMAR 09.34.07, COMAR 09.34.08, and COMAR 09.34.09.

#### .02 Definitions.

A. In COMAR 09.34.06, COMAR 09.34.07, COMAR 09.34.08, and COMAR 09.34.09, the following terms have the meanings indicated.

##### B. Terms Defined.

(1) "Advertisement" means the publication, dissemination, or circulation of any oral or written matter, including labeling, which directly or indirectly calls to the attention of the public the goods or services one has to offer.

(2) "Authorizing agent" means an individual legally entitled to order the cremation of human remains or legally authorized to control the final disposition of human remains.

(3) "Board" means the Board of Morticians and Funeral Directors.

##### (4) Consumer.

(a) "Consumer" means an actual or prospective purchaser of consumer services, consumer goods, or consumer credit.

(b) "Consumer" includes an individual directed by the consumer, or properly acting on behalf of a deceased consumer, to inquire about the cost or purchase of cremation services or cremation related goods, or to act on behalf of the consumer.

(5) "Cremated human remains" means all human remains recovered after completion of cremation and the use of pulverizing equipment.

(6) "Cremation" means the process of reducing human remains to bone fragments through intense heat and evaporation, including any mechanical or thermal process and may include pulverization.

(7) "Cremation container" means a readily combustible, rigid container in which human remains are sent to the crematory and then placed in the cremation chamber for cremation.

(8) "Cremator" means the machinery within which the process of cremation of human remains begins.

(9) "Crematory" means a building, portion of a building, or structure that houses the necessary appliances and facilities for cremation.

(10) "Crematory authority" means a legal entity or sole proprietor that has been issued a permit by the Office of Cemetery Oversight to operate as a crematory and perform cremations.

(11) "Embalming" means the disinfection or preserving of human remains by arterial or cavity injection or any other type of preservation.

(12) "Engage in the operation of a crematory" means controlling or managing a crematory.

(13) "Holding facility" means an area, within or adjacent to a crematory, designed for the retention of human remains before cremation.

(14) "Human remains" means the body of a deceased person, or part of a body or limb that has been removed from a living person.

##### (15) "Office" means the Office of Cemetery Oversight.

(16) "Permit" means a permit issued by the Office to allow a person to operate a business which engages in the operation of a crematory or to act as a registered crematory operator.

(17) "Permit holder" means the holder of a permit under Business Regulation Article, Title 5, Annotated Code of Maryland, to

engage in the operation of a crematory or to act as a registered crematory operator.

(18) "Person" means an individual, receiver, trustee, corporation, limited liability company, or partnership.

(19) "Processed human remains" means the end result of pulverization of cremated human remains, where the residue from the cremation process is cleaned leaving only bone fragments reduced to 5 millimeters or less.

(20) "Registered crematory operator" means an individual registered to operate a crematory as a sole proprietor or on behalf of a sole proprietor or permit holder.

(21) "Responsible party" means a sole proprietor or the individual designated by a corporation, limited liability company or partnership, which holds a permit to engage in the operation of a crematory, to be responsible for the operations of the crematory.

(22) "Sealable container" means any container in which processed human remains can be placed and sealed so as to prevent leakage of the processed human remains or the entry of any foreign material.

### 09.34.06 Crematories — Permit and Registration Process and Fees

Authority: Business Regulation Article, §§5-102, 5-204, 5-205, 5-301 — 5-310, 5-312, 5-401 — 5-403, and 5-901 — 5-905, Annotated Code of Maryland

#### .01 Scope.

This chapter governs the permit process for persons who operate a crematory in the State and the fees for crematory and registered crematory operator permits.

#### .02 Permit Issuing Agency.

A. A person who holds a permit or registration under Business Regulation Article, Title 5, Annotated Code of Maryland, and owns a greater interest in a crematory than a licensee under Health Occupations Article, Title 7, Annotated Code of Maryland, shall obtain a permit to engage in the operation of a crematory from the Office.

B. A person whose ownership interest in a crematory is equal to the ownership interest in the crematory of a licensee under Health Occupations Article, Title 7, Annotated Code of Maryland, shall obtain a permit to engage in the operation of a crematory from the Office.

C. A person who owns a crematory and is neither a licensee under Health Occupations Article, Title 7, Annotated Code of Maryland, nor a registrant or permit holder under Business Occupations Article, Title 5, Annotated Code of Maryland, shall obtain a permit to engage in the operation of a crematory from the Office.

D. A person who is a licensee or holder of a corporation licensee under Health Occupations Article, Title 7, Annotated Code of Maryland, and owns a greater interest in a crematory than a person who holds a permit or registration under Business Regulation Article, Title 7, Annotated Code of Maryland, shall obtain a permit to engage in the operation of a crematory from the Board.

E. An individual, who is designated as the registered crematory operator by a person required to obtain a permit to operate a crematory from the Office, shall obtain a registered crematory operator permit from the Office.

F. All operating crematories and individuals designated as the registered crematory operator required to obtain a permit from the Office shall apply to the Office for a permit within 90 days from the effective date of this chapter.



**.03 Permit — Requirements for Permit for a Crematory Owned by a Corporation, Limited Liability Company, or Partnership.**

A. A corporation, limited liability company, or partnership shall receive a permit to operate a crematory in this State if the corporation, limited liability company, or partnership meets the permit requirements of this regulation.

B. A corporation, limited liability company, or partnership shall receive a permit if the entity:

- (1) Completes an application form;
- (2) Pays the nonrefundable application fee and any other fees due under this chapter;
- (3) Provides the name, address, and phone number of each affiliated crematory;
- (4) Designates a registered crematory operator as the responsible party for each affiliated crematory provided that the registered crematory operator may not be designated as the responsible party for more than a total of two crematories;
- (5) Provides a list of the officers, directors, members, partners, agents, and employees of the entity applying for the permit;
- (6) Provides a certificate of status, issued by the Maryland Department of Assessments and Taxation, indicating that the entity is in good standing, or its equivalent as determined by the Office, and dated not earlier than 30 days before the date of the application; and
- (7) Provides an affidavit stating that:
  - (a) No federal or State taxes or fees are delinquent; and
  - (b) The corporation, limited liability company, or partnership is financially stable.

**.04 Permit — Requirements for Permit for a Crematory Owned by a Sole Proprietor.**

A. A sole proprietor applicant for a crematory permit shall receive a permit to operate a crematory in this State if the sole proprietor applicant meets the permit requirements of this regulation.

B. A sole proprietor shall receive a permit if the sole proprietor:

- (1) Completes an application form;
- (2) Pays the nonrefundable application fee and any other fees due under this chapter;
- (3) Provides the name, address, and phone number of each affiliated crematory;
- (4) Designates a registered crematory operator as the responsible party for each affiliated crematory provided that the registered crematory operator may not be designated as the responsible party for more than a total of two crematories; and
- (5) Provides an affidavit stating that:
  - (a) No federal or State taxes or fees are delinquent; and
  - (b) The crematory business is financially stable.

**.05 Permit — Requirements for Registration for a Registered Crematory Operator.**

A. An individual shall register with and receive a permit from the Office as a registered crematory operator if the individual meets the registration requirements of this regulation.

B. An individual shall be registered with the Office as a registered crematory operator if the individual:

- (1) Completes an application form;
- (2) Pays the nonrefundable application fee and any other fees due under this chapter;
- (3) Is 18 years old or older;
- (4) Is of good character and reputation and lists the applicant's previous three employers;
- (5) Has achieved certification as a crematory operator by the Cremation Association of North America (CANA), International Cemetery, Cremation and Funeral Association (ICCF), or other equivalent certification recognized by the Office;

(6) Has successfully completed the operator training course of the manufacturer of the cremator located in the crematory with which the applicant is affiliated;

(7) States the name and mailing address of the crematory with which the applicant is affiliated;

(8) States whether the crematory with which the applicant is affiliated is owned or controlled by:

- (a) A corporation;
- (b) A partnership;
- (c) A limited liability company; or
- (d) A sole proprietorship; and

(9) States whether the applicant is the responsible party for the affiliated crematory.

C. Additional Requirements.

(1) An individual applying for a permit as a registered crematory operator shall provide the Office with a detailed description of activities including, but not limited to, whether the applicant has:

- (a) Had a license, certification, registration, or permit of the type for which the application is being made ever denied, suspended, or revoked by any jurisdiction;
- (b) Been convicted of a felony in any State or federal court;
- (c) Been convicted in any State or federal court of a misdemeanor directly related to the ownership or operation of a crematory;
- (d) Had any civil judgments or settlements within the 5 years before applying for a permit which directly related to the ownership or operation of a crematory; or
- (e) Been convicted by a court in this State of violating a usury provision under Commercial Law Article, Title 12, Annotated Code of Maryland, or an unfair and deceptive trade practices provision under Commercial Law Article, Title 13, Annotated Code of Maryland.

(2) An applicant shall submit copies of all:

- (a) Charging documents which were issued and docket entries for convictions, which occurred before applying for a permit, for a misdemeanor or felony referred to in §C.(1)(b),(c), or (e) of this Regulation;
- (b) Disciplinary actions, judgments, and final orders which occurred or were issued before applying for a permit for any regulatory probation, suspension, or revocation referred to in §C.(1)(a) of this Regulation; and
- (c) Civil judgments or settlements against the applicant within the past 5 years which directly relate to the ownership or operation of a crematory.

(3) An individual applying for a permit, who is designated by the crematory authority as the responsible party, shall state the name and residential address of each employee who sells goods or services to the public while engaging in the operation of a crematory.

D. A registered crematory operator may not be designated as the responsible party for more than two crematories.

E. An individual may be issued permits for affiliations with more than one crematory if each affiliated crematory is owned by the same individual or entity.

F. An individual who will become the registered crematory operator for a crematory which was in operation prior to the effective date of this chapter or for a crematory which has filed an application for a permit pursuant to this chapter, shall obtain the certification and manufacturer training required by §B.(5) and (6) of this regulation within 90 days from the effective date of this regulation or be subject to action by the Office.

**.06 Permit — Requirements for Permit for a New Crematory Owned by a Corporation, Limited Liability Company, or Partnership.**

A. A corporation, limited liability company, or partnership shall receive a permit to operate a new crematory in this State if the corporation, limited liability company, or partnership meets the permit requirements of this regulation.

B. A corporation, limited liability company, or partnership shall receive a permit from the Office if, at least 30 days prior to the opening of the new crematory, the entity:

- (1) Completes an application form;
- (2) Pays the nonrefundable application fee and any other fees due under this chapter;
- (3) Provides the name, address, and phone number of each affiliated crematory;
- (4) Designates a registered crematory operator as the responsible party for each affiliated crematory provided that the registered crematory operator may not be designated as the responsible party for more than a total of two crematories;
- (5) Provides a list of the officers, members, partners, agents, and employees of the entity applying for the permit; and
- (6) Provides an affidavit stating that the corporation, limited liability company, or partnership:
  - (a) Is financially stable; and
  - (b) Has the ability to continue to operate the crematory business for a 2-year period after issuance of a permit.

C. Crematories not in operation prior to the effective date of this chapter shall be certified by:

- (1) The Cremation Association of North America (CANA);
- (2) The International Cemetery, Cremation and Funeral Association (ICCFA); or
- (3) Another equivalent body recognized by the Office.

**.07 Permit — Requirements for a New Crematory Owned by a Sole Proprietor.**

A. A sole proprietor applicant for a new crematory shall receive a permit to operate if the sole proprietor applicant meets the permit requirements of this regulation.

B. A sole proprietor shall receive a permit from the Office if, at least 30 days prior to the opening of the new crematory, the sole proprietor applicant:

- (1) Completes an application form;
- (2) Pays the nonrefundable application fee and any other fees due under this chapter;
- (3) Provides the name, address, and phone number of each affiliated crematory;
- (4) Designates a registered crematory operator as the responsible party for each affiliated crematory provided that the registered crematory operator may not be designated as the responsible party for more than a total of two crematories; and
- (5) Provides an affidavit stating that the new crematory business:
  - (a) Is financially stable; and
  - (b) Has the ability to continue to operate the crematory business for a 2-year period after issuance of a permit.

C. Before applying to the Office for a permit, any crematory not in operation before the effective date of this chapter, shall have in its employ an individual who holds a certification from:

- (1) The Cremation Association of North America (CANA);
- (2) The International Cemetery, Cremation and Funeral Association (ICCFA); or
- (3) Another equivalent body recognized by the Office.

**.08 Change of Information.**

The responsible party shall notify the Office of any change in the information provided in the application for permit for a crematory or

for a permit as a registered crematory operator, either before or after the issuance of a permit, within 15 days of the date of the change.

**.09 Renewal.**

A. Before the expiration date of a permit, a permit holder shall complete and return the renewal form, pay the renewal fee, and submit any required documentation.

B. A person who has a permit to engage in the operation of a crematory or a permit as a registered crematory operator may renew the permit every 2 years, beginning on a date specified by the Office, in the following manner:

- (1) Complete the renewal application form;
- (2) Pay the nonrefundable renewal fee set forth in Regulation .13 of this chapter;
- (3) Meet the permit requirements under Regulation .03, .04, or .05 of this chapter; and
- (4) Submit the documentation required by Regulation .03, .04, or .05 of this chapter.

C. After the expiration date of a permit, if a permit holder has not yet applied for renewal, the permit holder is no longer authorized to engage in the operation of a crematory or to act as a registered crematory operator.

D. If a permit holder completes the renewal application process set forth in Regulation .09B of this chapter before the expiration date of the permit and the Office does not renew the permit before its expiration date, the permit holder is considered to be actively permitted until receipt from the Office of either a renewed permit or a notice of denial of a permit.

E. If a permit holder applies for renewal of a permit after the expiration date of the permit, the permit holder shall pay the renewal fee plus the late renewal fee under Regulation .13 of this chapter.

**.10 Lapsed Permit.**

A person who has been issued a permit and who has allowed the permit to lapse for at least 6 months may apply for a permit in the following manner:

- A. Complete a permit application form;
- B. Pay the permit fee and the late renewal fee under Regulation .13 of this chapter;
- C. Meet the permit requirements under Regulation .03, .04, or .05 of this chapter;
- D. Submit the documentation required by Regulation .03, .04, or .05 of this chapter;
- E. Provide a full written explanation to the Office detailing the reasons why the permit was allowed to expire and why a permit is now sought; and
- F. Submit to the Office an affidavit stating that the person did not engage in the operation of a crematory or act as a registered crematory operator in this State while the permit was lapsed.

**.11 Hearings — Permit Denial.**

A. Permit Denial. An applicant or permit holder applying for an initial or renewal permit to the Office may be denied the issuance of a permit, subject to the hearing provisions of Business Regulation Article, §5-312, Annotated Code of Maryland.

B. Hearing Before Director of Office.

(1) Except as otherwise provided in §B(2)—(6) of this regulation, all contested cases before the Director of the Office shall be governed by COMAR 09.01.02.

(2) An applicant who has been notified that a new or renewal permit has been or may be denied and who requests a hearing before the Director of the Office must file the request for a hearing not later than 30 days after the notice of proposed action was mailed.

(3) The Director of the Office shall send the hearing notice described in COMAR 09.01.02.07B at least 10 days before the

hearing or, if the parties have agreed to a date for which 10 days notice cannot be given, at the earliest time possible.

(4) The notice to an applicant that a new or renewal permit has been or may be denied shall state that the proposed action of the Director of the Office shall be affirmed if:

(a) A hearing is not requested within 30 days after the date the notice of proposed action was mailed; or

(b) The applicant fails to appear for the hearing after requesting a hearing.

(5) If, after a hearing, the proposed action of the Director of the Office is upheld, the appellant shall pay the hearing costs described in Regulation .12 of this chapter.

C. Hearings Delegated by the Office to the Office of Administrative Hearings. All contested case hearings delegated to the Office of Administrative Hearings shall be governed by COMAR 09.01.03.

**.12 Fees.**

**A. Permit Fees:**

- (1) Crematory permit — \$350;
- (2) Registered Crematory Operator permit — \$300;
- (3) Crematory permit renewal — \$350;
- (4) Registered Crematory Operator permit renewal — \$300;

and

- (5) Late renewal fee — \$200.

**B. Miscellaneous Fees:**

- (1) Replacement of permit — \$50;
- (2) Returned check fee — \$50;
- (3) Additional copy of permit — \$50;
- (4) Business name change — \$50;
- (5) Personal name change — \$50;
- (6) Business address change — \$50; and
- (7) Annual preneed sales trust report — \$25.

C. Hearing costs described in Business Regulation Article, §5-312(h), Annotated Code of Maryland, shall be determined to be the cost of a court reporter and the transcripts ordered by the Office, or by the Office of the Attorney General, for the purpose of presenting a case alleging violation of Business Regulation Article, Title 5, Annotated Code of Maryland, before the Office or before the Office of Administrative Hearings.

**.13 Display of Permit.**

A permit holder shall display the permit conspicuously, in a public area, at each business address of the permit holder.

**09.34.07 Crematories — Inspections, Complaints, Discipline**

Authority: Business Regulation Article, §§5-204, 5-310, and 5-311, Annotated Code of Maryland

**.01 Scope.**

This chapter governs crematory inspections, the complaint process, investigations, grounds for discipline, and penalties.

**.02 Inspection by the Office.**

A. A crematory shall be available for inspection by a representative of the Office at any time during operating hours.

**B. A crematory shall be inspected:**

- (1) On at least a biennial basis;
- (2) In furtherance of an investigation; or
- (3) Upon the sale or change of ownership of the crematory.

C. A permit holder shall be available to accompany the inspector during the inspection and sign the inspection report.

D. A crematory shall maintain the following minimum standards:

(1) The premises shall be maintained in a sanitary manner to comply with Centers for Disease Control’s guidelines on universal precautions;

(2) Except by express, written consent of the authorizing agents to perform simultaneous, multiple cremations, there may be no more than one human body cremated in a single cremator at a time;

(3) A cremator shall be cleaned completely after each cremation;

(4) There may not be co-mingling of human remains and pet remains in refrigeration units or vehicles;

(5) Separate cremators shall be dedicated for the cremation of human remains and the cremation of pets;

(6) There may not be:

(a) Co-mingling of cremated human remains with other cremated human remains or pet remains;

(b) Scooping of cremated human remains from a bucket containing commingled cremated human remains; or

(c) Any form of misrepresentation in the return of cremated human remains;

(7) Excluding a deceased person with a known communicable infection, human remains shall be properly identified before cremation by verifying that the documentation accompanying the human remains is consistent with a visual observation of the human remains;

(8) A burial transit permit shall be an original document pertaining to the deceased;

(9) Each crematory shall have:

(a) A hand washing sink with hot and cold water in the room in which the cremator is housed; and

(b) The equipment necessary to thoroughly clean the floor within the room housing the cremator with water and an appropriate sanitizing agent;

(10) The name of the deceased shall be visible on the outside of the cremation container;

(11) Human remains shall be properly stored prior to cremation;

(12) Crematories shall:

(a) Use only mechanical pulverizing equipment meeting industry standards that has been thoroughly brushed as clean as possible between each use; and

(b) Pulverize the cremated human remains with a mortar and pestle when the cremated human remains are not sufficient in amount for pulverizing in mechanical equipment;

(13) Separate pulverizing drums shall be dedicated for cremated human remains and cremated pet remains;

(14) Before pulverizing, the mechanical pulverizer shall be clamped;

(15) A crematory may not refuse to release cremated human remains pending payment of outstanding fees;

(16) Within 6 months of the effective date of this chapter, cremators shall be retrofitted, if necessary, with safety devices that will prevent the automatic door from dropping prematurely;

(17) Portable fans may not be used in the area of the cremator or pulverizing equipment;

(18) There shall be a minimum of 6 inches between a cremator smoke stack and the roof of the crematory; and

(19) A cremator shall have, visible on its front, a warning sign stating “No leaning past the door of the cremator”.

E. The following completed forms shall be available at all times for inspection and copying and are subject to be pulled at random by the inspector:

- (1) Cremation authorization form;
- (2) Burial transit permit;
- (3) Delegation of authority form;

- (4) Receipt for human remains;
- (5) Record of cremation;
- (6) Certificate of cremation; and
- (7) Return of human cremated remains certificate.

F. Inspection results shall be written on forms approved by the Office.

G. The representative of the Office performing the inspection shall, upon completion of the inspection:

- (1) Apprise the permit holder of the findings of the inspection; and
- (2) Provide the permit holder or a representative of the permit holder with a copy of the inspection report.

H. The permit holder or representative of the permit holder shall sign and verify receipt of the inspection report.

I. At the time of the Office's inspection, the permit holder shall provide written documentation to the Office's inspector that:

- (1) The cremator has been inspected in accordance with manufacturer specifications;
- (2) In accordance with manufacturer specifications, it is not time for a manufacturer's inspection; or
- (3) The permit holder has requested that the manufacturer conduct an inspection of the cremator.

**.03 Crematory Inspection Report, Deficiencies, Violations, and Penalties.**

A. The Director of the Office shall review the inspection report and make a determination as to whether a deficiency exists.

B. The Office shall notify the permit holder of the results of the inspection by providing a copy of the inspection report to the permit holder.

C. If a permit holder passes an inspection, the permit holder shall prominently display, in public view on the premises, a statement issued by the Office that the crematory has successfully passed an inspection.

D. If the Director of the Office finds a deficiency, the Director of the Office shall:

- (1) Within 7 days notify the permit holder of the deficiency or failure to pass the inspection; and
- (2) Provide a copy of the inspection report, notice of the deficiency, or failure to pass the inspection to the crematory permit holder within 30 days of completion of the inspection.

E. Correction of Deficiency.

(1) Except as provided in this section, a crematory permit holder shall correct a deficiency within 30 days after receipt of notification or sooner as determined by the Office.

(2) The Office may require immediate correction of a deficiency if the Office considers the correction necessary in the interest of public health.

(3) The crematory permit holder may request an extension of time within which to correct a deficiency.

(4) The Office may approve an extension of time for correction of a deficiency.

(5) Upon completion of the correction of all deficiencies, the crematory permit holder shall notify the Office.

(6) Upon notification by the crematory permit holder, a representative of the Office shall re-inspect the crematory.

(7) The Office shall notify the crematory permit holder, in writing, of the results of the re-inspection report by providing a copy of a new inspection report to the crematory permit holder.

(8) If re-inspection reveals additional deficiencies not cited in the first report, the crematory permit holder shall correct those deficiencies in the time period specified by the Office unless an extension of time for correction of the additional deficiencies is requested by the crematory permit holder and approved by the Office.

F. Penalties. In the event that a crematory permit holder fails to allow an inspection of the crematory or fails to comply with a notice to correct deficiencies or violations within the time specified, the Office shall:

(1) Deem the failure to be a threat to the public health, safety, or welfare requiring immediate action;

(2) Summarily suspend the crematory permit as provided under State Government Article, §10-226(c)(2), Annotated Code of Maryland;

(3) Provide notice of the Office's action to the crematory permit holder; and

(4) Provide the crematory permit holder a subsequent opportunity for a hearing pursuant to Business Regulation Article, §5-312, Annotated Code of Maryland.

**.04 Complaints.**

A. A complaint regarding a crematory authority or a registered crematory operator under the jurisdiction of the Office shall be:

(1) Filed by the complainant, on a form devised by the Office, in compliance with the provisions of Business Regulation Article, §5-311(b), Annotated Code of Maryland; and

(2) Processed in accordance with the provisions of Business Regulation Article, §5-311(c)—(h), Annotated Code of Maryland.

B. The Office may initiate a complaint or investigation.

**.05 Investigations.**

The Office and the Board may share investigative information and conduct joint investigations.

**.06 Grounds for Discipline and Penalties.**

A. Subject to the hearing provisions of Business Regulations Article, §5-312, Annotated Code of Maryland, the Director of the Office of Cemetery Oversight may deny a crematory permit or registered crematory operator permit to an applicant, reprimand any person required to obtain a crematory permit or registered crematory operator permit, or suspend or revoke a crematory permit or registered crematory operator permit if an applicant or permit holder, or an agent, employee, officer, director, or partner of the applicant or permit holder, for the reasons set forth in Business Regulation Article, §5-310, Annotated Code of Maryland.

B. The Director of the Office may seek the remedies and may impose the penalties set forth in Business Regulation Article, Title 5, Annotated Code of Maryland, for violations of that Title.

**09.34.08 Crematories — Cremation Procedures**

Authority: Business Regulation Article, §5-204, Annotated Code of Maryland

**.01 Scope.**

This chapter governs the procedures to be followed by a permit holder in performing a cremation in this State.

**.02 Removal, Identification, and Transportation of Human Remains.**

A. Upon receipt of human remains, a permit holder, in the presence of the authorizing agent or representative of the funeral establishment engaging crematory services, shall:

(1) Verify that the information on the wrist tag of the human remains is consistent with the documentation accompanying the human remains and consistent with the visual observation of the human remains;

(2) Use a metal detector wand to inspect for the presence of any battery operated, implanted devices including pacemakers, defibrillators or pain relief devices;

(3) Refuse to accept human remains for cremation if an inspection of the human remains indicates the presence of any battery operated, implanted device;

(4) Remove and properly dispose of any hazardous object or any other materials that the permitted designee of the crematory authority deems should be removed from the human remains or cremation container in order to prevent harm to the public health or damage to the cremator;

(5) Remove any jewelry on the human remains or in the cremation container;

(6) Return any removed jewelry to the authorizing agent or representative of the funeral establishment engaging cremation services; and

(7) Obtain a signed, itemized receipt from the authorizing agent or representative of the funeral establishment engaging cremation services for the removed jewelry and retain the receipt as a permanent record.

B. Foreign objects removed from the human remains:

(1) Shall be treated as medical waste and disposed of accordingly; and

(2) May not be donated until a sterilization process through a third party, recognized by the Office, to dispose properly of medical waste has been performed.

C. Materials identifying the human remains placed in the custody of a crematory authority shall contain the following information about the decedent:

(1) Name;

(2) Date of birth;

(3) Date of death;

(4) Name of funeral establishment or authorizing agent;

(5) Gender; and

(6) Name and relationship of authorizing agent to the decedent.

D. A crematory authority shall not accept unidentified human remains for cremation.

**.03 Cremation Container.**

A. A cremation container:

(1) Shall be a readily combustible, rigid container suitable for cremation;

(2) Shall provide a completely enclosed covering for the human remains;

(3) Shall be resistant to leakage or spillage;

(4) Shall be of sufficient strength and rigidity for ease of handling;

(5) Shall provide protection to the health and safety of crematory establishment personnel;

(6) Shall comply with all local, State, and federal governmental emissions regulations; and

(7) May not be composed of metal or polyethylene material.

B. A cremation container which appears to be heavily coated with varnish, lacquer, or any other highly combustible substance shall be:

(1) Placed in a cold cremator within which no cremation has occurred in the prior 4 hours; or

(2) Coated completely with water before being placed in the cremator.

**.04 Holding Facilities.**

A holding facility shall:

A. Comply with applicable public health laws;

B. Preserve the dignity of human remains;

C. Recognize the integrity, health, and safety of crematory establishment personnel; and

D. Be secure from access by unauthorized persons.

**.05 Holding Remains.**

A. Unless prevented by emergency circumstances, human remains that have been designated for cremation shall be cremated by a crematory authority within 48 hours after receipt.

B. A crematory authority may not hold human remains for cremation unless the human remains are contained within an individual, rigid, stackable, closed cremation container.

C. A crematory authority may not accept a cremation container from which there is any evidence of leakage of the body fluids from the human remains therein.

D. Whenever a crematory authority is unable to cremate human remains within 48 hours of taking custody thereof due to emergency circumstances, the crematory authority shall maintain the human remains in a refrigerated holding facility, either on or off site, at 40°F or less, unless the remains have been embalmed.

**.06 Identification of Human Remains Immediately Prior to Cremation.**

A. Immediately prior to being placed within the cremator, a designee of the crematory authority shall:

(1) Verify the identification of the human remains; and

(2) Place in the cremator the circular, hard metal identification disc of the human remains being cremated where it shall remain in place until the cremation process is complete.

B. The designee of the crematory authority who is operating the cremator may not leave the immediate area of the cremator during the cremation process.

**.07 Cremation Authorization.**

A. Except as otherwise provided in this regulation, a crematory authority may not cremate human remains until:

(1) The body has been identified as required by Health Occupations Article, §7-411, Annotated Code of Maryland;

(2) The crematory authority has received:

(a) A cremation authorization on a form approved by the Office and signed by an authorizing agent;

(b) If applicable, a written delegation document or facsimile; and

(c) Any other documentation required by federal, State, or local law; and

(3) The crematory authority has documented that at least 12 hours have elapsed from the time of death of the individual whose remains are to be cremated.

B. The cremation authorization form shall:

(1) Be provided by the crematory authority to the authorizing agent;

(2) Contain the following information:

(a) The identity of the human remains;

(b) Date of death;

(c) The name and address of the crematory where the cremation will occur;

(d) The name and address of the authorizing agent and the relationship between the authorizing agent and the deceased;

(e) Authorization for the crematory authority to cremate the human remains;

(f) Authorization to verify that the following have been removed before cremation:

(i) Implanted pacemaker or defibrillator; or

(ii) Any other materials that the crematory authority deems should be removed to prevent harm to the public health or damage to equipment;

(g) A representation by the authorizing agent that radiological implant treatment has not occurred to the human remains within 5 days before cremation;

(h) A representation that the authorizing agent is aware of no objection to the human remains being cremated by any person who has a right to control the disposition of the human remains; and

(i) The name and address of the person authorized to claim the cremated remains from the crematory authority or accept the cremated remains via registered mail; and

(3) *Be signed by the authorizing agent.*

C. *If an authorizing agent is not available to execute the cremation authorization form, the authorizing agent may delegate that authority to another individual:*

(1) *In writing; or*

(2) *If located outside the area, by transmitting to the crematory authority:*

(a) *A signed, notarized statement, electronically or by facsimile device, that contains the name, address, and relationship of the sender to the deceased and the name and address of the individual to whom authority is delegated; and*

(b) *Once the authorizing agent is located in the area, a notarized statement, through the United States Postal Service attesting to the delegation of authority.*

D. *Upon receipt of the written delegation document or a copy of the delegation document transmitted electronically or by facsimile device, the crematory authority shall allow the named individual to serve as the authorizing agent. The documents shall be signed by the authorizing agent in the presence of a notary.*

E. *A person signing a cremation authorization form is deemed to warrant the truthfulness of any facts set forth in the cremation authorization form, including the identity of the deceased whose remains are sought to be cremated and the authority of that person to order such a cremation.*

F. *A crematory authority shall notify and obtain the written consent of the authorizing agent before the cremation of human remains at a location other than the location named on the cremation authorization form.*

G. *A crematory authority shall maintain a copy of every cremation authorization form required under this regulation as permanent records.*

H. *Cremation authorization records are subject to inspection and copying by the Office.*

**.08 Record of Receipt of Remains.**

A. *A crematory authority shall provide to an individual who delivers human remains for cremation a receipt signed by both the crematory authority and the person who delivered the human remains, that includes the:*

- (1) *Name of the individual from whom the human remains were received and the name of the individual's employer, if any;*
- (2) *Name and address of the crematory authority;*
- (3) *Name and address of the deceased;*
- (4) *Gender of the deceased;*
- (5) *Date of death of deceased; and*
- (6) *Verification of authorized burial transit permit.*

B. *The crematory authority shall maintain a record of each cremation which shall include the:*

- (1) *Name of the deceased;*
- (2) *Date of birth of the deceased;*
- (3) *Date of death of the deceased;*
- (4) *Gender of the deceased;*
- (5) *Name and address of the authorizing agent;*
- (6) *Date, time, and location of cremation; and*
- (7) *Name of the individual who performed the cremation.*

C. *The crematory authority shall provide a certificate of disposition of cremated human remains to the authorizing agent or funeral establishment that arranged for the cremation that contains the:*

- (1) *Name of the deceased;*
- (2) *Name of the authorizing agent;*
- (3) *Date, time, and location where cremation occurred;*
- (4) *Name of the individual who performed the cremation;*
- (5) *Name and address of the person who received the cremated human remains from the crematory authority; and*

(6) *If ascertainable, the location, including the name of the cemetery and plot location if the remains are interred, the manner, and the date of the disposition of the cremated human remains.*

D. *The crematory authority shall maintain a copy of every record and receipt required by this regulation as permanent records.*

E. *All records and receipts required to be maintained by a crematory authority by this chapter are subject to inspection and copying by the Office.*

**.09 Use of a Casket; Embalming.**

A. *Except as provided in §B of this regulation, a crematory authority may not:*

(1) *Require that human remains be placed in a casket before cremation or that human remains be cremated in a casket;*

(2) *Refuse to accept human remains for cremation because the remains are not in a casket; or*

(3) *Refuse to accept human remains for cremation because the remains are in a suitable, combustible wooden casket, but may request the authorizing agent or funeral establishment engaging the services of the crematory authority to remove the metal mattress holder in the casket.*

B. *Human remains delivered to a crematory authority may not be removed from the cremation container and the cremation container shall be cremated with the human remains unless the authorizing agent for the deceased requests that the human remains be placed in the cremator without enclosure in a cremation container.*

C. *The cremation container shall be cremated with the human remains unless the authorizing agent for the deceased requests a more natural environment for the deceased. A crematory authority is not required to accept this manner of disposition.*

D. *A crematory authority may not require that human remains be subjected to embalming before cremation.*

**.10 Disposition of Cremated Human Remains.**

A. *Upon completion of the cremation, insofar as is possible:*

(1) *All of the recoverable residue of the cremation process shall be:*

- (a) *Removed from the cremator;*
- (b) *Except for medical devices remaining after cremation, processed; and*
- (c) *Placed in a container; and*

(2) *The identification disc required by Health Occupations Article, §7-411, Annotated Code of Maryland, shall be:*

- (a) *Removed from the cremator; and*
- (b) *Placed in the container with the cremated human remains.*

B. *Medical devices which remain after the completion of the cremation process shall be treated as medical waste and disposed of accordingly.*

C. *After pulverization, all of the processed human remains, together with the identification disc, shall be placed in a sealable container.*

D. *If the cremation container opening is not of adequate dimensions to accommodate an identification disc, it shall be affixed to the container and a record of the cremation number shall be placed in the container.*

E. *If all of the processed human remains and the identification disc will not fit within the dimensions of a sealable container, the remainder of the processed human remains shall be returned to the authorizing agent, or the agent's representative, in a separate, sealable container. Container seams shall be taped.*

F. *If the processed human remains and identification disc do not adequately fill the container's interior dimensions, the extra space may be filled with packing material that will not become intermingled with the processed human remains and then securely closed.*

G. If a sealable container containing processed human remains is to be shipped, the sealable container shall:

- (1) Be placed within a separate sturdy box with all box seams securely taped closed; and
- (2) Have the name of the deceased person whose processed human remains are contained therein legibly written on the outside of the container.

H. If processed human remains have been in the possession of a crematory authority, as originally authorized by the authorizing agent, without instructions for disposition, for a period of 10 days or more from the date of cremation, the crematory authority may send the processed human remains, by certified mail, return receipt requested, to the authorizing agent.

**.11 Tools.**

A crematory shall maintain, at its own expense, the following tool inventory:

- A. Safety placement tool measuring a minimum of 49 inches in length;
- B. Wire brushes for cleaning cremators;
- C. Brush with fine bristles for cleaning pulverizers;
- D. Mortar and pestle;
- E. Funnel;
- F. High temperature protective gloves and heat resistant leather gloves;
- G. Hand magnet and metal detector wand to detect and remove metal from cremated human remains;
- H. Tweezers to remove nonmetal objects from cremated human remains; and
- I. Dust masks.

**.12 Visitors.**

A. The crematory permit holder or registered crematory operator shall:

- (1) Submit to the Office the number of persons not affiliated with the operation of the crematory who can safely be within the same room and within 10 feet of the cremator door; and
- (2) Verify to the Office that the crematory permit holder has submitted the information required in §A(1) of this regulation to their liability insurance carrier.

B. Crematories that begin operation after July 1, 2013, shall construct a viewing room in the area of the cremator if the crematory authority intends to permit more than two visitors present in the area of the cremator during a cremation.

**09.34.09 Crematories — Code of Ethics**

Authority: Business Regulation Article, §§5-204 and 5-310, Annotated Code of Maryland

**.01 Scope.**

This chapter governs any person who holds a permit to:

- A. Engage in the operation of a crematory; or
- B. Act as a registered crematory operator.

**.02 General Professional Practices.**

A. A permit holder shall:

- (1) Act in a manner that respects and protects the dignity of a decedent and the decedent's family;
- (2) Conduct business in a reasonable, usual, and customary manner;
- (3) Comply with the State public health laws as set forth in Health-General Article, §§4-215 and 5-501 et seq., Annotated Code of Maryland;
- (4) Comply with Business Regulation Article, Title 5, Annotated Code of Maryland;

- (5) Comply with Commercial Law Article, Titles 12 and 13, Annotated Code of Maryland;
- (6) Implement and follow through on all arrangements agreed upon between a consumer and the crematory;
- (7) Provide appropriate services for and respect the rights of individuals without regard to age, race, creed, national origin, gender, disability, marital status, political belief, religious affiliation, social or economic status, or social preferences;
- (8) Comply with all local, State and federal laws regarding the final disposition of human remains;
- (9) Be sensitive and responsive to the bereavement needs of a decedent's family;
- (10) Provide a general price list, that includes accurate information, to anyone who, in person, requests pricing information regarding cremation related goods or services; and
- (11) Provide accurate information from the general price list to any person who requests information, by telephone, regarding cremation related goods or services.

B. In advertising, a permit holder may not include statements:

- (1) That are misrepresentations of facts;
- (2) That are likely to mislead or deceive because, in context, the statement makes only a partial disclosure of relevant facts;
- (3) Relating to fees without reasonable disclosure of all relevant variables so that the statement would not be misunderstood or be deceptive to a consumer; or
- (4) Containing representations or implications that in reasonable probability can be expected to cause an ordinarily prudent person to misunderstand or be deceived.

C. A permit holder or registered crematory operator may not:

- (1) Use, or participate in the use of, any form of communication to consumers containing a false, fraudulent, misleading, deceptive, or unfair statement or claim; or
- (2) Operate a crematory or perform a cremation while under the influence of alcohol, an illegal drug, or a controlled dangerous substance which has not been prescribed by a physician.

MARILYN HARRIS DAVIS  
 Director  
 Office of Cemetery Oversight

**Subtitle 36 COMMISSION OF REAL ESTATE APPRAISERS, APPRAISAL MANAGEMENT COMPANIES, AND HOME INSPECTORS — HOME INSPECTORS**

**09.36.01 General Regulations**

Authority: Business Occupations and Professions Article, §§16-216, 16-220, and 16-601, Annotated Code of Maryland

**Notice of Proposed Action**

[12-267-P]

The Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors proposes to adopt new Regulation .01 under a new chapter, **COMAR 09.36.01 General Regulations**. This action was considered at a public meeting of the Commission held on December 10, 2010, notice of which was given in 37:25 Md. R. 1772 (December 3, 2010) pursuant to State Government Article, §10-506(c) Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to establish a maximum time of 3 years within which an individual may file a complaint against a home

inspector. A home inspection is designed to reflect, as accurately as possible, the visible condition of a home at the time of the inspection. A home inspection is a written evaluation of one or more of the components of an existing residential building, including the heating system, cooling system, plumbing system, electrical system, structural components, foundation, roof, masonry structure, exterior and interior components, or any other related residential housing component and includes testing normal operating controls and opening readily accessible panels. A 3-year limitation for filing a complaint is reasonable given that conditions affecting a home inspection can change radically in a 3-year period. A time restriction within which a complaint may be filed is consistent with the policies of other regulatory agencies, as well the time limitation within which an individual may bring a private cause of action against a home inspector in civil court.

**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 Patti Schott, Administrator, Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors, 500 N. Calvert Street, Baltimore, MD 21202, or call 410-230-6165, or email to pschott@dlr.state.md.us, or fax to 410-333-6314. Comments will be accepted through December 3, 2012. A public hearing has not been scheduled.

**Open Meeting**

Final action on the proposal will be considered by Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors during a public meeting to be held on December 11, 2012, at 10:30 a.m., at 500 N. Calvert Street, Baltimore, MD 21202.

**.01 Time Limitations for Filing Complaints.**

*The Commission may summarily dismiss any complaint brought against a licensee after 3 years from the date of the home inspection report from which the complaint arises, unless the Commission finds that the complainant's delay in bringing the complaint was justified and that the delay does not result in an undue burden for the licensee.*

GEORGE FAIR  
Chairman

Commission of Real Estate Appraisers, Appraisal  
Management Companies, and Home Inspectors

**Title 10  
DEPARTMENT OF HEALTH  
AND MENTAL HYGIENE  
Subtitle 21 MENTAL HYGIENE  
REGULATIONS**

**10.21.07 Therapeutic Group Homes**

Authority: Health-General Article, §§10-50—10-504, 10-702—10-714, 10-901, 10-920—10-926, 16-10—16-303, Annotated Code of Maryland

**Notice of Proposed Action**

[12-274-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .02—.07, .09, and .11—.14 under **COMAR 10.21.07 Therapeutic Group Homes**.

**Statement of Purpose**

The purpose of this action is to update terminology used, provide greater flexibility for the provision of services, and to clarify CSA involvement, credentialing and privileging procedures, management expectations, and standards for admission.

**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 (TTY800-735-2258), or email to dhmh.reg@maryland.gov, or fax to 410-767-6483. Comments will be accepted through November 5, 2012. A public hearing has not been scheduled.

**.02 Definitions.**

A. In this chapter, terms have the meanings stated in [COMAR 01.04.04] *COMAR 14.31.05, 14.31.06*, and in this chapter.

B. Terms Defined.

(1)—(6) (text unchanged)

(7) “*Governor’s Office for Children (GOC)*” means the office created under Executive Order 01.01.2005.34.

[(7)] (7-1)—(10) (text unchanged)

[(11)] Office for Children, Youth, and Families (OCYF)” means the office created under Article 49D, Annotated Code of Maryland.]

[(12)] (11) “Primary caretaker” means the:

(a) Child’s custodial parent or parents; [or]

(b) Adult with whom the child currently resides; or

(c) *Legal guardian*.

(13)—(18) (text unchanged)



**.03 Proposal and Designation of Lead Agency.**

A. Proposal.

(1) An individual or organization that proposes to provide therapeutic living services for children in a TGH shall:

(a) Direct an initial inquiry for obtaining a license to the [OCYF] *GOC*, in accordance with [COMAR 01.04.02] *COMAR 14.31.05.05*; and

(b) Submit to [OCYF] *GOC*, in accordance with [COMAR 01.04.04.05] *COMAR 14.31.05.05*, a proposal describing the:

(i)—(ii) (text unchanged)

(2) [OCYF] *GOC* shall designate a lead agency.

B. Lead Agency. If [OCYF] *GOC* designates the Department as lead agency, on receipt of the proposal submitted under §A of this regulation, the Secretary shall notify the Director of the Administration, who shall:

(1) Forward a copy of the proposal to:

(a) The CSA director, if [the jurisdiction in which the TGH is to be located is served by a core service agency (CSA)] *appropriate*; and

(b) (text unchanged)

(2) (text unchanged)

**.04 License Required.**

A. Before operating a TGH, a person shall obtain a license from the Department under the provisions of this chapter and [COMAR 01.04.04] *COMAR 14.31.05* for each TGH site in which children reside.

B. The Secretary shall grant a license to an applicant to operate a TGH if the applicant fulfills the requirements for:

(1) Licensure under [COMAR 01.04.04] *COMAR 14.31.05*;

and

(2) (text unchanged)

**.05 Application Process.**

A. (text unchanged)

B. Application. An applicant for licensure of a TGH shall:

(1) (text unchanged)

(2) Include in the application:

(a)—(d) (text unchanged)

(e) Written material that describes how the applicant intends to comply with the requirements outlined in:

(i) [COMAR 01.04.04] *COMAR 14.31.05*, and

(ii) (text unchanged)

(f)—(i) (text unchanged)

(3) (text unchanged)

C. (text unchanged)

**.06 Governance.**

A. Governing Body.

(1) A provider that is licensed by the Department under this chapter to operate a TGH shall be governed by a body that shall:

(a) Carry out the responsibilities under [COMAR 01.04.04.04] *COMAR 14.31.06.04*; and

(b) Either:

(i) [Be composed of] *Include* the membership described under §B(1) of this regulation, or

(ii) Appoint an advisory committee for the TGH *that includes the membership described under §B(1) of this regulation.*

(2) (text unchanged)

B. Advisory Committee.

(1) (text unchanged)

(2) An advisory committee appointed under §B(1) of this regulation shall, at a minimum:

(a) (text unchanged)

(b) Advise the governing body regarding the duties described under [COMAR 01.04.04.04] *COMAR 14.31.06.04*.

**.07 Collaboration with Core Service Agency (CSA).**

A. If the jurisdiction in which a TGH is located is served by a CSA, the governing body shall document that the program shall:

(1) Submit the following information to the CSA:

(a)—(c) (text unchanged)

(d) A yearly summary that, at a minimum, includes:

(i) (text unchanged)

(ii) Program planning and evaluation, as identified in [COMAR 01.04.04.15] *COMAR 14.31.06.19*, and

(iii) (text unchanged)

(2)—(4) (text unchanged)

B. (text unchanged)

**.09 Eligibility, Application, and Admission.**

A. (text unchanged)

B. Application for Admission. An applicant to a TGH shall use an application form which outlines the following requirements:

(1) (text unchanged)

(2) Authorization to release information signed by the child's parent or guardian;

(3) Based on [clinical evaluation] *a comprehensive mental health assessment* by an individual authorized, under Health Occupations Article, Annotated Code of Maryland, to formulate a psychiatric diagnosis, a statement including:

(a)—(b) (text unchanged)

(c) The treatment goals for the child, if TGH placement occurs, [and]

(d) *Any history of violence or trauma, and the potential for current violent behavior*; and

[(d)] (e) (text unchanged)

(4)—(6) (text unchanged)

C. *If, under §B(3) of this regulation, the child has a history of violent behavior, TGH staff shall be permitted to plan and collaborate with the clinical referral source to develop a treatment plan which addresses the current potential for violent behavior.*

[C.] D. (text unchanged)

**.11 Evaluative Services Provided by the TGH.**

A.—D. (text unchanged)

E. TGH Individual Treatment Plan (ITP).

(1) (text unchanged)

(2) Initial ITP. Within 30 days after a child is admitted to a TGH and based on the initial brief treatment plan and current observations and reports, the TGH clinical coordinator shall prepare an ITP to be addressed by TGH staff:

(a) In collaboration with:

(i)—(ii) (text unchanged)

(iii) [The] *If present and as appropriate, the primary caretaker [and, as appropriate], family and others involved in the child's care, and*

(iv) (text unchanged)

(b)—(f) (text unchanged)

(3) ITP Review. As frequently as necessary, as determined by the TGH clinical coordinator, and, at a minimum of every 90 days, at a treatment team meeting with, unless clinically contraindicated, the child, the clinical coordinator shall:

(a) (text unchanged)

(b) Communicate the results of the treatment plan review to:

(i) (text unchanged)

(ii) The primary caretaker, *if present*;

(iii)—(iv) (text unchanged)

(4) Signature of the ITP and ITP Reviews.

(a)—(c) (text unchanged)

(d) *If the child's parent, guardian, or primary caretaker does not sign the ITP or ITP reviews, staff shall document efforts to*

obtain the signature and reason why the signature could not be obtained.

F. (text unchanged)

**.12 Treatment and Support Services Provided by the TGH.**

A.—E. (text unchanged)

F. Discharge Procedures. A TGH licensee shall:

(1) Carry out discharge planning in accordance with [COMAR 01.04.04.23D] *COMAR 14.31.06.17*; and

(2) [Forward] *If appropriate, forward* a copy of each discharge plan to the appropriate CSA and the Administration.

**.13 Residential Services.**

A. General. The chief executive officer shall assure that:

(1) (text unchanged)

(2) Communication and visiting policies and daily routines are implemented according to the requirements of:

(a)—(b) (text unchanged)

(c) [COMAR 01.04.04.16] *COMAR 14.31.06.09B*.

B. (text unchanged)

C. Activity. As required under [COMAR 01.04.04.18C] *COMAR 14.31.06.05H*, the clinical coordinator shall assign staff to plan and implement daily activities that utilize the therapeutic milieu to foster clinically appropriate social, cognitive, emotional, and physical growth, including but not limited to:

(1)—(3) (text unchanged)

D. (text unchanged)

E. Independent Living Skills. As required under [COMAR 01.04.04.18D] *COMAR 14.31.06.12C*, in order to assist a child to develop the skills required to live independently as an adult, and as appropriate to a child's age and ability, the chief executive officer shall assign TGH staff to provide activities related to:

(1)—(5) (text unchanged)

F. Work Experience. A TGH that arranges a work experience for a child shall follow the procedure in [COMAR 01.04.04.18E] *COMAR 14.31.06.12D*.

**.14 Staff.**

A. (text unchanged)

B. Chief Executive Officer. The governing body shall employ a TGH chief executive officer who:

(1) Meets the qualifications and experience required under [COMAR 01.04.04.11A] *COMAR 14.31.06.06A*;

(2) (text unchanged)

(3) *Is responsible for credentialing and privileging staff;*

[(3)] (3-1) *Is responsible for administrative oversight for, at a minimum:*

(a) Fulfilling the administrative requirements under [COMAR 01.04.04] *COMAR 14.31.05*;

(b)—(d) (text unchanged)

[(e) In collaboration with the clinical coordinator, assuring staff compliance with credentialing and privileging;]

[(f) (e) In collaboration, when appropriate, with the clinical coordinator, assuring that all staff are appropriately supervised;

[(g) (f) In collaboration with the clinical coordinator and program staff, identifying staff training needs and the provision of inservice training, as required under [COMAR 01.04.04.10C] *COMAR 14.31.06.05F*, and, in addition, assuring a minimum level of staff competence in at least the following:

(i)—(vi) (text unchanged)

[(h) (g)—[(k) (j)](text unchanged)

(4)—(5) (text unchanged)

C. Clinical Coordinator. If the chief executive officer is not the clinical coordinator, the chief executive officer shall hire a clinical coordinator who is:

(1)—(2) (text unchanged)

(3) Responsible for, at a minimum:

(a)—(f) (text unchanged)

(g) [Maintenance] *If assigned by the TGH chief executive officer, maintenance* of the therapeutic milieu described in Regulation .08C(2)(b) of this chapter.

D.—F. (text unchanged)

G. *Program Coordinator. The TGH chief executive officer may employ a program coordinator, who shall be a mental health professional, to manage the therapeutic milieu as outlined in §C(3) of this regulation.*

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

**Subtitle 29 BOARD OF MORTICIANS  
AND FUNERAL DIRECTORS**

**Notice of Proposed Action**

[12-254-P]

The Secretary of Health and Mental Hygiene proposes to:

(1) Repeal existing Regulation .01, adopt new Regulations .01 and .10, and recodify existing Regulations .10—.12 to be Regulations .11—.13 under **COMAR 10.29.01 Hearing Procedures**;

(2) Adopt new Regulations .01 and .02 under a new chapter, **COMAR 10.29.16 Crematories—Definitions**;

(3) Adopt new Regulations .01—.10 under a new chapter, **COMAR 10.29.17 Crematories—Permit, Licensing, and Fees**;

(4) Adopt new Regulations .01—.06 under a new chapter, **COMAR 10.29.18 Crematories—Inspections, Complaints, Investigations, Grounds for Discipline, and Penalties**;

(5) Adopt new Regulations .01—.12 under a new chapter, **COMAR 10.29.19 Crematories—Cremation Procedures**; and

(6) Adopt new Regulations .01 and .02 under a new chapter, **COMAR 10.29.20 Crematories—Code of Ethics**.

This action was considered by the Board of Morticians and Funeral Directors at a public meeting held on August 9, 2012, notice of which was given by publication on the Board's website, pursuant to the State Government Article, §10-506(c), Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to:

(1) Establish sanctioning guidelines for the Board to use when imposing discipline on a licensee for violating the Maryland Morticians and Funeral Directors Act or COMAR 10.29;

(2) Establish requirements for individuals to apply for a permit to operate a crematory, for a license to be a crematory supervisor or to be registered as a crematory operator;

(3) Establish an application process for an individual to receive a permit to operate a crematory or a license to be a crematory supervisor, or to be registered as a crematory operator;

(4) Establish the duties of a crematory supervisor;

(5) Allow an individual to act as an interim crematory supervisor;

(6) Prohibit a crematory from operating without a crematory supervisor or an interim crematory supervisor;

(7) Establish a renewal process for permit holders, licensees, and registration holders;

(8) Establish application fees for a permit, license, and registration, a renewal fee for a supervisor license and technician certification, a late fee, a reinstatement fee, and a replacement fee for a lost or damaged permit, license, or certification;

(9) Establish an inspection process for crematories, including minimum standards for operation;

(10) Prohibit certain acts and establish a code of ethics for permit holders, supervisors, and crematory operators;

(11) Establish a process by which deficiencies can be determined and corrected;

(12) Establish penalties for certain acts relating to inspections and correction of deficiencies;

(13) Establish a complaints process; and

(14) Establish a procedure for cremating human remains, including removal, transportation, and identification of human remains.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** The Board of Morticians and Funeral Directors will incur expenses as a result of establishing a new licensure program, permitting program, and registration program, reviewing applications, responding to inquiries, maintaining files and a data system, handling disciplinary actions, etc. A moderate fee will be imposed on those seeking to run a business that includes running a crematory, crematory supervisors, and crematory operators to offset the cost of these services. The Board has hired and has been approved to hire additional staff to carry out the required functions of this proposal which will be paid for using existing resources. There could be some income generated from penalties under COMAR 10.29.18.06.

| II. Types of Economic Impact.               | Revenue (R+/R-)         | Magnitude      |
|---|-------------------------|----------------|
|   | Expenditure (E+/E-)     |                |
| A. On issuing agency:                       | (R+)                    | \$17,000       |
|   | (E+)                    | \$30,000       |
| B. On other State agencies:                 | NONE                    |                |
| C. On local governments:                    | NONE                    |                |
|   | Benefit (+)<br>Cost (-) | Magnitude      |
| D. On regulated industries or trade groups: | (-)                     | \$17,000       |
| E. On other industries or trade groups:     | (-)                     | Unquantifiable |
| F. Direct and indirect effects on public:   | (+)                     | Unquantifiable |
|   | (-)                     | Unquantifiable |

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

A. Additional staff costs will be only a contractual inspector, Grade 14, whose duties will be split between crematories (1/5) and funeral establishments (4/5). The cost of this position will be borne through fees established in this regulation and existing monies already in the budget.

D. The Board estimates that it will issue 30 permits to operate a crematory, ten licenses for crematory supervisors, and register 60 crematory operators (of which half will pay the \$100 fee, and half

will pay the \$50 fees for having more than three operators in a single crematory). The estimated amount of permits is different from crematory supervisors because a permit holder may choose to also be the supervisor and will not be charged the supervisor fee.

\$350 × 30 permits = \$10,500

\$200 × 10 supervisor licenses = \$2,000

\$30 × 100 registered operators without additional operators = \$3,000

\$30 × 50 additional operators beyond 3 = \$1,500

\$10,500 + \$2,000 + \$3,000 + \$1,500 = \$17,000

E. The impact to other industries, to the extent that a crematory could pass on the cost of the additional fees to a mortician using their service, would be unquantifiable at this time.

F. The impact on the public, to the extent that a permit holder could pass on the cost of the fees to consumers through price increases, is unquantifiable at this time. The public would, however, have the knowledge that the crematory is following specified standards and the staff are professionals with appropriate training.

**Economic Impact on Small Businesses**

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

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Michele Phinney, Director, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 512, Baltimore, Maryland 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through November 5, 2012. A public hearing has not been scheduled.

**10.29.01 Hearing Procedures**

Authority: Health Occupations Article, §§1-606, 7-205(a)(1), 7-205(c), 7-316, Annotated Code of Maryland

**.01 Scope.**

A. This chapter governs procedures for disciplinary matters and hearings before the Maryland State Board of Morticians and Funeral Directors and establishes the standards for use as a guide for the imposition of disciplinary sanctions against any of the following under jurisdiction of the Board:

(1) A licensed mortician, funeral director, apprentice, surviving spouse, funeral establishment, corporation, crematory supervisor, or executor;

(2) A courtesy card holder;

(3) A holder of a permit to operate a crematory; and

(4) A registered crematory operator.

B. If after a hearing, the Board finds that there are grounds under Health Occupations Article, §7-316, Annotated Code of Maryland, to sanction any person listed in §A of this regulation by way of probation, reprimand, suspension, fine, or revocation, the Board may consider aggravating and mitigating factors in determining sanctions.

**.10 Sanctioning Guidelines.**

**A. General Application.**

(1) This regulation shall be used by the Board as a guide for sanctioning pursuant to the Board's authority under Health Occupations Article, §§7-205 and 7-316, Annotated Code of Maryland, for violations of the Morticians and Funeral Directors Act and the Board's regulations.

**PROPOSED ACTION ON REGULATIONS**

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(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 offending person may agree to surrender a license, courtesy card, permit, or certificate, or agree 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. Violations of the terms or conditions may cause the Board to take further disciplinary action.

(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 consider, to the extent possible, the factors in the sanctioning guidelines.

*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 uses a license</i>  | <i>Active Suspension for 1 year</i>  | <i>Revocation</i>                    | <i>\$0</i>             | <i>\$5,000</i>         |
| <i>(3) Commits fraud or misrepresentation in the practice of mortuary science</i>  | <i>Active Suspension for 1 year</i>  | <i>Revocation</i>                    | <i>\$0</i>             | <i>\$5,000</i>         |
| <i>(4) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude</i>   | <i>Probation for 1 year</i>          | <i>Revocation/Denial of License</i>  | <i>\$0</i>             | <i>\$5,000</i>         |
| <i>(5) Aids or abets an unauthorized person in the practice of mortuary science specifically in embalming without a license</i>  | <i>Active suspension for 90 days</i> | <i>Revocation</i>                    | <i>\$0</i>             | <i>\$5,000</i>         |
| <i>(6) Aids or abets an unauthorized person in the practice of mortuary science, specifically in making arrangements</i>   | <i>Active suspension for 90 days</i> | <i>Revocation</i>                    | <i>\$0</i>             | <i>\$5,000</i>         |
| <i>(7) Advertises falsely or in a misleading manner</i>  | <i>Reprimand</i>                     | <i>Active suspension for 60 days</i> | <i>\$0</i>             | <i>\$500</i>           |
| <i>(8) Solicits mortuary science business, either personally or by an agent, from a dying individual</i>   | <i>Active suspension for 30 days</i> | <i>Active suspension for 1 year</i>  | <i>\$0</i>             | <i>\$1,500</i>         |
| <i>(9) Directly or indirectly pays or offers to pay to obtain mortuary science business</i>  | <i>Active suspension for 30 days</i> | <i>Active suspension for 1 year</i>  | <i>\$0</i>             | <i>\$1,500</i>         |
| <i>(10) Solicits or accepts any payment or rebate for recommending any crematory, mausoleum, or cemetery or causing a dead human body to be disposed of there</i>  | <i>Reprimand</i>                     | <i>Active suspension for 30 days</i> | <i>\$0</i>             | <i>\$500</i>           |
| <i>(11) Refuses to surrender custody of a dead human body on the demand of a person who is entitled to its custody</i>   | <i>Active suspension for 30 days</i> | <i>Revocation</i>                    | <i>\$2,500</i>         | <i>\$5,000</i>         |
| <i>(12) At the time funeral arrangements are made, fails to give the contract required by Health Occupations Article, §7-404, Annotated Code of Maryland</i>   | <i>Reprimand</i>                     | <i>Active suspension 15 days</i>     | <i>\$0</i>             | <i>\$250</i>           |
| <i>(13) Violates any State, municipal, or county law, rule or regulation on the handling, custody, care or transportation of dead human bodies or the disposal of instruments, materials and wastes relevant to preparation of a dead human body for final disposition</i> | <i>Reprimand</i>                     | <i>Active suspension for 1 year</i>  | <i>\$0</i>             | <i>\$5,000</i>         |
| <i>(14) Practices mortuary science under a name other than the name that appears on the license of that person; or the name of a partnership in accordance with Health Occupations Article, §7-401, Annotated Code of Maryland</i>   | <i>Reprimand</i>                     | <i>Probation</i>                     | <i>\$0</i>             | <i>\$500</i>           |

|   |           |                               |     |         |
|---|-----------|-------------------------------|-----|---------|
| (15) Violates any provision of this title or of the laws relating to cremation  | Reprimand | Revocation                    | \$0 | \$5,000 |
| (16) Is disciplined by a licensing or disciplinary authority of any other state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes   | Reprimand | Revocation                    | \$0 | \$5,000 |
| (17) Willfully makes or files a false report or record in the practice of mortuary science  | Reprimand | Revocation                    | \$0 | \$5,000 |
| (18) 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                                 | Reprimand | Revocation                    | \$0 | \$5,000 |
| (19) Provides professional services while under the influence of alcohol or using any narcotic or controlled dangerous substance, or other drug that is in excess of therapeutic amounts or without valid medical indication        | Probation | Revocation                    | \$0 | \$5000  |
| (20) Is professionally, physically, or mentally incompetent   | Probation | Revocation                    | \$0 | \$5,000 |
| (21) Commits an act of unprofessional conduct in the practice of mortuary science   | Probation | Revocation                    | \$0 | \$5,000 |
| (22) 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; | Probation | Active suspension for 30 days | \$0 | \$5,000 |
| (23) Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with CDC guidelines on universal precautions  | Reprimand | Active Suspension for 30 days | \$0 | \$5000  |
| (24) Fails to allow an inspection under Health Occupations Article, §7-205, Annotated Code of Maryland  | Probation | Active suspension for 30 days | \$0 | \$2,500 |
| (25) Fails to comply with inspection requirements in the time specified by the Board  | Reprimand | Probation                     | \$0 | \$250   |
| (26) Signs an application for a funeral establishment if the signer knew or should have known that grounds existed for which the funeral establishment license was later denied   | Reprimand | 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 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; and

- (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 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 bereaved;*
  - (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.*

**10.29.16 Crematories — Definitions**

*Authority: Health Occupations Article, §§7-101, 7-102, and 7-205, Annotated Code of Maryland*

**.01 Scope.**

*This chapter defines terms used in COMAR 10.29.17—COMAR 10.29.20.*

**.02 Definitions.**

A. *In COMAR 10.29.17—COMAR 10.29.20, the following terms having the meanings indicated.*

**B. Terms Defined.**

- (1) *“Advertising” means the publication, dissemination, or circulation of any oral or written matter, including labeling, which directly or indirectly calls to the attention of the public the goods and services one has to offer.*
- (2) *“Authorizing agent” means an individual legally entitled to order the cremation of human remains or legally authorized to control the final disposition of human remains.*
- (3) *“Board” means Board of Morticians and Funeral Directors.*
- (4) *“Consumer” includes a funeral establishment contracting with a crematory or the designated next of kin of a decedent contracting with a crematory.*
- (5) *“Cremated human remains” means all human remains recovered after completion of cremation and the use of mechanical pulverizing equipment.*
- (6) *“Cremation” means the process of reducing human remains to bone fragments through intense heat and evaporation, including any mechanical or thermal process and may include pulverization.*
- (7) *“Cremation container” means a readily combustible, rigid container in which human remains are sent to the crematory and then placed in the cremation chamber for cremation.*
- (8) *“Cremator” means the machinery within which the process of cremation of human remains begins.*
- (9) *“Crematory” means a building, portion of a building, or structure that houses the necessary appliances and facilities for cremation.*
- (10) *“Crematory authority” has the same meaning as “permit holder”.*
- (11) *“Crematory supervisor” means the permit holder’s on-site designee who is:*
  - (a) *Licensed by the Board; and*
  - (b) *Responsible to the permit holder for the day-to-day operations of the business.*

(12) *“Embalming” means the disinfection and preserving of human remains by arterial or cavity injection or any other type of preservation.*

(13) *“Engage in the operation of a crematory” means controlling or managing a crematory.*

(14) *“Holding facility” means an area within or adjacent to the crematory establishment designed for the retention of human remains before cremation.*

(15) *“Human remains” means the body of a deceased person, or part of a body or limb that has been removed from a living person.*

(16) *“License” means a license issued by the Board to a crematory supervisor.*

(17) *“Office” means the Office of Cemetery Oversight.*

(18) *“Permit” means a license issued by the Board to allow a person to operate a business which engages in the operation of a crematory.*

(19) *“Permit holder” means the holder of a permit issued under Health Occupations Article, Title 7, Annotated Code of Maryland, to operate a crematory.*

(20) *“Person” means an individual, personal representative, or a corporation that is the operator of a mortuary science business where the practice of mortuary science is conducted for the corporation by a licensed mortician or funeral director, a partnership, professional association, or limited liability company, each comprised of one or more licensed morticians or funeral directors.*

(21) *“Processed human remains” means the end result of pulverization, where the residue from the cremation process is pulverized leaving only bone fragments reduced to 5 millimeters or less.*

(22) *“Registered crematory operator” means an individual registered to operate cremation machinery.*

(23) *“Sealable container” means containers in which cremated human remains can be placed and sealed so as to prevent leakage or the entrance of foreign materials.*

**10.29.17 Crematories — Permit, Licensing, and Fees**

*Authority: Health Occupations Article, §§1-213, 7-101, 7-102, 7-205, 7-314, 7-315, 7-316, and 7-319, Annotated Code of Maryland*

**.01 Scope.**

*This chapter governs the crematory permit, licensing process, and fees for persons regulated under Health Occupations Article, Title 7, Annotated Code of Maryland.*

**.02 Permit — Issuing Agency.**

A. *Office of Cemetery Oversight. A person shall obtain a permit to engage in the operation of a crematory from the Office:*

(1) *If the person:*

(a) *Holds a permit or registration under Business Regulation Article, Title 5, Annotated Code of Maryland; and*

(b) *Owens a greater interest in a crematory than a licensee or holder of a corporation license under Health Occupations Article, Title 7, Annotated Code of Maryland;*

(2) *If the person’s ownership interest is equal to the ownership interest in the crematory of a licensee or holder of a corporation license under Health Occupations Article, Title 7, Annotated Code of Maryland; or*

(3) *If the person who owns the crematory is not:*

(a) *A licensee or holder of a corporation license under Health Occupations Article, Title 7, Annotated Code of Maryland; or*

(b) *A registrant or permit holder under Business Regulation Article, Title 5, Annotated Code of Maryland.*

B. *Board of Morticians and Funeral Directors.* A person shall obtain a permit to engage in the operation of a crematory from the Board if the person:

- (1) Is a licensee or holder of a corporation license under Health Occupations Article, Title 7, Annotated Code of Maryland; and
- (2) Owns a greater interest in a crematory than a person who holds a permit or registration under Business Regulation Article, Title 5, Annotated Code of Maryland.

**.03 Permit — Requirements for Permit.**

A. Subject to approval of the Board, a person shall receive a permit to operate a crematory in this State if the person meets the permit requirements of this chapter.

B. A person shall:

- (1) Submit an application on a form provided by the Board;
- (2) Pay the nonrefundable application fee and any other applicable fees set forth in Regulation .09 of this chapter;
- (3) Be of good moral character;
- (4) Designate a crematory supervisor who shall be responsible for the day-to-day operation of the business;
- (5) Provide a certificate of status, issued by the Maryland Department of Assessments and Taxation:
  - (a) Indicating that the entity is in good standing, or its equivalent as determined by the Board; and
  - (b) Dated not earlier than 30 days before the application; and
- (6) Comply with all applicable federal, State, and local laws.

C. Operating crematories shall apply to the Board for a permit within 90 days from the effective date of this regulation or be subject to Board action.

D. Before applying to the Board for a permit, any crematory not in operation before the effective date of this chapter, shall have in its employ an individual who holds a certification from:

- (1) The Cremation Association of North America (CANA);
- (2) The International Cemetery, Cremation and Funeral Association (ICCFA); or
- (3) Another equivalent body recognized by the Board.

E. All crematories under the Board's jurisdiction shall be permitted on or before November 30, 2012.

F. Permitting of a limited liability company is limited to those freestanding facilities where no preneed sales are conducted.

**.04 Requirements for Licensure of a Crematory Supervisor.**

A. An individual may receive a license from the Board as a crematory supervisor if the individual meets the licensure requirements of this regulation.

B. An individual shall:

- (1) Submit an application on a form provided by the Board;
- (2) Pay the nonrefundable application fee and any other applicable fees set forth in Regulation .09 of this chapter;
- (3) Be 18 years old or older;
- (4) Have achieved at least a high school diploma or equivalent;
- (5) Be of good moral character;
- (6) Have achieved certification by the Cremation Association of North America (CANA), the International Cemetery, Cremation and Funeral Association (ICCFA), or its equivalent as determined by the Board; and
- (7) Have successfully completed the manufacturer operator training course.

C. Duties of a Crematory Supervisor.

- (1) The duties of a licensed crematory supervisor shall include, but are not limited to:
  - (a) Being responsible to the permit holder for the day-to-day operations of the business;
  - (b) Supervision of the registered crematory operator;

(c) Verification that the documentation accompanying the deceased is consistent with the visual observation of the deceased before cremation;

- (d) Operation of the cremator; and
- (e) Verification of the cremated human remains.

(2) A licensed crematory supervisor may not supervise more than two crematories.

D. An individual who will become the crematory supervisor of an operating crematory that has filed an application pursuant to Regulation .03C of this chapter shall become certified by the Cremation Association of North America (CANA), the International Cemetery, Cremation and Funeral Association (ICCFA), or an equivalent as determined by the Board within 90 days from the effective date of this regulation or be subject to Board action.

E. A crematory may not operate without a crematory supervisor.

F. *Interim Crematory Supervisor.*

(1) An individual may act as a crematory supervisor on an interim basis as long as the individual meets the requirements of this regulation.

(2) The permit holder shall immediately notify the Board of the vacancy and the name of the interim crematory supervisor.

(3) An interim crematory supervisor shall act as such for a period not to exceed 90 days after which a permanent replacement shall be in place.

**.05 Requirements for Registration of a Registered Crematory Operator.**

A. An individual may be registered by the Board as a registered crematory operator if the individual meets the requirements of this regulation.

B. An individual shall:

- (1) Submit an application on a form provided by the Board;
- (2) Pay the nonrefundable fee and any other applicable fee set forth in Regulation .09 of this chapter;
- (3) Be of good moral character;
- (4) Be 18 years old or older;
- (5) Have achieved at least a high school diploma or equivalent; and

(6) Provide sworn documentation from the crematory supervisor that the individual has been trained in the:

- (a) Operation of the:
  - (i) Cremation machinery; and
  - (ii) Pulverizing equipment; and

(b) The crematory procedures as outlined in COMAR 10.29.18.

**.06 Change of Information.**

The permit holder, crematory supervisor, or crematory operator shall notify the Board of any change in the information provided in the application either before or after the issuance of a permit, license, or registration within a reasonable period of time but not to exceed 15 days from the date of the change.

**.07 Renewals.**

A. Before the expiration date of the permit, license, or registration, a permit holder, crematory supervisor, or registered crematory operator shall complete and return the renewal form, pay the nonrefundable renewal fee, and submit any required documentation.

B. To renew a permit, license, or registration a permit holder, crematory supervisor, or registered crematory operator shall:

- (1) Complete the renewal application form;
- (2) Pay the nonrefundable renewal fee set forth in Regulation .09 of this chapter;

(3) Meet the permit, licensure, and registration requirements of this chapter and Health Occupations Article, Title 7, Annotated Code of Maryland; and

(4) Submit the required documentation.

C. After the expiration date, if an application for renewal of a permit, license, or registration has not been made or if the individual has been identified by the Office of the Comptroller or the Department of Labor, Licensing, and Regulation as delinquent in the payment of taxes or unemployment insurance contributions, pursuant to tax compliance regulations of COMAR 10.31.02 or, pursuant to Family Law Article, §10-119.3, Annotated Code of Maryland, has outstanding child support obligations, the individual may not:

- (1) Engage in the operation of the crematory;
- (2) Act as a crematory supervisor; or
- (3) Act as a registered crematory operator.

D. An individual who engages in the operation of the crematory, acts as a crematory supervisor, or acts as a registered crematory operator without renewing the required permit, license, or registration is subject to Board action.

E. If a permit holder, crematory supervisor, or registered crematory operator applies for renewal past the expiration date of the permit, license, or registration, the individual shall pay the renewal fee plus the late renewal fee set forth in Regulation .09 of this chapter.

**.08 Lapsed Permit.**

A person who has been issued a permit and who has allowed the permit to lapse for at least 6 months may apply for a permit by doing the following:

- A. Completing a permit application form;
- B. Paying the permit fee and the late renewal fee set forth in Regulation .09 of this chapter;
- C. Meeting the permit requirements under this chapter;
- D. Submitting the documentation required by this chapter;
- E. Providing a full written explanation to the Board detailing the reasons why the permit was allowed to expire and why a permit is now sought; and
- F. Submitting to the Board an affidavit stating that the person did not engage in the operation of a crematory in this State while the permit was lapsed.

**.09 Fees.**

The following fees are established by the Board:

- A. Initial permit, license, or registration, and renewal fees:
  - (1) Crematory permit — \$350;
  - (2) Crematory supervisor license — \$300;
  - (3) Registered crematory operator — \$100 each for three or fewer persons and \$50 for each additional person;
  - (4) Crematory permit renewal — \$350;
  - (5) Crematory supervisor license renewal — \$300;
  - (6) Registered crematory operator renewal — \$100;
  - (7) Late fee — \$200; and
- B. Miscellaneous fees:
  - (1) Reinstatement fee — \$500; and
  - (2) Replacement of permit, license, or registration — \$50.

**.10 Display of Permit.**

A permit, license, and registration, as well as any other permit or license required by local, State, or federal agencies, shall be conspicuously displayed in a public area on the crematory premises.

**10.29.18 Crematories — Inspections, Complaints, Investigations, Grounds for Discipline, and Penalties**

Authority: Health Occupations Article, §§7-101, 7-102, 7-205, 7-316, 7-317, 7-319, and 7-406, Annotated Code of Maryland

**.01 Scope.**

This chapter governs crematory inspections, standards, the complaint process, investigations, grounds for discipline, and penalties.

**.02 Inspection by the Board.**

A. A crematory shall be available for inspection by a representative of the Board at any time during operating hours.

B. A crematory shall be inspected:

- (1) On at least a biennial basis;
- (2) In furtherance of an investigation; or
- (3) Upon the sale or change of ownership of the crematory.

C. A crematory shall maintain the following minimum standards:

(1) The premises shall be maintained in a sanitary manner to comply with Centers for Disease Control’s guidelines on universal precautions;

(2) Except by express written consent of the authorizing agent, there may not be more than one human body cremated simultaneously in a single cremator;

(3) A cremator shall be completely cleaned after each cremation;

(4) There may not be co-mingling of human remains and pet remains in refrigeration units or vehicles;

(5) Separate cremators shall be dedicated for the cremation of human remains and the cremation of pets;

(6) There may not be:

- (a) Co-mingling of cremated human cremated human remains with other human or pet cremated human remains;
- (b) Scooping of cremated human remains from a bucket containing co-mingled cremated human remains; or
- (c) Any form of misrepresentation in the return of cremated human remains.

(7) Excluding a deceased person with a known communicable infection, human remains shall be properly identified before cremation by verifying that the documentation accompanying the human remains is consistent with a visual observation of the human remains;

(8) Burial transit permit shall be an original document pertaining to the deceased;

(9) Each crematory shall have:

(a) A sink with hot and cold water within the room housing the cremator; and

(b) The equipment necessary to thoroughly clean the floor within the room housing the cremator with water and an appropriate sanitizing agent;

(10) The name of the deceased shall be visible on the outside of the cremation container;

(11) Human remains shall be properly stored before cremation;

(12) Crematories shall:

(a) Use only mechanical pulverizing equipment meeting industry standards that has been totally brushed as clean as possible between each use; and

(b) Pulverize the cremated human remains with a mortar and pestle if the cremated human remains are not sufficient in amount for pulverizing in mechanical equipment;

(13) Separate pulverizing drums shall be dedicated for cremated human remains and cremated pet remains;



(14) Cremated human remains may not be held pending payment of any fees;

(15) Within 6 months of the effective date of these regulations, cremators shall be retrofitted with safety devices that will prevent the automatic door from dropping prematurely;

(16) Portable fans may not be used in the area of the cremator and pulverizer;

(17) There shall be a minimum of 6 inches between cremator smoke stack and the roof of the crematory;

(18) Before pulverizing, the mechanical pulverizer shall be clamped; and

(19) A cremator shall have visible on its front a warning sign stating, "No leaning past the door of the cremator."

D. The following completed forms from previous cremations shall be available at all times for inspection and copying and are subject to be pulled at random by the inspector:

(1) Cremation authorization form;

(2) Burial transit permit;

(3) Delegation of authority form;

(4) Receipt for human remains;

(5) Record of cremation;

(6) Certificate of cremation; and

(7) Return of cremated human remains certificate.

E. Inspection results shall be written on forms approved by the Board.

F. The Board representative performing the inspection shall, on completion of the inspection:

(1) Apprise the permit holder of the findings of the inspection; and

(2) Provide the permit holder or representative of the permit holder with a copy of the inspection report.

G. The permit holder or representative of the permit holder shall sign and verify receipt of the inspection report.

H. At the time of the Board inspection, the permit holder shall provide written documentation to the Board's inspector that:

(1) The cremator has been inspected in accordance with manufacturer specifications;

(2) In accordance with manufacturer specifications, it is not time for a manufacturer's inspection; or

(3) The permit holder has requested that the manufacturer conduct an inspection of the cremator.

**.03 Crematory Inspection Report, Deficiencies, and Penalties.**

A. The Board shall review the inspection report and make a determination as to whether a deficiency exists.

B. The Board shall notify the permit holder of the results of the inspection by providing a copy of the inspection report to the permit holder.

C. If a permit holder passes an inspection, the permit holder shall, prominently and in public view, display on the premises a statement issued by the Board that the crematory has successfully passed an inspection.

D. If the Board finds a deficiency, the Board shall:

(1) Within 7 days, notify the permit holder of the deficiency or failure to pass the inspection; and

(2) Provide a copy of the inspection report to the permit holder.

E. Correction of Deficiency.

(1) Except as provided in this section, a permit holder shall correct a deficiency within 30 days after receipt of notification or sooner as determined by the Board.

(2) The Board may require immediate correction of a deficiency if the Board considers the correction necessary in the interest of public health.

(3) The permit holder may request an extension of time for correction of a deficiency.

(4) The Board may approve an extension of time for correction of a deficiency.

(5) Upon completion of correction of all deficiencies, the permit holder shall notify the Board.

(6) Upon notification by the permit holder, a representative of the Board shall re-inspect the crematory.

(7) The Board shall notify the permit holder in writing of the results of the re-inspection by providing a copy of a new inspection report to the permit holder.

(8) If re-inspection reveals additional deficiencies not cited in the first report, the permit holder shall correct those deficiencies in the time period specified by the Board unless an extension of time is requested by the permit holder and approved by the Board.

F. Penalties. In the event that a permit holder fails to allow an inspection of the crematory or fails to comply with a notice to correct deficiencies or violations within the time specified, the Board shall:

(1) Deem the failure to be a threat to the public health, safety, or welfare and requiring emergency action;

(2) Summarily suspend the crematory permit as provided under State Government Article, §10 226(c)(2), Annotated Code of Maryland;

(3) Provide notice of the Board's action to the permit holder; and

(4) Provide the permit holder an opportunity to be heard.

**.04 Complaints.**

A. If the permit holder was issued a permit by the Board, a complaint shall be:

(1) Filed in compliance with the provisions of COMAR 10.29.11.03; and

(2) Processed in accordance with the provisions of COMAR 10.29.11.04.

B. The Board may initiate a complaint or investigation on its own.

**.05 Investigations.**

The Board and the Office of Cemetery Oversight may share investigative information and conduct joint investigations.

**.06 Grounds for Discipline, Hearing, and Penalties.**

A. Pursuant to the provisions of Health Occupations Article, §§7-316 and 7-319, Annotated Code of Maryland, the Board may deny a crematory permit, crematory supervisor license, or crematory operator registration to an applicant, reprimand any permit holder, licensed crematory supervisor, or registered crematory operator, or suspend or revoke a crematory permit, crematory supervisor license, or crematory operator registration.

B. Pursuant to the provisions of Health Occupations Article, §7-317, Annotated Code of Maryland, if the Board, after bringing an action, finds that there are grounds for probation, suspension, or revocation, the Board may impose a penalty not exceeding \$5,000.

**10.29.19 Crematories — Cremation Procedures**

Authority: Health Occupations Article, §§7-101, 7-102, and 7-205, Annotated Code of Maryland

**.01 Scope.**

This chapter governs the procedures to be followed in performing a cremation in this State.

**.02 Removal, Identification, and Transportation of Human Remains.**

A. Upon receipt of human remains, a permit holder in the presence of the authorizing agent or representative of the funeral establishment engaging crematory services shall:

(1) Verify that the information on the wrist tag is consistent with the:

(a) Documentation accompanying the deceased; and

(b) Visual observation of the remains themselves;

(2) Use a metal detector wand to inspect for the presence of any battery operated, implanted devices including pacemakers, defibrillators, or pain relief devices;

(3) Refuse to accept human remains for cremation if an inspection of the human remains indicates the presence of any battery operated, implanted device;

(4) Remove and properly dispose of any hazardous object or any other materials that the individual authorized under this subtitle deems should be removed from the human remains or cremation container in order to prevent harm to the public health or damage to the cremator;

(5) Remove any jewelry on the human remains or in the cremation container;

(6) Return any removed jewelry to the authorizing agent or representative of the funeral establishment engaging crematory services; and

(7) Obtain a signed, itemized receipt from the authorizing agent or representative of the funeral establishment engaging crematory services for the removed jewelry and retain the receipt as a permanent record.

B. Foreign objects removed from the human remains:

(1) Shall be treated as medical waste and disposed of accordingly; and

(2) May not be donated until a sterilization process through a third party recognized by the Board to dispose properly of medical waste has been performed.

C. Materials identifying the human remains that are placed in the custody of a permit holder shall contain the following information about the decedent:

(1) Name;

(2) Date of birth;

(3) Date of death;

(4) Name of funeral establishment or authorizing agent;

(5) Gender; and

(6) Name and relationship of authorizing agent to deceased.

D. A permit holder may not accept for cremation unidentified human remains.

**.03 Cremation Containers.**

A cremation container:

A. Shall be a readily combustible, rigid container suitable for cremation;

B. Shall provide a completely enclosed covering for the human remains;

C. Shall be resistant to leakage or spillage;

D. Shall be of sufficient strength and rigidity for ease of handling;

E. Shall provide protection to the health and safety of crematory establishment personnel and the public;

F. Shall comply with all local, State, and federal governmental emissions regulations;

G. May not be composed of metal or polyethylene material; and

H. If it appears to be heavily coated with varnish, lacquer, or any other highly combustible substance, shall be:

(1) Placed in a cold cremator; or

(2) Coated completely with water before being placed in the cremator.

**.04 Holding Facilities.**

A holding facility shall:

A. Comply with applicable public health laws;

B. Preserve the dignity of human remains;

C. Recognize the integrity, health, and safety of crematory establishment personnel; and

D. Be secure from access by unauthorized persons.

**.05 Holding Remains.**

A. Human remains that have been designated for cremation shall be cremated within 48 hours after receipt.

B. A permit holder may not hold human remains for cremation unless the human remains are contained within an individual, rigid, stackable, closed cremation container.

C. A permit holder may not accept a cremation container from which there is any evidence of leakage of the body fluids from the human remains therein.

D. Whenever human remains are unable to be cremated within 48 hours of taking custody thereof the permit holder shall maintain the human remains in a refrigerated holding facility, either on or off site, at 40°F or less, unless the remains have been embalmed.

**.06 Identification Immediately Before Cremation; Simultaneous Cremation of Multiple Human Remains.**

A. Immediately before being placed within the cremation chamber, the individual authorized under this subtitle shall:

(1) Verify the identification of the human remains; and

(2) Place in the cremator the circular hard metal identification tag of the human remains being cremated where it shall remain in place until the cremation process is complete.

B. The permit holder's designee may not leave the immediate area of the cremator during the cremation process.

C. Records.

(1) The permit holder shall maintain the written authorizations required by Regulation .08 of this chapter as required pursuant to Health-General Article, §4-304, Annotated Code of Maryland, and COMAR 10.01.16.04B.

(2) The records are subject to inspection and copying by the Board.

**.07 Cremation Authorization.**

A. Except as otherwise provided in COMAR 10.29.18.02, a permit holder may not cremate human remains until:

(1) The body has been identified as required under Health Occupation Article, §7-411, Annotated Code of Maryland;

(2) The permit holder crematory has received:

(a) A cremation authorization on a form approved by the Board and signed by an authorizing agent;

(b) If applicable, a written delegation document or facsimile; and

(c) Any other documentation required by federal, State, or local law; and

(3) The permit holder has documented that at least 12 hours have elapsed from the time of death of the individual whose remains are to be cremated.

B. The cremation authorization form shall:

(1) Be provided by the permit holder to the authorizing agent;

(2) Contain the following information:

(a) The identity of the human remains;

(b) Date of death;

(c) The name and address of the authorizing agent and the relationship between the authorizing agent and the deceased;

(d) Authorization for the permit holder to cremate the human remains;

(e) Authorization to verify that the following have been removed before cremation:

(i) An implanted pacemaker or defibrillator; and

(ii) Any other materials that should be removed to prevent harm to the public health or damage to equipment;

(f) A representation by the authorizing agent that radiologic implant treatment has not occurred within 5 days before cremation;

(g) A representation that the authorizing agent is aware of no objection to the human remains being cremated by any person who has a right to control the disposition of the human remains; and

(h) The name and address of the person authorized to claim the cremated human remains from the permit holder or accept the cremated remains via registered mail; and

(3) Be signed by the authorizing agent.

C. If an authorizing agent is not readily available to execute the cremation authorization form, the authorizing agent may transmit the document in writing with notary seal electronically:

(1) In writing; or

(2) If located outside the area, by transmitting to the permit holder:

(a) A signed statement electronically or by facsimile that contains the name, address, and relationship of the sender to the decedent and the name and address of the individual to whom authority is delegated; and

(b) Once the authorizing agent is located in the area, a notarized document through U.S. postal service attesting to the delegation of authority.

D. Upon receipt of the written delegation document or a copy transmitted electronically or by facsimile, the permit holder shall allow the named individual to serve as the authorizing agent. The documents shall be signed by the authorizing agent in the presence of a notary.

E. A person signing a cremation authorization form is deemed to warrant the truthfulness of any facts set forth in the cremation authorization form, including the identity of the deceased whose remains are sought to be cremated and the authority of that person to order such a cremation.

F. A permit holder shall notify and obtain written consent of the authorizing agent before the cremation of human remains at a location other than the location named on the cremation authorization form.

G. A permit holder shall maintain a copy of every cremation authorization form required under this regulation as permanent records.

H. Cremation authorization records are subject to inspection and copying by the Board.

**.08 Record of Receipt of Remains.**

A. A permit holder shall provide to an individual who delivers human remains for cremation a receipt signed by both the permit holder authority and the individual who delivered the human remains, that includes the:

(1) Name of the individual from whom the human remains were received and the name of the individual's employer, if any;

(2) Name and address of the crematory authority;

(3) Name of the deceased;

(4) Gender of deceased;

(5) Date of death of deceased; and

(6) Verification of authorized burial transit permit.

B. The permit holder shall maintain a record of each cremation which shall include the:

(1) Name of the decedent;

(2) Date of birth of the decedent;

(3) Gender of decedent;

(4) Date of death;

(5) Name and address of the authorizing agent;

(6) Date, time, and location of cremation; and

(7) Name of the individual who performed the cremation.

C. The permit holder shall provide a certificate of disposition of cremated human remains to the authorizing agent or funeral establishment that arranged for the cremation that includes the:

(1) Name of the decedent;

(2) Name of the authorizing agent;

(3) Name and address of the person who received the cremated human remains from the crematory authority; and

(4) If ascertainable:

(a) The location, including the name of the cemetery and plot location if the remains are interred; and

(b) The manner and date of the disposition of the cremated human remains.

D. The permit holder shall maintain a copy of every record and receipt required by this chapter as permanent records.

E. All records and receipts required by this chapter are subject to inspection and copying by the Board.

**.09 Use of a Casket; Embalming.**

A. Except as provided in §B of this regulation, a permit holder may not:

(1) Require that human remains be placed in a casket before cremation or that human remains be cremated in a casket;

(2) Refuse to accept human remains for cremation because the remains are not in a casket; or

(3) Refuse to accept human remains for cremation because the remains are in a suitable, combustible wooden casket, but may request the metal mattress holder be removed.

B. Human remains delivered to a crematory establishment may not be removed from the cremation container.

C. The cremation container shall be cremated with the human remains unless the authorizing agent for the deceased requests a more natural environment for the deceased. A permit holder is not required to accept this manner of disposition.

D. A permit holder may not require that human remains be subjected to embalming before cremation.

**.10 Disposition of Cremated Human Remains.**

A. On completion of the cremation, insofar as is possible:

(1) All of the recoverable residue of the cremation process shall be:

(a) Removed from the cremator;

(b) Except for medical devices remaining after cremation, processed; and

(c) Placed in a container; and

(2) The identification disc required by Health Occupations Article, §7-411, Annotated Code of Maryland, shall be:

(a) Removed from the cremator; and

(b) Placed in the container with the cremated human remains.

B. Medical devices which remain after the completion of the cremation process shall be treated as medical waste and disposed of accordingly.

C. After pulverization, all of the processed human remains, together with the identification disc, shall be placed in a sealable container.

D. If the cremation container opening is not of adequate dimensions to accommodate a disc, it shall be affixed to the container and a record of the cremation number shall be placed in the container.

E. If all of the processed human remains and the identification disc will not fit within the dimensions of a sealable container, the remainder of the remains shall be returned to the authorizing agent, or the agent's representative, in a separate, sealable container. Container seams shall be taped.

F. If the processed human remains and identification disc do not adequately fill the container's interior dimensions, the extra space may be filled with packing material that will not become intermingled with the remains and then securely closed.

G. If a sealable container is to be shipped, it shall:

(1) Be placed within a separate sturdy box with all box seams securely taped closed; and

(2) Have the name of the deceased person whose processed remains are contained therein clearly identified on the outside of the container.

H. If processed human remains have been in the possession of a permit holder, as originally authorized by the authorizing agent without instructions for disposition for a period of 10 days or more from the date of cremation, the permit holder may send the cremated human remains, by registered mail, return receipt requested, to the authorizing agent.

**.11 Tools.**

A crematory shall maintain at its own expense the following tool inventory:

- A. Safety placement tool measuring a minimum of 49 inches in length;
- B. Wire brushes for cleaning cremators;
- C. Brush with fine bristles for cleaning pulverizers;
- D. Mortar and pestle;
- E. Funnel;
- F. High temperature protective gloves and heat resistant leather gloves;
- G. Hand magnet and metal detector wand to detect and remove metal from cremated human remains;
- H. Tweezers to remove nonmetal objects from cremated human remains; and
- I. Dust masks.

**.12 Visitors.**

- A. The permit holder or crematory supervisor shall:
  - (1) Submit to the Board the number of persons not affiliated with the operations of the crematory who can safely be within the same room and within 10 feet of the cremator door; and
  - (2) Verify to the Board that the permit holder has submitted the information required in §A(1) of this regulation to their liability insurance carrier.
- B. Crematories that begin operation after July 1, 2013, shall construct a viewing room in the area of the cremator if the crematory intends to have more than two visitors present in the area of the cremator during the cremation.

**10.29.20 Crematories — Code of Ethics**

Authority: Health Occupations Article, §7-101, Annotated Code of Maryland

**.01 Scope.**

This chapter governs any person who holds a permit to:

- A. Engage in the operation of a crematory;
- B. Act as a crematory supervisor; or
- C. Act as a registered crematory operator.

**.02 General Professional Practices.**

- A. A permit holder, crematory supervisor, or registered crematory operator shall:
  - (1) Act in a manner that respects and protects the dignity of a decedent and the decedent's family;
  - (2) Conduct business in a reasonable, usual, and customary manner avoiding unfair trade practices;
  - (3) Comply with the State public health laws as set forth in Health-General Article, §§4-215 and 5-501, Annotated Code of Maryland;
  - (4) Comply with the Maryland Morticians and Funeral Directors Act, Health Occupations Article, Title 7, Annotated Code of Maryland;
  - (5) Implement and follow through on all arrangements agreed on between consumer and the crematory;

(6) Provide appropriate services for and respect the rights of individuals without regard to age, race, creed, national origin, gender, disability, marital status, political belief, religious affiliation, social or economic status, or social preferences;

(7) Comply with all local, State, and federal laws regarding the final disposition of human remains;

(8) Be sensitive and responsive to the bereavement needs of a decedent's family; and

(9) Provide a general price list in effect at that time to anyone who, in person, requests pricing information regarding cremation related goods or services and provide accurate information from the general price list to any person who requests information by telephone.

B. In advertising, a licensee may not include statements:

- (1) That are misrepresentations of facts;
- (2) That are likely to mislead or deceive because, in context, the statement makes only a partial disclosure of relevant facts;
- (3) Relating to fees without reasonable disclosure of all relevant variables so that the statement would not be misunderstood or be deceptive to a consumer; or
- (4) Containing representations or implications that in reasonable probability can be expected to cause an ordinarily prudent individual to misunderstand or be deceived.

C. A permit holder, crematory supervisor, or crematory operator may not:

- (1) Use, or participate in the use of, any form of communication to consumers containing a false, fraudulent, misleading, deceptive, or unfair statement or claim; or
- (2) Operate a crematory or perform a cremation while under the influence of alcohol, an illegal drug, or a controlled dangerous substance, without the prescription of a physician.

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

**Title 11  
DEPARTMENT OF  
TRANSPORTATION**

**Subtitle 04 STATE HIGHWAY  
ADMINISTRATION**

**11.04.04 Oversize and Overweight Vehicles —  
Escort Vehicles, Signing, and Lighting**

Authority: Transportation Article, §§2-103(b), 4-205(f), 8-204(b)—(d), 24-112, Annotated Code of Maryland

**Notice of Proposed Action**

[12-275-P]

The Administrator of the State Highway Administration proposes to amend Regulation .06 under **COMAR 11.04.04 Oversize and Overweight Vehicles — Escort Vehicles, Signing, and Lighting**.

**Statement of Purpose**

The purpose of this action is to increase from 65 tons to 75 tons the weight limit over which a police escort would be required. This would bring COMAR into current practice which relies more on private escort services, provide for assignment of law enforcement escorts when it is more appropriate and reduce the impact police escort requirements have on available law enforcement personnel resources.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** The proposed action would likely result in overall cost savings to the trucking industry and would result in significant savings to the state and local law enforcement.

| II. Types of Economic Impact.               | Revenue (R+/R-)         | Magnitude                 |
|---|-------------------------|---------------------------|
|   | Expenditure (E+/E-)     |                           |
| A. On issuing agency:                       | NONE                    |                           |
| B. On other State agencies:                 | (E-)                    | Potentially significant   |
| C. On local governments:                    | (E-)                    | Potentially significant   |
|   | Benefit (+)<br>Cost (-) | Magnitude                 |
| D. On regulated industries or trade groups: | (+)                     | \$1.25 million in savings |
| 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.)

B. Maryland State Police and the Maryland Transportation Police will have reduced expenditures under this proposed action. Current practice is to not have law enforcement escort for vehicles under 75 tons, however, COMAR does specify that this limit is 65 tons. Were the 65-ton limit to be utilized, more police resources would need to be utilized and it would be likely that off-duty officers alone would not be enough. On-duty officers would also be needed, thus costing law enforcement agencies in resources and manpower.

C. Local law enforcement agencies will have reduced expenditures under this proposed action. Current practice is to not have law enforcement escort for vehicles under 75 tons, however, COMAR does specify that this limit is 65 tons. Were the 65-ton limit to be utilized, more police resources would need to be utilized and it would be likely that off-duty officers alone would not be enough. On-duty officers would also be needed, thus costing law enforcement agencies in resources and manpower.

D. As was stated above, if the 65-ton limit were to be enforced, more vehicles would have to pay for a police escort to accompany them.

**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 Matthew Garbark or Linda I. Singer, COMAR Coordinator and COMAR Manager, Maryland State Highway Administration, 707 N. Calvert Street, or call 410-545-2918 or 410-545-0362, or email to mgarbark@sha.state.md.us or lsinger@sha.state.md.us, or fax to 410-209-5015. Comments will be

accepted through November 5, 2012. A public hearing has not been scheduled.

**.06 Police Escort.**

A. (text unchanged)

B. The permittee shall provide for police escort for any permit move which is 16 feet wide or more or in excess of [65] 75 tons gross weight.

C. The State Highway Administration Hauling Permits Unit may require police escort [in any other case] if:

(1) *The permit move has a gross weight between 65 and 75 tons;*

(2) [traffic] *Traffic* will have to be diverted or stopped[, or if];

(3) [the] *The* move will affect either:

(a) [two] *Two* or more lanes of traffic on a highway having two or more lanes in one direction; or

(b) [both] *Both* lanes of traffic on a highway having only one lane in each direction[.]; or

(4) [under any circumstance] *The circumstances are* considered necessary for public safety.

D. (text unchanged)

MELINDA B. PETERS  
Administrator  
State Highway Administration

**Subtitle 04 STATE HIGHWAY ADMINISTRATION**

**11.04.10 Specific Information or Business Signs**

Authority: Transportation Article, §§4-205(f), 4-405, 8-204(b), and 8-605, Annotated Code of Maryland

**Notice of Proposed Action**

[12-265-P]

The State Highway Administration proposes to amend Regulations .01—.07 under **COMAR 11.04.10 Specific Information or Business Signs**.

**Statement of Purpose**

The purpose of this action is to define “drive-in” and “stall”; specify that an application for a logo sign is available on the State Highway Administration (SHA) website; specify the number of logo signs allowed per specific service sign as well as per service per interchange; eliminate standards for logo sign numbers in each specific service regulation; modify references to specific distances; eliminate the requirement that food establishments serve two or three meals, instead requiring food establishments to serve food during certain hours; require drive-in restaurants to have a minimum of ten stalls; as well as make technical changes to references to SHA, for drinking water, and for sanitary facilities.

**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 action would likely have a positive economic impact on food, fuel, lodging, and camping establishments. This will also have a positive economic impact on motorists and the traveling public.

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

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

D. Food, fuel, lodging, and camping establishments are eligible to have their logo signs displayed on a specific service business sign on certain highways. This proposed action increases the allowable number of logos per service per interchange from six to ten and allows for flexibility in sharing signs for different services. This will likely allow for more businesses to have their logos displayed, thus being beneficial overall. An estimate of the impact is indeterminable. In accordance with Transportation Article, §8-605, Annotated Code of Maryland, the Maryland Travel Council, the Department of Business and Economic Development, and representatives of local governments have been consulted on these proposed changes and impacts.

F. Motorists traveling on Maryland’s roads will be positively impacted by these proposed changes. Because potentially more signs for a service are allowed, motorists will have a better selection and variety of needed driver services. An estimate of the impact is indeterminable.

**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 Matthew Garbark, COMAR Coordinator, or Linda I. Singer, COMAR Manager, Maryland State Highway Administration, 707 N. Calvert Street, Baltimore, MD 21202, or call 410-545-2918 or 410-545-0362, or email to mgarbark or lsinger@sha.state.md.us, or fax to 410-209-5015. Comments will be accepted through November 5, 2012. A public hearing has not been scheduled.

**.01 Definitions.**

A. *The following terms have the meanings indicated.*

B. *Terms Defined.*

[A.] (1) — [B.] (2) (text unchanged)

(3) *“Drive-in” means a food business that provides stalls for which customers in vehicles can park, order, and eat food.*

[B-1.] (4) (text unchanged)

[C.] (5) — [H.] (10) (text unchanged)

[I. “Trailblazers” means follow-up signs to be used where a specific service establishment is located along roads other than the intersecting road served directly by the ramp.]

(11) *“Stall” means a clearly defined space for parking a vehicle.*

**.02 Applications.**

A. An application is available for business establishments desiring to take part in the specific services signing program from the SHA Office of Traffic and Safety, c/o Logo Coordinator, 7491 Connelley Drive, Hanover, MD 21076, as well as on *marylandroads.com*.

B. — E. (text unchanged)

**.03 General Requirements for All Signing.**

A.—E. text unchanged

E-1. *Number of Logo Signs.*

(1) *Specific service signing is limited to no more than ten logos per service per direction per interchange.*

(2) *A specific service sign is limited to six logos.*

(3) *If there are more than six eligible logos for a service, the Administration may display up to four additional logos if:*

(a) *On a new service sign the number and placement of signs is consistent with §§M — O of this regulation; or*

(b) *On an existing service sign, at least two logo spaces remain available after additional logos are displayed.*

F. *Business to Provide Logo Sign Plates.*

(1) — (2) (text unchanged)

(3) *Before the manufacture of the logo sign plate, the business shall submit to the [appropriate] Administration [district office] a layout plan of their proposed logo for approval.*

(4) text unchanged

G.—L. (text unchanged)

M. *Spacing between mainline signs shall be at least 800 feet and spacing between ramp signs shall be at least [200] 100 feet.*

N. *Distance from gore to the first ramp sign shall be at least [300] 100 feet.*

O.—S. (text unchanged)

**.04 Specific Conditions for Gas Signing.**

A. text unchanged

[B. Specific services signing is limited to six gas logos per direction per interchange.] *Repealed.*

C. (text unchanged)

D. *The business establishment shall include restroom facilities and [a] public drinking water [fountain].*

E. — F. (text unchanged)

**.05 Specific Conditions for Food Signing.**

A. (text unchanged)

[B. Specific services signing is limited to six logos per direction per interchange.] *Repealed.*

C. *The business establishment shall be open for continuous operation [for all three meals at least] serving at least 14 hours a day, at least 6 days a week and be opened not later than 7 a.m., except as noted in §§D and E of this regulation.*

D. *If the logo sign has less than the number of permitted logo plates, as described in [§B of this] regulation .03 E-1 of this chapter, a business establishment that is open continuously [for two meals] serving at least 8 hours a day, at least 6 days a week and opening no later than 11 a.m. may be approved for placement under the conditions of this regulation.*

E. — F. (text unchanged)

G. *Except as provide in §H of this regulation, the [The] business establishment shall have a minimum seating capacity for 20 persons.*

H. Drive-ins shall have a minimum of 10 stalls.

**.06 Specific Conditions for Lodging Signing.**

- A. (text unchanged)
- [B. Specific services signing is limited to six lodging logos per direction per interchange.] *Repealed.*
- C. — D. (text unchanged)

**.07 Specific Conditions for Camping Signing.**

- A. (text unchanged)
- [B. Specific services signing is limited to six camping logos per direction per interchange.] *Repealed.*
- C. — D. (text unchanged)
- E. The campground shall have [modern] sanitary facilities.
- F. — I. (text unchanged)

MELINDA B. PETERS  
 Administrator  
 State Highway Administration

**Subtitle 18 MOTOR VEHICLE  
 ADMINISTRATION — FINANCIAL  
 RESPONSIBILITY REQUIREMENTS**

**11.18.04 Reporting Requirements for Lapse or  
 Termination of Required Security**

Authority: Transportation Article, [§§17-101(c), 17-104(c), 17-106(b), and 27-608] §§12-104(b), 17-101, 17-103, 17-104, 17-106; Insurance Article, §27-611; Annotated Code of Maryland

**Notice of Proposed Action**  
 [12-276-P]

The Administrator of the Motor Vehicle Administration proposes to amend Regulations **.01—,03** under **COMAR 11.18.04 Reporting Requirements for Lapse or Termination of Required Security**.

**Statement of Purpose**

The purpose of this action is to establish guidelines for the mandatory electronic reporting of security required pursuant to House Bill 1180, Ch. 421, Acts of 2012.

**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 Tracey C. Sheffield, Regulations Coordinator, MVA, 6601 Ritchie Highway N.E., Room 200, Glen Burnie, MD 21062, or call 410-768-7545, or email to tsheffield@mdot.state.md.us, or fax to 410-768-7506. Comments will be accepted through November 5, 2012. A public hearing has not been scheduled.

**.01 Scope.**

These regulations apply to [lapses and terminations] *mandatory electronic reporting* of [security required by Transportation Article, §17-101(c), Annotated Code of Maryland, and specify] lapses [and],

terminations, *reinstatements, and new policies of security required* [that are required] by Transportation Article, [§17-106(b)(i)] §§17-104(c) and 17-106, Annotated Code of Maryland[, to be reported immediately to the Administration].

**.02 Definitions.**

- A. (text unchanged)
- B. Terms Defined.
  - (1) (text unchanged)
  - (2) [“Final” means that date after which a policy is not reinstated by an insurer to maintain continuous coverage of a vehicle with the security required by Transportation Article, §17-103(b), Annotated Code of Maryland.] *“Fleet policy” has the meaning as stated in Transportation Article, §17-101, Annotated Code of Maryland.*

(3) [Lapse or Termination.] *“Immediately” means by the close of business on the next business day.*

[(a)](4) “Lapse or termination” means [those insurance cancellation types defined in §B(3)(b)—(h) of this regulation] *interruption of continuous coverage caused by the failure of an insurer to renew the security required by Transportation Article, §17-103(b), Annotated Code of Maryland.*

(b) “Type I—Nonpayment” means that the insured failed to pay an original, midterm, or additional premium to the insurer or premium finance company by the due date.

(c) “Type 2—Underwriting” means that the applicant is ineligible for coverage under the provisions of Article 48A, §243D, Annotated Code of Maryland, or that the insurer makes a final decision to cancel or refuse to renew coverage in accordance with the provisions of Article 48A, §240AA, Annotated Code of Maryland.

(d) “Type 3—Insured Request” means that the insured requested cancellation of coverage and no evidence is provided or available to substantiate a Type 21 request for cancellation, as defined in §B(3)(g) of this regulation.

(e) “Type 4—Other” means that the insured’s coverage lapses or terminates for a reason not defined in this regulation.

(f) “Type 20—Nonrenewal” means that the insured who is eligible for renewal has terminated coverage at the expiration or anniversary date of the policy with no succeeding policy issued by the insurer.

(g) “Type 21—Insured Request” means that the insured requested cancellation or termination of coverage, or deletion of a vehicle from the policy, and evidence was submitted, was available, or a reasonable belief existed that the:

- (i) Insured moved out of State;
- (ii) Vehicle is in storage;
- (iii) Vehicle was declared a total loss by an insurer following an accident, and was not returned to the insured;
- (iv) Vehicle was traded to a car dealer;
- (v) Maryland registration plates were legally transferred to another vehicle or returned to the Administration;
- (vi) Vehicle was stolen and reported to a law enforcement agency; or
- (vii) Vehicle was repossessed by the lien holder.

(h) “Type 22—Binder Cancellation” means the cancellation of an insurance binder if the binder has been in effect for 44 days or less.]

(5) *“Policy” means a vehicle policy or binder for required security as defined by §17-101(d), Annotated Code of Maryland, issued by an insurer or other provider of required security.*

**.03 Reporting Guidelines.**

- A. [Lapses and Terminations] *Required Reporting.*
  - (1) Final lapses and terminations, as defined in Regulation .02B(3)(b)—(e) of this chapter, shall be reported immediately to the Administration by the insurer.

(2) If the insurer writes less than 5,000 policies in the State, the insurer shall report lapses and terminations on either:

(a) Administration Form FR-13, Notice of Cancellation or Termination of Policy—Maryland; or

(b) Magnetic media or electronically in a format prescribed by the Administration.

(3) If the insurer writes 5,000 or more policies in the State, the insurer shall transmit lapses and terminations via magnetic media or electronically in a format prescribed by the Administration.

B. In addition to those final lapses and terminations defined in Regulation .02B(3)(b)—(e) of this chapter, the Maryland Automobile Insurance Fund shall report those final lapses and terminations defined in Regulation .02B(3)(h) of this chapter.]

(1) Except as provided in §A(2) of this regulation, insurance companies shall immediately report, in an electronic format determined by the Administration:

(a) New policies;

(b) Lapses;

(c) Terminations;

(d) Reinstatements, and

(e) Policy changes as specified under §B of this regulation.

(2) Insurance companies shall report, in an electronic format determined by the Administration, fleet policy coverage changes every 30 days, to include:

(a) Company additions or deletions; and

(b) Policy number changes.

(3) If an insurance company does not have any new policies, lapses, terminations, reinstatements, or policy changes as specified under §B of this regulation, the insurance company shall submit a report of no business by the close of business on the last business day of the month.

[C.] B. Except as provided in §A(2) of this regulation [Notifications] notifications of new policies, lapses [and], terminations, and reinstatements by an insurer shall include:

(1) [A type code, as defined in Regulation.02B(3)(b)—(e) of this chapter, explaining the reason for the termination or lapse of coverage;

(2)] The name of the insured;

[(3)] (2)—[(6)] (5) (text unchanged)

[(7)] (6) The current policy number;

[(8)] (7) (text unchanged)

[(9)] (8) If applicable:

(a) The cancellation date of the policy; and

(b) A type code, in a format required by the Administration, explaining the reason for the termination or lapse of coverage.

[D.] C. Rejected Notifications.

(1) The Administration shall reject notifications of new policies, [lapse] lapses [and], terminations, and reinstatements which do not include all of the items specified in [§C] §B of this regulation.

(2) The insurer shall resubmit notifications rejected under the provisions of [§D(1)] §C(1) of this regulation to the Administration [within 30 days] as soon as practicable.

[E. Except as set forth in §B of this regulation, final lapses and terminations, as defined in Regulation .02B(3)(f)—(g) of this chapter, do not need to be reported to the Administration.]

[F.] D. The insurer shall provide, at each occurrence when the required security will terminate or be canceled, timely notification to the insured of the penalties that may be imposed by the [Motor Vehicle] Administration in accordance with Transportation Article, §17-106, Annotated Code of Maryland, for their failure to return evidence of registration when the required security has ended and is not replaced. The notice shall include the following statements:

(1)—(2) (text unchanged)

E. Insurance companies shall report, maintain, and update contact information, in a format required by the Administration, for

the purpose of establishing and maintaining a database containing the proper address for providing notice to an insurer under Transportation Article §21-10A-04, Annotated Code of Maryland.

JOHN T. KUO

Administrator

Motor Vehicle Administration

# Title 13A STATE BOARD OF EDUCATION

## Subtitle 11 PROGRAMS FOR ADULTS WITH DISABILITIES

### Notice of Proposed Action

[12-253-P-I]

The Maryland State Board of Education proposes to:

(1) Amend Regulations .03-1 and .15 under **COMAR 13A.11.01 Vocational Rehabilitation Services;**

(2) Amend Regulation .06 under **COMAR 13A.11.02 Maryland Disability Employment Tax Credit;**

(3) Amend Regulation .16 under **COMAR 13A.11.06 Records of Services;** and

(4) Amend Regulations .05, .12, and .14 under **COMAR 13A.11.08 Workforce and Technology Center.**

This action was considered at the Maryland State Board of Education meeting on July 24, 2012.

### Statement of Purpose

The purpose of this action is to update the sliding scale used to determine financial participation of eligible individuals in cost of services, update the fee schedule that is incorporated by reference, update the limitations on claim of credit by employers, correct an inaccurate reference, and provide technical updates and clarification regarding administration and service provisions.

### 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.** Revisions are necessary for the Division of Rehabilitative Services (DORS) financial participation schedule to be consistent with the U.S. Department of Health and Human Services Poverty Guidelines updated annually. Revisions are also necessary for DORS to be able to provide efficient and effective services to consumers.

|  | Revenue (R+/R-)     |           |
|--|---------------------|-----------|
| <b>II. Types of Economic Impact.</b>         | Expenditure (E+/E-) | Magnitude |
| A. On issuing agency:                        | NONE                |           |
| Increased cost for CAS & Benefits counseling | (E+)                | \$538,000 |
| B. On other State agencies:                  | NONE                |           |
| C. On local governments:                     | NONE                |           |



|  | Benefit (+)<br>Cost (-) | Magnitude |
|--|-------------------------|-----------|
| D. On regulated industries or trade groups:    | NONE                    |           |
| E. On other industries or trade groups:        | NONE                    |           |
| Increased revenue to CAS & Benefits counseling | (+)                     | \$538,000 |
| F. Direct and indirect effects on public:      | NONE                    |           |

understanding of the value of employment and incentives to achieve employment and discontinue public benefits.

Changes in the DORS Fee Schedule have been made consistent with updates in the Medicare Fee Schedule, Baltimore Metro; updated rates will not have an economic effect on individuals with disabilities. Updates in the sliding scale may have a minor impact on the very small percentage of individuals with disabilities receiving DORS services who are required to participate in the cost of services. Other changes are technical updates and clarifications that do not impact consumers of DORS services.

**Opportunity for Public Comment**

Comments may be sent to Polly Huston, Director, Office of Program and Community Support, Maryland Division of Rehabilitation Services, 2301 Argonne Drive, Baltimore, MD 21218, or call 410-554-9437 TTY: 410-554-9437, or email to phuston@dors.state.md.us. Comments will be accepted through November 5, 2012. A public hearing has not been scheduled.

**Open Meeting**

Final action on the proposal will be considered by the Maryland State Board of Education during a public meeting to be held on December 11, 2012, at 200 West Baltimore Street, Baltimore, Maryland 21201.

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

A. DORS anticipates approximately \$538,000 more of costs due to increase in fees for CAS and Benefits Planning.

E. CAS Providers and Benefits counselors will see an increase in revenue consistent with fee increase.

**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 Division of Rehabilitation Services provides services to individuals with disabilities through the Vocational Rehabilitation Programs. Individuals with disabilities have more choice in providers of quality Career Assessment Services which can have a significant impact in planning the Individualized Plan for Employment and achieving employment. DORS consumers have an opportunity to receive personalized benefits counseling services resulting in a better

**13A.11.01 Vocational Rehabilitation Services**

Authority: Education Article, §§21-301—21-306 and 21-402—21-404, Annotated Code of Maryland

**.03-1 Incorporation by Reference.**

- A. (text unchanged)
- B. Documents Incorporated.
  - (1) Division of Rehabilitation Services Fee Schedule, Rehabilitation Services Manual V (RSM V) (Maryland State Department of Education, updated through [May 2009] June 2012).
  - (2) (text unchanged)

**.15 Financial Participation Schedule.**

(table proposed for repeal)

| <i>Annual Amount of Individual/Family Financial Participation</i> |          |          |          |          |          |          |          |          |
|---|----------|----------|----------|----------|----------|----------|----------|----------|
| <i>Available Income</i>   | <i>1</i> | <i>2</i> | <i>3</i> | <i>4</i> | <i>5</i> | <i>6</i> | <i>7</i> | <i>8</i> |
| \$23,000 and below  | \$ 0     | \$ 0     | \$ 0     | \$ 0     | \$ 0     | \$ 0     | \$ 0     | \$ 0     |
| \$23,001—\$27,000   | 219      | 0        | 0        | 0        | 0        | 0        | 0        | 0        |
| \$27,001—\$31,000   | 363      | 254      | 0        | 0        | 0        | 0        | 0        | 0        |
| \$31,001—\$35,000   | 536      | 413      | 0        | 0        | 0        | 0        | 0        | 0        |
| \$35,001—\$39,000   | 740      | 602      | 324      | 0        | 0        | 0        | 0        | 0        |
| \$39,001—\$43,000   | 974      | 820      | 513      | 0        | 0        | 0        | 0        | 0        |
| \$43,001—\$47,000   | 1,238    | 1,069    | 731      | 394      | 0        | 0        | 0        | 0        |
| \$47,001—\$51,000   | 1,531    | 1,348    | 980      | 613      | 0        | 0        | 0        | 0        |
| \$51,001—\$55,000   | 1,855    | 1,656    | 1,259    | 861      | 464      | 0        | 0        | 0        |
| \$55,001—\$59,000   | 2,209    | 1,995    | 1,568    | 1,140    | 713      | 0        | 0        | 0        |
| \$59,001—\$63,000   | 2,593    | 2,364    | 1,906    | 1,449    | 991      | 534      | 0        | 0        |
| \$63,001—\$67,000   | 3,006    | 2,762    | 2,275    | 1,787    | 1,300    | 813      | 0        | 0        |

|                   |       |        |        |        |        |        |        |        |
|-------------------|-------|--------|--------|--------|--------|--------|--------|--------|
| \$67,001—\$71,000 | 3,450 | 3,191  | 2,674  | 2,156  | 1,639  | 1,121  | 604    | 0      |
| \$71,001—\$75,000 | 3,924 | 3,650  | 3,103  | 2,555  | 2,008  | 1,460  | 913    | 0      |
| \$75,001—\$79,000 | 4,428 | 4,139  | 3,561  | 2,984  | 2,406  | 1,829  | 1,251  | 674    |
| \$79,001—\$83,000 | 4,961 | 4,658  | 4,050  | 3,443  | 2,835  | 2,228  | 1,620  | 1,013  |
| \$83,001—\$87,000 | 5,525 | 5,206  | 4,567  | 3,931  | 3,294  | 2,656  | 2,019  | 1,381  |
| \$87,001+ *       | 6.5%  | 6.125% | 5.375% | 4.625% | 3.875% | 3.125% | 2.375% | 1.625% |

\* To determine amount of individual/family participation when the available income is above \$87,000, multiply the individual/family income times the percentage. The Financial Participation Scale is based on 2012 Poverty Guidelines of the U.S. Department of Health and Human Services.

### 13A.11.02 Maryland Disability Employment Tax Credit

Authority: Education Article, §21-309, Annotated Code of Maryland

#### .06 Limitations on Claim of Credit by Employers.

A. The Maryland disability employment tax credit shall be applicable to all taxable years beginning after December 31, 1996[, but before January 1, 2013].

B. An employer may claim the credit only for employees hired on or after October 1, 1997[, but before July 1, 2010].

C. — E. (text unchanged)

[F. A business entity may not claim the credit if the business entity is claiming a tax credit for the same employee under Article 88A, §54, Annotated Code of Maryland.]

[G.] F. (text unchanged)

### 13A.11.06 Records of Services

Authority: Education Article, §§21-304—21-306 and 21-308, Annotated Code of Maryland

#### .16 Retention of Records of Services.

Records of services shall be maintained for a minimum of 3 years following the closure of a record of services, and then destroyed, except for records held by the Workforce and Technology Center and those approved by the Social Security Administration for reimbursement, which shall maintain records for a minimum of 5 years pursuant to Health-General Article, [§4-305] §4-403, Annotated Code of Maryland.

### 13A.11.08 Workforce and Technology Center

Authority: Education Article, §§21-301—21-304, Annotated Code of Maryland

#### .05 Admission Decision and Appeal Process.

A. [The admission office] *WTC staff* shall notify the applicant and referral source [in writing] of the [pending] *scheduled* admission [decision]. If the applicant is being denied admission, the admission committee shall *respond in writing and:*

(1) — (3) (text unchanged)

B. — C. (text unchanged)

#### .12 Client Orientation.

A. (text unchanged)

B. The Center’s *Consumer Handbook and Admission Packet* which includes the rules and regulations shall be presented in writing to the client during the admission process. The client or, as appropriate, the client and the client’s representative, shall acknowledge receipt of a copy of the regulations and procedures associated with participation in a program of services at the Center by signing the document.

C. — D. (text unchanged)

E. The *Center’s Consumer Handbook and Admission Packet* which includes the Consumer Bill of Rights shall be presented in writing to the client during the admission process. The client or, as appropriate, the client and the client’s representative, shall acknowledge receipt of a copy of the Consumer Bill of Rights and confirm that they have been provided the opportunity for clarification of their rights at the Center and of the methods and procedures available to present a complaint, seek review or appeal of any decisions involving the provision or denial of services, or address any other matter which may be of concern while enrolled in the Center, by signing the document.

#### .14 Career Assessment Services.

A. — G. (text unchanged)

H. *Career Assessment Services staff person* will provide preliminary information about the assessment results at the conclusion of the service. A written[, functional] evaluation report shall be prepared for each client served in career assessment, [interpreted to the client,] and disseminated [in a timely fashion] to [the case manager and] the referral source *within 14 working days of discharge from the Center*. The evaluation report may be disclosed to other appropriate agencies or individuals only in accordance with the standards of Regulation .17 of this chapter.

LILLIAN M. LOWERY, Ed.D.  
State Superintendent of Schools

# Title 14 INDEPENDENT AGENCIES

## Subtitle 01 STATE LOTTERY AGENCY

### 14.01.14 Video Lottery Facility Minimum Internal Control Standards

Authority: State Government Article, §9-1A-04, Annotated Code of Maryland

#### Notice of Proposed Action [12-264-P]

The Maryland State Lottery Agency proposes to adopt amendments to Regulations **.04**, **.08**, **.37**, **.38**, and **.45** and new Regulation **.50** under **COMAR 14.01.14 Video Lottery Facility Minimum Internal Control Standards**. This action was considered at the Maryland State Lottery Commission open meeting held on August 23, 2012, 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 revise the Video Lottery Terminal regulations to more accurately and completely describe the operational procedures and requirements of the Lottery.

#### Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

#### Estimate of Economic Impact

The proposed action has no economic impact.

#### Economic Impact on Small Businesses

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

#### Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

#### Opportunity for Public Comment

Comments may be sent to Robert W. Howells, Regulations Coordinator, Maryland State Lottery Agency, 1800 Washington Blvd., Suite 330, Baltimore, MD 21230, or call 410-230-8789, or email to rhowells@msla.state.md.us, or fax to 410-230-8727. Comments will be accepted through November 5, 2012. A public hearing has not been scheduled.

#### **.04 Content of Internal Controls.**

A. — B. (text unchanged)

C. Internal controls shall, at a minimum, include:

(1) — (5) (text unchanged)

(6) Procedures and controls over the movement of cash and the count room; [and]

(7) *Procedures and standards for conducting internal audits;*

and

[(7)] (8) (text unchanged)

D. — E. (text unchanged)

#### **.08 Record Retention.**

A. — E. (text unchanged)

F. The following exceptions apply to the retention period in §D of this regulation:

(1) — (2) (text unchanged)

(3) A minimum retention period of 6 months shall apply to:

(a) — (b) (text unchanged)

(c) Gaming tickets redeemed at a location other than a video lottery terminal *or ticket redemption unit*; and

(4) A minimum retention period of 30 days shall apply to gaming tickets redeemed at a video lottery terminal *or ticket redemption unit*.

G. — N. (text unchanged)

#### **.37 Promotional Play.**

A. A facility operator may:

(1) [issue] *Issue* promotional play *if it is not awarded as cashable credit*; and

(2) [utilize] *Utilize* a promotional play system meeting the requirements of this subtitle.

B. — C. (text unchanged)

D. A facility operator shall submit to the Commission in a form and in accordance with a time frame specified by the Commission a weekly report summarizing:

(1) Promotional play awarded for the period including:

(a) Total amount in promotional play awarded in[

(i) Cashable credits; and

(ii) Noncashable] *noncashable* credits; and

(b) (text unchanged)

(2) Promotional play redeemed by players for the period including:

(a) Total amount in promotional play redeemed in[

(i) Cashable credits; and

(ii) Noncashable] *noncashable* credits; and

(b) (text unchanged)

E. A facility operator shall develop and include in the internal controls submitted to and approved by the Commission under Regulation .05 of this chapter procedures addressing:

(1) (text unchanged)

(2) A promotional play instrument, including a requirement that it document:

(a) (text unchanged)

(b) Amount in [cashable or] noncashable credits;

(c) — (f) (text unchanged)

F. — H. (text unchanged)

#### **.38 Ticket Redemption Unit.**

A. — B. (text unchanged)

C. A ticket redemption unit:

(1) (text unchanged)

(2) May be configured to[

(a) Redeem a promotional play instrument awarding cashable credits of less than \$5,000; and

(b) Function] *function* as a bill breaker changing bills of one denomination into bills of a smaller denomination.

D. (text unchanged)

E. A facility operator's internal controls shall address:

(1) (text unchanged)

(2) Removal of gaming tickets[, promotional play instruments,] and cash accepted by a ticket redemption unit;

(3) (text unchanged)

(4) Generation of the following reports by a ticket redemption unit or ancillary system or application for the reconciliation period, which may be by gaming day, shift, or drop cycle:

(a) (text unchanged)

[(b) A promotional play instrument transaction report which details:

(i) Disposition, as paid, partially paid, or unpaid, of promotional play instruments accepted by a ticket redemption unit;

(ii) Unique series number assigned to the promotional play instrument;

(iii) Date and time of redemption;

(iv) Amount requested; and

(v) Amount dispensed;]

- [(c)] (b) A reconciliation report which details:
  - (i) (text unchanged)
  - (ii) Unique asset identification number of the [video lottery terminal] *ticket redemption unit*;
  - (iii) — (iv) (text unchanged)
  - (v) Total amount of gaming tickets accepted; *and*
  - (vi) Total count of gaming tickets accepted; *and*
  - [(vii)] Total amount of promotional play instruments accepted; *and*
  - (viii) Total count of promotional play instruments accepted; *and*
- [(d)] (c) A gaming ticket[, promotional play instrument,] and currency storage box report which details the following data whenever a storage box is removed from the ticket redemption unit:
  - (i) — (vi) (text unchanged)
  - (vii) Total count of gaming tickets accepted; *and*
  - [(viii)] Total amount of promotional play instruments accepted;
  - (ix) Total count of promotional play instruments accepted; *and*
- [(x)] (viii) Details required to be included in the gaming ticket transaction report required under §E(4)(a) of this regulation [and the promotional play instrument transaction report required under §E(4)(b) of this regulation]; *and*
- (5) (text unchanged)

**.45 Count Room Design Standards.**

- A. (text unchanged)
- B. A count room shall conform to the following standards:
  - (1) — (2) (text unchanged)
  - (3) Be constructed with doors equipped with:
    - (a) An alarm system which tracks all ingress to and egress from the room *and*:
      - (i) Directly alerts the security department; [and] *or*
      - (ii) (text unchanged)
    - (b) (text unchanged)
- C. (text unchanged)

**.50 Internal Audit Department Standards.**

- A. *At least 60 days before video lottery terminal operations are set to commence, a facility operator shall submit to the Commission for review and approval Internal audit department operating standards and procedures that:*
  - (1) *Meet the requirements of Regulation .10E(6)(b) of this chapter;*
  - (2) *Conform to this regulation; and*
  - (3) *Ensure that an internal audit is conducted in accordance with generally accepted auditing standards in the United States.*
- B. *A facility operator's internal audit department operating procedures and standards shall, at a minimum, require the internal audit department to:*
  - (1) *Work independently from the departments of the facility that are subject to audit;*
  - (2) *Assess whether the facility's internal controls comply with applicable law and Commission directives;*
  - (3) *Test the facility's compliance with its internal controls;*
  - (4) *Immediately report a deficiency in, or noncompliance with, the facility's internal controls to:*
    - (a) *The audit committee;*
    - (b) *The chief executive officer;*
    - (c) *Management; and*
    - (d) *The Commission;*
  - (5) *Recommend resolution for eliminating a deficiency in, or noncompliance with, the facility's internal control system;*
  - (6) *Meet periodically with the audit committee or director of internal audit;*

- (7) *Perform audits of:*
  - (a) *All departments of the facility that are designated under §§C and D of this regulation; and*
  - (b) *A department of the facility designated by the Commission;*
- (8) *Prepare an audit report for each audit conducted;*
- (9) *Accurately document the audit process and results in an audit report that, at a minimum, shall include:*
  - (a) *Audit objectives;*
  - (b) *Audit procedures and scope;*
  - (c) *Findings and conclusions;*
  - (d) *A recommendation for addressing a deficiency in, or noncompliance with, the facility's internal controls;*
  - (e) *Resolution of all exceptions; and*
  - (f) *Management's response;*
- (10) *Submit audit reports to the Commission on a schedule specified by the Commission; and*
- (11) *Within 90 days of the issuance of an audit report, verify that:*
  - (a) *A deficiency or noncompliance revealed during an audit has been corrected; and*
  - (b) *An exception disclosed during an audit has been resolved.*
- C. *The audit department shall audit at least semiannually the functions and operations of the facility's:*
  - (1) *Cashiers' cage;*
  - (2) *Main bank;*
  - (3) *Collection of cash storage boxes;*
  - (4) *Cash count;*
  - (5) *Revenue audit;*
  - (6) *Operations department;*
  - (7) *Surveillance department;*
  - (8) *Player tracking system; and*
  - (9) *Key control.*
- D. *The audit department shall audit at least annually:*
  - (1) *Responsible gaming program;*
  - (2) *Security department;*
  - (3) *Currency transaction reporting;*
  - (4) *Suspicious activity reporting;*
  - (5) *Information technology controls;*
  - (6) *Accounts payable; and*
  - (7) *Purchasing.*
- E. *The internal audit department shall conduct an audit on an unannounced basis when possible.*

STEPHEN L. MARTINO  
 Director  
 State Lottery Agency

**Title 17**  
**DEPARTMENT OF BUDGET**  
**AND MANAGEMENT**

**Subtitle 04 PERSONNEL SERVICES**  
**AND BENEFITS**

**17.04.04 Separations, Reemployment, and Reinstatement**

Authority: State Personnel and Pensions Article, §§2-801, 4-106, and Title 11, Annotated Code of Maryland

**Notice of Proposed Action**

[12-262-P]

The Secretary of Budget and Management proposes to amend Regulation .04 under COMAR 17.04.04 Separations, Reemployment, and Reinstatement.

**Statement of Purpose**

The purpose of this action is to amend the regulations based on changes resulting from House Bill 525, State Personnel — Hiring Prohibition — Individuals Terminated with Prejudice, made during the 2012 Legislative Session. Under this statute, effective October 1, 2012, a State employee that is terminated with prejudice from State service from any branch of State government or independent personnel system will be barred from any future State employment in any capacity.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

The proposed action has no economic impact.

**Economic Impact on Small Businesses**

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

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Leslie G. Buchman, Director, Personnel Services Division, Department of Budget and Management, 301 W. Preston Street, Room 602, Baltimore, MD 21201, or call 410-767-4718, or email to lbuchman@dbm.state.md.us, or fax to 410-333-5262. Comments will be accepted through November 5, 2012. A public hearing has not been scheduled.

**.04 Separation Reports for Unsatisfactory Performance or Conduct.**

A. (text unchanged)

B. Separation for unsatisfactory performance or conduct, as reported in paragraph A above, is grounds for denial of future State employment for a period of up to 3 years. [Termination with prejudice is a bar to employment in any capacity with the State for 3 years.]

C. An individual may be terminated with prejudice from State service when the individual's actions are found to be so egregious that the individual does not merit employment in any capacity with the State. Termination with prejudice is a permanent bar to any future employment in any capacity with the State; therefore, an individual who has been terminated with prejudice from State service may not subsequently be hired in any branch of State Government,

including any unit with an independent personnel system, on or after October 1, 2012.

[C.] D. (text unchanged)

T. ELOISE FOSTER  
 Secretary of Budget and Management

**Title 31**  
**MARYLAND INSURANCE**  
**ADMINISTRATION**

**Subtitle 08 PROPERTY AND CASUALTY INSURANCE**

**31.08.05 Addition, Reduction, or Elimination in Coverage Notice Requirement**

Authority: Insurance Article, §§2-109, 4-113, and 27-216, and Title 11, Subtitle 2, Annotated Code of Maryland

**Notice of Proposed Action**

[12-273-P]

The Insurance Commissioner proposes to repeal existing Regulations .02 and .03 and adopt new Regulation .02 under COMAR 31.08.05 Addition, Reduction, or Elimination in Coverage Notice Requirement.

**Statement of Purpose**

The purpose of this action is to require an insurer to revise its notice of addition, reduction, or elimination of coverage in order to make the notice more informative and useful to consumers.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** Property and casualty insurers will incur minimal expenses to revise its notice of addition, reduction, or elimination of coverage. Insurance consumers will benefit by being able to make more informed choices about their insurance.

| 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 (+)<br>Cost (-) | Magnitude      |
| D. On regulated industries or trade groups: | (-)                     | Minimal        |
| 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. Property and casualty insurers will incur minimal expenses to revise their notices of addition, reduction, or elimination of coverage.

F. Insurance consumers will benefit by being able to make more informed choices about their insurance.

**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 November 5, 2012. A public hearing has not been scheduled.

**.02 Notice Requirement.**

A. This regulation does not apply to:

(1) A change in coverage that is made at the request of the insured;

(2) A change in coverage to a commercial risk that uses the services of a risk manager, broker, or insurance adviser; or

(3) A reduction in coverage for a policy of private passenger motor vehicle liability insurance that is subject to Insurance Article, §27-613, Annotated Code of Maryland.

B. An insurer shall provide notice to an insured in accordance with §§C and D of this regulation if the insurer proposes to:

(1) Eliminate or reduce coverage under a primary property or casualty policy, including a reduction in coverage caused by an increase in a deductible; or

(2) Automatically add or increase coverage under a primary property or casualty policy pursuant to policy terms that allow for any inflation or construction increases.

C. An insurer that is required to provide notice under §B of this regulation shall include in the notice a clear and specific description of each change in coverage that identifies:

(1) The type of coverage that will be changed; and

(2) The dollar amount of the change.

D. The insurer shall send the notice to the insured by first-class mail at least 45 days before the change in coverage is scheduled to take effect.

E. If an insurer that proposes to eliminate or reduce coverage under a primary property or casualty policy fails to provide the notice that is required by §B of this regulation in accordance with the requirements of § §C and D of this regulation, the insurer may not implement the proposed elimination of or reduction in coverage and may be subject to administrative action.

THERESE M. GOLDSMITH  
Insurance Commissioner

**Subtitle 08 PROPERTY AND CASUALTY INSURANCE**

**31.08.12 Temporary Moratoriums and Weather Events**

Authority: Insurance Article, §§2-108, 2-109, 19-107, and 27-501, Annotated Code of Maryland

**Notice of Proposed Action**

[12-266-P]

The Insurance Commissioner proposes to amend Regulations .02 — .06 under **COMAR 31.08.12 Temporary Moratoriums and Weather Events**.

**Statement of Purpose**

The purpose of this action is to delete the term “areas” and insert in its place the term “parts” for internal consistency within this chapter, to clarify that an insurer may be subject to administrative action if it does not file with the Administration a moratorium protocol, to define “National Weather Service,” to define “renewal period,” to clarify the time frame within which a moratorium shall be discontinued for weather events and an earthquake, to require an insurer to notify the Administration of its activation of a temporary moratorium by email to an electronic mailbox in a new location on the Maryland Insurance Administration’s (MIA) website, or through SERFF indicating the filing type as “activate moratorium,” to set forth the information that an insurer shall include in its notice to the MIA of the activation of a moratorium, and to make certain technical and syntactical changes.

**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 November 5, 2012. A public hearing has not been scheduled.

**.02 Filing [of] a Temporary Moratorium Protocol.**

A. [Each] An insurer that intends to [utilize] activate a temporary [moratoriums] moratorium in response to an event or emergency listed in Regulation .03C of this chapter [to address approaching storms, weather events, earthquakes, wildfires, urban fires, or other civil commotions and government-declared emergencies predicted to impact part of or the entire State,] shall file its moratorium protocol with the Administration.

B. The moratorium protocol shall:

(1) Be filed with the [Administration either] Commissioner as an underwriting [guideline] standard or as a rating rule prior to its use;

(2) Be filed for all [programs] lines of insurance business to which the underwriting [guideline] standard or rating rule applies; [and]

(3) Identify [implementation triggers and lifting triggers] *the events or emergencies listed in Regulation .03C of this chapter that will trigger the activation of the temporary moratorium; and*

(4) *Identify the events that will result in the deactivation of the temporary moratorium.*

C. If a moratorium protocol under §B of this regulation is not filed with the Administration, a temporary moratorium as described in §A of this regulation is not valid and *may* [subjects] *subject* the insurer to appropriate administrative action.

#### **.03 Moratorium Protocol.**

A. [Moratorium shall be designed] *An insurer shall design a temporary moratorium protocol to have the least impact on the conduct of insurance business throughout the State as reasonably possible.*

B. [A] *An insurer may not utilize the activation of a temporary moratorium [may not] to suspend the binding[, or] writing[, or both] of all of its lines of [an insurer] insurance business.*

C. A [Moratoriums] *temporary moratorium [shall be based on the following weather or non-weather related events, or emergencies and are] may not become effective until triggered by at least one of the following events or emergencies:*

(1) The National Weather Service issues a hurricane or tropical storm watch, warning, or advisory for part of the State or the entire State. *For the purpose of this subsection, the "National Weather Service" shall mean the National Weather Service, National Hurricane Center in Miami, Florida, and its regional National Weather Service Forecast Office covering a part of the State.*

(2) — (4) (text unchanged)

(5) The onset of an earthquake that is in an area within:

(a) 50 miles of the epicenter of an earthquake that [is] *measures 5.0 to 5.9 on the Richter scale; or*

(b) 100 miles of the epicenter of an earthquake that [measured] *measures [6.0 or] greater than 5.9 on the Richter scale.*

D. The *temporary moratorium shall be limited to parts of the State:*

(1) [Those areas of the State that are impacted by] *For which the National Weather Service has issued a hurricane or tropical storm watch, warning, or advisory;*

(2) [Areas of the State that] *That are included within [the] a government-declared [area of disaster or] state of emergency;*

(3) [Areas of the State that] *That are under an evacuation order, whether mandatory or voluntary;*

(4) [Areas of the State] *That are under a special curfew; or*

(5) [Areas of the State that] *That are within:*

(a) 50 miles of the epicenter of an earthquake that [is] *measures 5.0 to 5.9 on the Richter scale; or*

(b) 100 miles of the epicenter of an earthquake that [measured] *measures [6.0 or] greater than 5.9 on the Richter scale.*

E. A *temporary moratorium shall [applies] apply only to lines of insurance business that are reasonably expected to be affected by the [the impending weather or non-weather related event or disaster or government-declared emergency for part of the State or the entire State that was the basis for the moratorium] events or emergencies listed in §C of this regulation that triggered the activation of the temporary moratorium.*

#### **.04 Exceptions.**

[The implementation] *An insurer may not utilize the activation of a temporary moratorium [may not be used] to deny binding authority or coverage for the following transactions:*

A. Property insurance that was bound prior to the [implementation] *activation of the temporary moratorium;*

B. Automobile liability insurance [being] *purchased in connection with the purchase of a new or used motor vehicle by a consumer;*

C. Issuance of a [policies] *policy for [where] which the risk of loss is unrelated to the [impending weather event or government-declared disaster] events or emergencies listed Regulation .03C of this chapter; [and] or*

D. [Additional types of] *The purchase of additional coverages, endorsements, or limits [being made to] for an existing policy [while it is in the] during its renewal period [which includes the 45 days prior to, and up to and including, the renewal date of an existing property and casualty insurance policy], subject to any change becoming effective on the renewal date of the policy. For the purpose of section, "renewal period" means the 45-day period immediately prior to the renewal date of a policy.*

#### **.05 [Lifting of] Deactivating a Temporary Moratorium.**

A. [A moratorium issued by an] *An insurer shall [be] regularly [monitored by the insurer] monitor its activated temporary moratorium.*

B. [Except as provided in §C of this regulation, a] *A temporary moratorium that is activated based on an event listed under Regulation .03C(1) of this chapter [for weather related a event] may not continue for more than 24 hours after the termination of the last [warning] hurricane or tropical storm watch, warning, or advisory issued by the National Weather Service for part of the State or the entire State.*

C. Earthquake.

(1) A *temporary moratorium [issued] that is activated because of an earthquake under Regulation .03C(5) of this chapter shall be [lifted] deactivated no later than 72 hours after the onset of the earthquake.*

(2) An aftershock [of] *that measures 5.0 or greater on the Richter scale that occurs during [the restricted period shall] a temporary moratorium that was activated because of an earthquake under Regulation .03C(5) of this chapter may be treated as the onset of a new earthquake, resulting in the beginning of a new 72- hour period [of] during which an insurer may continue to [suspended] suspend binding authority.*

#### **.06 Notice to the Commissioner.**

A. An insurer shall notify the [Administration] *Commissioner of its [implementation] activation of a temporary moratorium protocol filed pursuant to Regulation .02 of this chapter [, either] by[.];*

(1) (text unchanged)

(2) Filing through the System for Electronic Rate and Form Filing (SERFF), *indicating the filing type as "activate moratorium."*

B. The Administration shall establish an electronic mailbox which shall be available at all times to receive notice that [a carrier] *an insurer has [implemented] activated its filed temporary moratorium protocol.*

C. The Administration shall post [on the home page] *in the insurer section of the Administration's website the electronic mailbox address described in §B of this regulation.*

D. The notice required by §A of this regulation shall be provided when a *temporary moratorium has been [implemented] activated.*

E. The notice required by §A of this regulation shall [identify those geographic areas of the State where the moratorium is being applied.];

(1) *Provide the names of the insurers;*

(2) *Provide the National Association of Insurance Commissioners (NAIC) numbers of the insurers;*

(3) *Specify the time when the temporary moratorium shall be activated;*

(4) *Specify the lines of insurance business to which the temporary moratorium shall apply;*

(5) *Specify the parts of the State to which the temporary moratorium shall apply; and*

(6) Provide the SERFF tracking numbers assigned, where applicable, and the page numbers containing the temporary moratorium protocol when the temporary moratorium protocol was filed as required by Regulation .02 of this chapter.

THERESE M. GOLDSMITH  
Insurance Commissioner

**Subtitle 16 MISCELLANEOUS**

**31.16.11 Premium Finance Agreements — Finance Charges**

Authority: Insurance Article, §§2-109, 23-101, 23-304, 26-101, and 26-102, Annotated Code of Maryland

**Notice of Proposed Action**

[12-272-P]

The Insurance Commissioner proposes to adopt new Regulations .01 — .03 under a new chapter, **COMAR 31.16.11 Premium Finance Agreements — Finance Charges**.

**Statement of Purpose**

The purpose of this action is to clarify the amount of finance charges that a premium finance company may assess pursuant to a premium finance agreement by codifying the holding of the Maryland Court of Appeals in *Maryland Insurance Commissioner v. Central Acceptance Corporation, et al.* 424 Md. 1 (2011). This action also clarifies that a premium finance agreement is limited to the financing of a premium for an insurance contract or insurance coverage and may not include the financing of payment for any other product, including a motor club service.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** The regulations clarify that, if a premium finance agreement is terminated before the end of its term, a premium finance company is prohibited from assessing a finance charge for any period that occurs after the date that the insurer returns the unearned premium to the premium finance company. This action also clarifies that a premium finance agreement is limited to the financing of a premium for an insurance contract or insurance coverage and may not include the financing of payment for any other product, including a motor club service.

If a premium finance agreement is terminated before the end of its term, consumers will be protected from being assessed a finance charge by a premium finance company for any period after the date that the insurer returns unearned premium to the premium finance company. Consumers also will be protected from being assessed premium finance charges by a premium finance company on any amount paid for any other product, including a motor club service.

| 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: |      |                |
| On regulated industries                     | (-)  | Unquantifiable |
| E. On other industries or trade groups:     | NONE |                |
| F. Direct and indirect effects on public:   |      |                |
| On public                                   | (+)  | Unquantifiable |

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

D. The regulations clarify that, if a premium finance agreement is terminated before the end of its term, a premium finance company is prohibited from assessing a finance charge for any period that occurs after the date that the insurer returns the unearned premium to the premium finance company.

F. If a premium finance agreement is terminated before the end of its term, consumers will be protected from being assessed a finance charge by a premium finance company for any period after the date that the insurer returns unearned premium to the premium finance company. Consumers also will be protected from being assessed premium finance charges by a premium finance company on any amount paid for any other product, including a motor club service.

**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 November 5, 2012. A public hearing will be held on October 19, 2012 at 10 a.m., at the Maryland Insurance Administration, 200 St. Paul Place, 24th Floor, Hearing Room, Baltimore, MD 21202.

**.01 Definitions.**

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

**B. Terms Defined.**

(1) “Motor club service” has the meaning stated in Insurance Article, §26-101(g), Annotated Code of Maryland.

(2) “Premium finance agreement” has the meaning stated in Insurance Article, §23-101(b), Annotated Code of Maryland.

(3) “Premium finance company” has the meaning stated in Insurance Article, §23-101(c), Annotated Code of Maryland.

**.02 Premium Finance Agreement.**

*A premium finance agreement:*

A. *Shall be limited to the financing of a premium for an insurance contract or insurance coverage; and*

B. *May not include the financing of payment for any other product, including a motor club service.*



**.03 Finance Charge.**

A. *The finance charge assessed by a premium finance company pursuant to a premium finance agreement shall be computed:*

(1) *On the amount of the entire premium loan advanced, including any taxes or fees that are financed under Insurance Article, §23-301.1, Annotated Code of Maryland, after subtracting any down payment on the premium loan made by the insured;*

(2) *From the inception date of the insurance contract or from the due date of the premium payment, disregarding any grace period or credit allowed for payment of the premium, through the date on which the final installment under the premium finance agreement is payable; and*

(3) *At a rate not exceeding 1.15 Percent for each 30 days, charged in advance.*

B. *If an insurance contract that is the subject of a premium finance agreement is voided ab initio, the premium finance company may assess a finance charge:*

(1) *Only until the date on which the insurer returns the unearned premium to the premium finance company; and*

(2) *At a rate not exceeding 1.15 percent for each 30 days.*

C. *If a premium finance agreement is terminated before the end of its term, the premium finance company may assess a finance charge:*

(1) *Only until the date on which the insurer returns the unearned premium to the premium finance company; and*

(2) *At a rate not exceeding 1.15 percent for each 30 days.*

D. *If a premium finance agreement that finances more than one contract of insurance is terminated before the end of the agreement's term, a premium finance company may assess a finance charge on the premium advanced for each contract of insurance only until the date on which the insurer for that contract returns the unearned premium to the premium finance company.*

E. *When assessing a finance charge under §§B — D of this regulation, a premium finance company may not assess a finance charge for any 30-day period or part of a 30-day period that occurs after the date on which the insurer returns the unearned premium to the premium finance company.*

THERESE M. GOLDSMITH  
Insurance Commissioner

# Errata

## COMAR 10.27.27

At 39:19 Md. R. 1236 (September 21, 2012), column 2, line 9  
from the bottom:

For: Hygiene adopted new Regulations .01—.08 under a new  
chapter,

Read: Hygiene adopted new Regulations .01—.07 under a new  
chapter,

[12-20-34]

# Special Documents

## DEPARTMENT OF THE ENVIRONMENT SUSQUEHANNA RIVER BASIN COMMISSION

### Projects Rescinded for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

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

DATE: July 1, 2012, through August 31, 2012

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

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

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

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

Gastem USA, Inc., Pad ID: Sheckells 1, ABR-201007044, Cherry Valley Town, Otsego County, NY; Rescind Date: July 5, 2012.

Covalent Energy, Inc., Pad ID: Ross 1, ABR-20090818, Maryland Town, Otsego County, NY; Rescind Date: July 5, 2012.

EOG Resources, Inc., Pad ID: Beardslee 1V, ABR-201008084, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: BEARDSLEE 2H Pad, ABR-201008085, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: CASEMAN 1H, ABR-201008103, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: CASEMAN 2H, ABR-201008104, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: Chapman Pad, ABR-201008125, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: COP Pad A, ABR-20100531, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: COP Pad B, ABR-20100645, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: COP Pad C, ABR-201008027, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: COP Pad J, ABR-201009022, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: COP Pad N, ABR-201103001, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: COP Pad O, ABR-201103030, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: Dodge Pad, ABR-201008086, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: Furman Pad, ABR-201008093, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: GARVER Pad, ABR-201008053, Ridgebury Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: GEROULD Pad, ABR-201008109, Ridgebury Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: HALSTEAD Pad, ABR-201009060, Ridgebury Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: HOPPAUGH 1V, ABR-20091119, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: Houseknecht 1H Pad, ABR-20090423.1, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: Houseknecht 2H Pad, ABR-20090419, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: Houseknecht 3H Pad, ABR-20090422, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: JACKSON 1H Pad, ABR-20090053, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: JBR PARTNERS 1V, ABR-20100555, Saint Marys City, Elk County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: JOHNSON Pad, ABR-201008100, Ridgebury Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: JONES 1V, ABR-20091203, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: KENYON 1V, ABR-20091235, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: KINGSLEY 5H, ABR-201008080, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: KINGSLEY 6H, ABR-201008081, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: Kingsley 7V Pad, ABR-201008106, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: Lee 4H, ABR-201008105, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: LIDDELL 1H, ABR-20100157, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

EOG Resources, Inc., Pad ID: MacBride Pad, ABR-201008120, Smithfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

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- EOG Resources, Inc., Pad ID: Manzek Land Pad, ABR-201008063, Ridgebury Township, Bradford County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: MATTOCKS 1V, ABR-20100655, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: McKEE Pad, ABR-201008092, Ridgebury Township, Bradford County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: MULLALY Pad, ABR-201009008, Ridgebury Township, Bradford County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: Otten Pad, ABR-201008047, Ridgebury Township, Bradford County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: PHC 10V Pad, ABR-20090719, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: PHC 11V Pad, ABR-20090720, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: PHC 20V Pad, ABR-20100156, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: PHC 21V Pad, ABR-20100427, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: PHC 23H/24H, ABR-20090917.1, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: PHC 28H/29H, ABR-20090918.1, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: PHC 3 Pad, ABR-20090424, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: PHC 4H, ABR-20090501, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: PHC 5H, ABR-20090502, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: PHC 6H, ABR-20090721, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: PHC 7H, ABR-20090722, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: PHC 8H, ABR-20090723, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: PHC 9H, ABR-20090503, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: PHC Pad A, ABR-201000353, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: PHC Pad AA, ABR-201110027, Goshen Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: PHC Pad B, ABR-20100352, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: PHC Pad Q, ABR-20100551, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: PHC Pad R, ABR-20100690, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: PHC Pad S, ABR-201009023, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: PHC Pad T, ABR-201009039, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: PHC Pad U, ABR-20100644, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: PHC Pad Z, ABR-201103024, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: PPHC Pad B, ABR-201103023, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: ROBBINS Pad, ABR-201009005, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: ROGERS 1H, ABR-20100512, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: SG Pad P, ABR-201008035, Jones Township, Elk County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: SGL 90A Pad, ABR-201008049, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: SGL 90D Pad, ABR-201103021, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: SGL 90F Pad, ABR-201011026, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: SGL 94 Pad A, ABR-201009030, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: SGL 94C Pad, ABR-201203008, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: SGL 94D Pad, ABR-201203003, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: SUTHERLAND CHEVROLET 1H, ABR-201011076, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: W TYLER Pad, ABR-201008154, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: WATSON Pad, ABR-201008154, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: WOOD 1H Pad, ABR-201008046, Ridgebury Township, Bradford County, Pa.; Rescind Date: August 28, 2012.
- EOG Resources, Inc., Pad ID: Ward M 1H, ABR-20090421.1, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

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

Dated: September 14, 2012.

STEPHANIE L. RICHARDSON  
Secretary to the Commission  
[12-20-25]

# SUSQUEHANNA RIVER BASIN COMMISSION

## Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

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

DATE: August 1, 2012, through August 31, 2012

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

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

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

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

Carrizo (Marcellus), LLC, Pad ID: Wetterling Well #1, ABR-201208001, Owego Town, Tioga County, NY; Consumptive Use of Up to 2.100 mgd; Approval Date: August 3, 2012.

Chesapeake Appalachia, LLC, Pad ID: Lorraine, ABR-201208002, Tuscarora Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: August 6, 2012.

Chesapeake Appalachia, LLC, Pad ID: Nina, ABR-201208003, Asylum Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: August 6, 2012.

Chesapeake Appalachia, LLC, Pad ID: Stethers, ABR-201208004, Wyalusing Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: August 6, 2012.

Chesapeake Appalachia, LLC, Pad ID: Harlan, ABR-201208005, Overton Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: August 6, 2012.

Chesapeake Appalachia, LLC, Pad ID: Whitney, ABR-201208006, Rush Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: August 6, 2012.

Anadarko E&P Company LP, Pad ID: Salt Run HC Pad A, ABR-201208007, Cascade Township, Lycoming County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: August 10, 2012.

Anadarko E&P Company LP, Pad ID: Kenneth L Martin Pad A, ABR-201208008, Cogan House Township, Lycoming County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: August 10, 2012.

Anadarko E&P Company LP, Pad ID: Ann C Good Pad A, ABR-201208009, Cogan House Township, Lycoming County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: August 10, 2012.

Anadarko E&P Company LP, Pad ID: Red Fox H&FC Pad B, ABR-201208010, Cogan House Township, Lycoming County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: August 10, 2012.

Energy Corporation of America, Pad ID: COP 324 A, ABR-201208011, Girard Township, Clearfield County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: August 10, 2012.

Chesapeake Appalachia, LLC, Pad ID: BKT, ABR-201208012, Wilmot Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: August 10, 2012.

Chesapeake Appalachia, LLC, Pad ID: Ronmary, ABR-201208013, Elkland Township, Sullivan County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: August 10, 2012.

XTO Energy Incorporated, Pad ID: PA Tract K, ABR-201208014, Chapman Township, Clinton County, Pa.; Consumptive Use of Up to 4.500 mgd; Approval Date: August 24, 2012.

Range Resources-Appalachia, LLC, Pad ID: McWilliams Unit #6H - #10H Well Pad, ABR-201208015, Cogan House Township, Lycoming County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: August 24, 2012.

WPX Energy Appalachia, LLC, Pad ID: Keenan East Well Pad, ABR-201208016, Choconut Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: August 28, 2012.

WPX Energy Appalachia, LLC, Pad ID: Malling Well Pad, ABR-201208017, Silver Lake Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: August 28, 2012.

Range Resources-Appalachia, LLC, Pad ID: Null - Bobst Unit #1H, ABR-201208018, Cogan House Township, Lycoming County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: August 28, 2012.

Carrizo (Marcellus), LLC, Pad ID: Ricci Well Pad, ABR-201208019, Bridgewater Township, Susquehanna County, Pa.; Consumptive Use of Up to 2.100 mgd; Approval Date: August 28, 2012.

Chesapeake Appalachia, LLC, Pad ID: Tufano, ABR-201208020, Overton Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: August 28, 2012.

Chesapeake Appalachia, LLC, Pad ID: Borek, ABR-201208021, Auburn Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: August 28, 2012.

Cabot Oil & Gas Corporation, Pad ID: SalanskyT P1, ABR-201208022, Gibson Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: August 28, 2012.

Talisman Energy USA Inc., Pad ID: 05 258 Kuhlman M, ABR-201208023, Windham Township, Bradford County, Pa.; Consumptive Use of Up to 6.000 mgd; Approval Date: August 28, 2012.

Chief Oil & Gas LLC, Pad ID: Tague East Drilling Pad, ABR-201208024, Lemon Township, Wyoming County, Pa.; Consumptive Use of Up to 2.000 mgd; Approval Date: August 31, 2012.

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

Dated: September 14, 2012.

STEPHANIE L. RICHARDSON  
Secretary to the Commission

[12-20-26]

## WATER MANAGEMENT ADMINISTRATION

### Notice of Tentative Determination

#### General Permit for Discharges from Stormwater Associated with Industrial Activities

**General Discharge Permit No. 12SW (NPDES No. MDR00)** applies to stormwater discharges from various federal discharge categories of industrial facilities in the state of Maryland. The Department proposes to reissue the state/NPDES (National Pollution Discharge Elimination System) General Permit for Discharges from Stormwater Associated with Industrial Activities with significant revisions to the previously issued permit (No. 02SW) as summarized below.

The required application, called a notice of intent or NOI, now requires more detailed information relevant to the permit conditions (local stream impairments or TMDLs, calculated area of impervious surfaces, etc.). Also required is an electronic version of a Stormwater Pollution Prevention Plan (SWPPP) including a site map illustrating discharge locations and other information regarding activities of the applicant to protect waters of the state, submitted via email, posting online or another form of electronic submission. The permit requires specific control measures in the SWPPP based on facility type. When the permit is formally adopted, industries currently covered by the 02SW permit will have 90 days to file an NOI, fee payment and SWPPP to the Department to obtain coverage under the reissued permit.

This updated permit requires restoration of impervious surfaces using the updated Maryland Stormwater Design Manual, or equivalent actions, in order to address Maryland requirements for the Chesapeake Bay and local TMDLs and to maintain the quality and protect against future impairments to local receiving waters. The requirement mandates that permittees treat 20% of the impervious surfaces not currently treated to the standards of the Department's Design Manual by the fifth year of the permit term. In cases where onsite restoration isn't possible, offsite restoration is an allowed option. An implementation plan and yearly updates are required to be submitted to the Department.

Another important change in this permit are new monitoring requirements. The proposed permit allows the Department to require monitoring and on-line electronic submission of Discharge Monitoring Reports in specific cases where local discharge is to an impaired water body. Furthermore, it requires monitoring without limits for benchmark parameters for the following industrial sectors. The results of this monitoring must be submitted electronically to the Department.

1. Agricultural Chemicals (SIC 2873-2879), subsector under Chemical and Allied Products Manufacturing, and Refining - Nitrate plus Nitrite Nitrogen at 0.68 mg/L, Total Lead at 0.014, Total Iron at 1.0 mg/L, Total Zinc at 0.04 mg/L and Phosphorus at 2.0 mg/L.
2. Automobile Salvage Yards - Total Suspended Solids (TSS) at 100 mg/L, Total Aluminum at 0.75 mg/L, Total Iron at 1.0 mg/L, and Total Lead at 0.014 mg/L.
3. Scrap Recycling and Waste Recycling Facilities - Chemical Oxygen Demand (COD) at 120 mg/L, Total Suspended Solids (TSS) at 100 mg/L, Total Recoverable Aluminum at 0.75 mg/L, Total Recoverable Iron at 1.0 mg/L, Total Recoverable Lead at 0.014 mg/L, Total Zinc at 0.04 mg/L, and Total Recoverable Copper at 0.0038 mg/L.
4. Fabricated Metal Products - Nitrate plus Nitrite Nitrogen at 0.68 mg/L, Total Zinc at 0.04 mg/L.

There are also requirements for inspection and reporting. Quarterly visual examinations of stormwater discharges are required to evaluate the effectiveness of the SWPPP. The Quarterly Visual Monitoring Form summarizing these self-performed examinations and must be maintained on-site with the SWPPP. An annual report maintained on-site will also be required.

Finally the permit includes several clarifications on the types of eligible discharges authorized by the permit and updates various permit conditions. The updated permit conditions include, but are not limited to: requirements to obtain coverage under an individual permit, as necessary; termination of coverage under a permit; continuation of an expired general permit; corrective action requirements and triggers; the definitions for stormwater associated with industrial activity, restoration of impervious surfaces, impaired water, total maximum daily load (TMDL) and other terms; facility operation and maintenance; permit modification; and civil penalties for violations of permit conditions.

The Department will hold public hearings concerning the tentative determination on Monday, **November 26, 2012 at 1p.m.** and **Friday, November 30, 2012 at 1p.m.** in the Terra Conference Room at the Maryland Department of the Environment, 1800 Washington Blvd, Baltimore, MD 21230.

Any hearing impaired person may request an interpreter at the hearing by contacting Tyrone Hill, Office of Fair Practices at (410) 537-3964 at least ten working days prior to the scheduled hearing date. TTY users should contact the Maryland Relay Service at 1-800-201-7165.

The draft permit is available on MDE's website ([www.mde.state.md.us](http://www.mde.state.md.us)) and can be found at the Wastewater Permits website (<http://www.mde.state.md.us/waterpermits>) under "Water Applications and Other Forms" and then "Industrial Sources that Discharge Stormwater Only", or by searching "stormwater.aspx" in the right hand corner search engine during the comment period. Any questions regarding this tentative determination, including the draft permit and fact sheet should be directed to Michael Richardson at the Maryland Department of the Environment, Water Management Administration, at [mrichardson@mde.state.md.us](mailto:mrichardson@mde.state.md.us), by telephone at 410-537-3654 between the hours from 8:00 a.m. to 5:00 p.m., Monday through Friday. Copies of the document may be obtained at a cost of \$0.36 per page. Written comments concerning the tentative determination will also be considered in the preparation of a final determination if received by Michael Richardson at the above address, on or before **Friday, January 4, 2013**. This comment period already incorporates the additional 60-day period provided in § 1-601(D)(I)(2) of the Environment Article.

[12-20-31]

# General Notices

## Notice of ADA Compliance

The State of Maryland is committed to ensuring that individuals with disabilities are able to fully participate in public meetings. Anyone planning to attend a meeting announced below who wishes to receive auxiliary aids, services, or accommodations is invited to contact the agency representative at least 48 hours in advance, at the telephone number listed in the notice or through Maryland Relay.

### BOARD OF ARCHITECTS

**Subject:** Public Meeting  
**Date and Time:** October 24, 2012, 10 a.m.  
**Place:** 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD  
**Contact:** Pamela J. Edwards (410) 230-6262

[12-20-28]

### BOARD OF CHIROPRACTIC AND MASSAGE THERAPY EXAMINERS

**Subject:** Public Meeting  
**Date and Time:** October 11, 2012, 10 a.m. — 1 p.m.  
**Place:** Department of Health and Mental Hygiene, 4201 Patterson Ave., Rm. 108/109, Baltimore, MD  
**Contact:** Maria Ware (410) 764-5902

[12-20-22]

### CORRECTIONAL TRAINING COMMISSION

**Subject:** Public Meeting  
**Date and Time:** October 23, 2012, 10 a.m. — 12 p.m.  
**Place:** Public Safety Education and Training Center, 6852 4th St., Sykesville, MD  
**Contact:** Thomas C. Smith (410) 875-3605

[12-20-14]

### ELEVATOR SAFETY REVIEW BOARD

**Subject:** Public Meeting  
**Date and Time:** October 19, 2012, 10 a.m. — 12 p.m.  
**Place:** 500 N. Calvert St., 2nd Fl. Conf. Rm., Baltimore, MD  
**Contact:** Raquel M. Meyers (410) 230-6379

[12-20-01]

### BOARD OF ENVIRONMENTAL SANITARIANS

**Subject:** Public Meeting  
**Date and Time:** November 7, 2012, 10 a.m. — 4 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:** E. Lee Haskins (410) 537-3594

[12-20-05]

### FIRE PREVENTION COMMISSION

**Subject:** Public Meeting  
**Date and Time:** October 18, 2012, 10 a.m.  
**Place:** Maryland State Police Western Operations Center, 18345 Colonel Henry K. Douglas Dr., Assembly Rm. 105, Hagerstown, MD  
**Add'l. Info:** If public schools in Washington Co. are closed due to inclement weather, the meeting and any appeal hearings will be rescheduled.  
**Contact:** Heidi Ritchie (877) 890-0199

[12-20-20]

### BOARD OF FORESTERS

**Subject:** Public Meeting  
**Date and Time:** October 15, 2012, 10 a.m. — 12 p.m.  
**Place:** 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD  
**Contact:** Dennis L. Gring (410) 230-6224

[12-20-12]

### DEPARTMENT OF HEALTH AND MENTAL HYGIENE/MEDICAID PHARMACY AND THERAPEUTICS COMMITTEE

**Subject:** Public Meeting  
**Date and Time:** November 8, 2012, 9 a.m. — 1 p.m.  
**Place:** Conference Center at Sheppard Pratt Health System, Towson, MD  
**Add'l. Info:** Meeting of the Maryland Medicaid Pharmacy Program's Pharmacy & Therapeutics Committee (Preferred Drug List). Classes of drugs to be reviewed are posted on the Maryland Pharmacy Program website at <http://mmcp.dhmh.maryland.gov/pap/SitePages/Public%20Meeting%20Announcement%20and%20Procedures%20for%20Public%20Testimony.aspx>. See website for agenda, speaker registration, restrictions, and driving directions. Submit e-mail requests to speak and questions to [dhmh.marylandpdlquestions@maryland.gov](mailto:dhmh.marylandpdlquestions@maryland.gov).  
**Contact:** Alex Taylor (410) 767-5878

[12-20-09]

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

**Subject:** Public Meeting  
**Date and Time:** October 10, 2012, 9:30 a.m. — 12 p.m.  
**Place:** 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD  
**Contact:** Steve Smitson (410) 230-6169

[12-20-07]

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

**Subject:** Public Meeting  
**Date and Time:** November 14, 2012, 9:30 a.m. — 12 p.m.  
**Place:** 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD  
**Contact:** Steve Smitson (410) 230-6169

[12-20-08]

### BOARD OF CERTIFIED INTERIOR DESIGNERS

**Subject:** Public Meeting  
**Date and Time:** October 22, 2012, 2 p.m.  
**Place:** 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD  
**Contact:** Pamela J. Edwards (410) 230-6262

[12-20-29]

### MARYLAND STATE LOTTERY COMMISSION

**Subject:** Public Meeting  
**Date and Time:** October 18, 2012, 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

[12-20-35]

GENERAL NOTICES

1356

MARYLAND HEALTH CARE COMMISSION

Subject: Public Meeting
Date and Time: October 18, 2012, 1 p.m.
Place: Maryland Health Care Commission, 4160 Patterson Ave., Conf. Rm. 100, Baltimore, MD
Contact: Valerie Wooding (410) 764-3460 [12-20-02]

MARYLAND HEALTH CARE COMMISSION

Subject: Receipt of Application
Add'l. Info: On September 7, 2012 the Maryland Health Care Commission (MHCC) received an application for Certificate of Need submitted by Memorial Hospital of Easton — Matter No. 12-20-2339 — Relocation and construction of a replacement hospital to be located at Longwoods Road and Route 50. Cost: \$283,240,375

The MHCC shall review the application under Health-General Article, §19-101 et seq., Annotated Code of Maryland, and COMAR 10.24.01.

Any affected person may make a written request to the Commission to receive copies of relevant notices concerning the application. All further notices of proceedings on the application will be sent only to affected persons who have registered as interested parties.

Please refer to the Matter No. listed above in any correspondence on the application. A copy of the application is available for review in the office of the MHCC, during regular business hours by appointment. All correspondence should be addressed to Paul Parker, Deputy Director, Center for Hospital Services, MHCC, 4160 Patterson Avenue, Baltimore, Maryland 21215

Contact: Ruby Potter (410) 764-3276 [12-20-16]

MARYLAND HEALTH CARE COMMISSION

Subject: Formal Start of Review — Notice of Docketing
Add'l. Info: The Maryland Health Care Commission (MHCC) hereby gives notice of docketing of the following application for Certificate of Need:

College View Center — Docket No. 12-10-2336 — Construction of a replacement building to house the current 119 CCF beds and the relocation of 11 temporary delicensed CCF beds to be acquired from Frederick Memorial Hospital. Proposed capital cost: \$19,205,000

MHCC shall review the applications under Health-General Article, §19-101 et

seq., Annotated Code of Maryland, COMAR 10.24.01, and the applicable State Health Plan standards.

Any affected person may make a written request to the Commission to receive copies of relevant notices concerning the application. All further notices of proceedings on the application will be sent only to affected persons who have registered as interested parties.

Persons desiring to become interested parties in the Commission's review of the above-referenced application must meet the requirements of COMAR 10.24.01.01B(2) and (20) and must also submit written comments to the Commission no later than close of business November 5, 2012. These comments must state with particularity the State Health Plan standards or review criteria that you believe have not been met by the applicant as stated in COMAR 10.24.01.08F.

Please refer to the Docket Number listed above in any correspondence on the application. Copies of the application are available for review in the office of MHCC during regular business hours by appointment. All correspondence should be addressed to Paul E. Parker, Director, Center for Hospital Services, Maryland Health Care Commission, 4160 Patterson Avenue, Baltimore, Maryland 21215

Contact: Ruby Potter (410) 764-3276 [12-20-24]

MARYLAND HEALTH CARE COMMISSION

Subject: Formal Start of Review — Notice of Docketing
Add'l. Info: The Maryland Health Care Commission (MHCC) hereby gives notice of docketing of the following application for Certificate of Need:

Garrett County Memorial Hospital — Docket No. 12-11-2337 — Construction of a 4-story, new wind expansion and renovation project to the existing hospital. Proposed cost: \$23,539,350.

MHCC shall review the applications under Health-General Article, §19-101 et seq., Annotated Code of Maryland, COMAR 10.24.01, and the applicable State Health Plan standards.

Any affected person may make a written request to the Commission to receive copies of relevant notices concerning the application. All further notices of proceedings on the application will be sent only to affected persons who have registered as interested parties.

Persons desiring to become interested parties in the Commission's review of the above-referenced application must meet the requirements of COMAR 10.24.01.01B(2)

and (20) and must also submit written comments to the Commission no later than close of business November 5, 2012. These comments must state with particularity the State Health Plan standards or review criteria that you believe have not been met by the applicant as stated in COMAR 10.24.01.08F.

Please refer to the Docket Number listed above in any correspondence on the application. Copies of the application are available for review in the office of MHCC during regular business hours by appointment. All correspondence should be addressed to Paul E. Parker, Director, Center for Hospital Services, Maryland Health Care Commission, 4160 Patterson Avenue, Baltimore, Maryland 21215.

Contact: Ruby Potter (410) 764-3276 [12-20-27]

MARYLAND PUBLIC BROADCASTING COMMISSION

Subject: Public Meeting
Date and Time: October 23, 2012, 8:30 a.m.
Place: Maryland Public Television, Owings Mills, MD
Contact: Sharon Abernathy (410) 581-4141

[12-20-04]

MINORITY BUSINESS ENTERPRISE ADVISORY COMMITTEE

Subject: Public Meeting
Date and Time: October 17, 2012, 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

[12-20-06]

BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

Subject: Public Meeting
Date and Time: October 10, 2012, 9:30 a.m.
Place: 4201 Patterson Ave. Rm. 109, Baltimore, MD
Add'l. Info: Board anticipates voting on amendments to COMAR 10.33.01.

Contact: Patricia A. Hannigan (410) 764-4750

[12-20-19]



**BOARD OF PLUMBING**

**Subject:** Public Meeting  
**Date and Time:** October 18, 2012, 10 a.m. — 12:30 p.m.  
**Place:** 500 N. Calvert St., Rm. 302, Baltimore, MD  
**Contact:** Brenda Clark (410) 230-6164  
 [12-20-03]

**POLICE TRAINING COMMISSION**

**Subject:** Public Meeting  
**Date and Time:** October 10, 2012, 10 a.m. — 12 p.m.  
**Place:** Public Safety Education and Training Center, 6852 4th St., Sykesville, MD  
**Contact:** Thomas C. Smith (410) 875-3605  
 [12-20-15]

**BOARD OF EXAMINERS OF PSYCHOLOGISTS**

**Subject:** Public Meeting  
**Date and Time:** October 12, 2012, 9 a.m. — 1 p.m.  
**Place:** 4201 Patterson Ave., Conf. Rm. 110, Baltimore, MD  
**Add'l. Info:** Sign language interpreters/other appropriate accommodations for qualified individuals with disabilities will be provided upon request. Proposed changes to regulations may be discussed.  
**Contact:** Dorothy Kutcherman (410) 764-4703  
 [12-20-13]

**BOARD OF PUBLIC ACCOUNTANCY**

**Subject:** Public Meeting  
**Date and Time:** November 13, 2012, 9 a.m. — 12 p.m.  
**Place:** 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD  
**Contact:** Dennis L. Gring (410) 230-6224  
 [12-20-11]

**RACING COMMISSION**

**Subject:** Public Meeting  
**Date and Time:** October 16, 2012, 12:30 — 1 p.m.  
**Place:** Laurel Park, Laurel, MD  
**Contact:** J. Michael Hopkins (410) 296-2982  
 [12-20-10]

**REAL ESTATE COMMISSION**

**Subject:** Public Meeting  
**Date and Time:** October 17, 2012, 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  
 [12-20-17]

**REAL ESTATE COMMISSION**

**Subject:** Public Hearing  
**Date and Time:** October 17, 2012, 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  
 [12-20-18]

**WORKERS' COMPENSATION COMMISSION**

**Subject:** Public Meeting  
**Date and Time:** October 11, 2012, 4 — 5 p.m.  
**Place:** 10 E. Baltimore St., Baltimore, MD  
**Add'l. Info:** Medical Fee Guide Committee meeting  
**Contact:** Timothy Bailey (410) 864-5326  
 [12-20-21]

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

#### Part 2

- 09 Medical Care Programs

#### Part 3

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

#### Part 4

- 23 Advance Directive Registry
- 24 Maryland Health Care Commission
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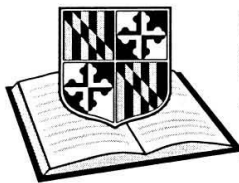
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