

Maryland Register

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Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before June 23, 2014, 5 p.m.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 June 23, 2014.

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



Information About the Maryland Register and COMAR

MARYLAND REGISTER

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

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

The following information is also published regularly in the Register:

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

CITATION TO THE MARYLAND REGISTER

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

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

CODE OF MARYLAND REGULATIONS (COMAR)

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

CITATION TO COMAR REGULATIONS

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

DOCUMENTS INCORPORATED BY REFERENCE

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

HOW TO RESEARCH REGULATIONS

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

SUBSCRIPTION INFORMATION

For subscription forms for the Maryland Register and COMAR, see the back pages of the Maryland Register. Single issues of the Maryland Register are \$15.00 per issue.

CITIZEN PARTICIPATION IN THE REGULATION-MAKING PROCESS

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

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

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

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PERSONS WITH DISABILITIES

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COMAR Online

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

The Maryland Register is also available at www.dsd.state.md.us.

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

Availability of Monthly List of Maryland Documents

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

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

CLOSING DATES AND ISSUE DATES through JANUARY 23, 2015

Issue Date	Emergency and Proposed Regulations 5 p.m.*	Final Regulations 10:30 a.m.	Notices, etc. 10:30 a.m.
July 25	July 7	July 16	July 14
August 8	July 21	July 30	July 28
August 22	August 4	August 13	August 11
September 5	August 18	August 27	August 25
September 19**	August 28	September 10	September 8
October 3	September 15	September 24	September 22
October 17	September 29	October 8	October 6
October 31**	October 10	October 22	October 20
November 14	October 27	November 5	November 3
December 1***	November 7	November 17	November 13
December 12	November 24	December 3	December 1
December 26**	December 5	December 15	December 11
January 9	December 22	December 30	December 29
January 23	January 5	January 14	January 12

* 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

*** Note issue date and closing date changes

The regular closing date for Proposals and Emergencies is Monday.

REGULATIONS CODIFICATION SYSTEM

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

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

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

Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed

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

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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02.01.11.01—.05 • 40:17 Md. R. 1423 (8-23-13)

03 COMPTROLLER OF THE TREASURY

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09.12.81.01 • 41:10 Md. R. 570 (5-16-14)

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10.01.08.03 • 41:11 Md. R. 613 (5-30-14)

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10.07.03.01—.18 • 41:13 Md. R. 759 (6-27-14)

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The Governor

EXECUTIVE ORDER 01.01.2014.10

Rescission of Executive Order 01.01.2014.09

WHEREAS, I, Martin O'Malley, Governor of the State of Maryland, declared a State of Emergency by Executive Order 01.01.2014.09 due to the threat to the public health and safety caused by the impact of severe weather in Washington and Allegany Counties; and

WHEREAS, The emergency conditions caused by the impact of severe weather in these counties no longer exist.

NOW, THEREFORE, I, MARTIN O'MALLEY, GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND THE LAWS OF MARYLAND, DO HEREBY PROCLAIM THAT THE STATE OF EMERGENCY IN THE STATE OF MARYLAND IS TERMINATED AND HEREBY RESCIND EXECUTIVE ORDER 01.01.2014.09.

GIVEN Under My Hand and the Great Seal of the State of Maryland in the City of Annapolis, this 20th day of June, 2014.

MARTIN O'MALLEY
Governor

ATTEST:

JOHN P. MCDONOUGH
Secretary of State

[14-14-36]

EXECUTIVE ORDER 01.01.2014.11

Fiscal Year 2015 State Employees' Reduction Recovery Plan (Rescinds Executive Order 01.01.2011.08)

WHEREAS, In recent years, the State of Maryland experienced budget challenges, caused in large part by the national recession, which necessitated reductions in the budgets for Fiscal Years 2009, 2010, and 2011;

WHEREAS, To responsibly address revenue shortfalls and ensure Maryland had a balanced budget and kept its AAA bond rating, the O'Malley-Brown Administration has reduced planned spending by \$9.4 billion since taking office and has eliminated 6,001 State positions, bringing Maryland's Executive Branch to the smallest it has been (per capita) since 1972;

WHEREAS, As a significant part of the State's cost-containment efforts, State employees have been required to participate in carefully managed furlough and salary reduction plans, pursuant to Executive Orders 01.01.2008.20, 01.01.2009.11 and 01.01.2010.11;

WHEREAS, Additional savings have been achieved as a result of the service reduction days implemented in conjunction with the aforementioned Executive Orders;

WHEREAS, Maryland State employees and their exclusive bargaining representatives have partnered with the State in an effort to ameliorate the impact of the fiscal crisis on the State; and

WHEREAS, In consideration of the past sacrifices made by State employees for the greater good of the citizens of Maryland, furloughs, salary reductions, and increased health and retirement costs, it is in the interest of the State to afford employees with some manner of relief.

NOW, THEREFORE, I, MARTIN O'MALLEY, GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, HEREBY, EFFECTIVE JULY 1, 2014, PROCLAIM THE FOLLOWING EXECUTIVE ORDER AND RESCIND EXECUTIVE ORDER 01.01.2011.08:

A. Except as provided in paragraph E, this Executive Order applies to all non-contractual employees of the State of Maryland, including employees of agencies with independent salary setting authority or independent personnel systems, employees of the Maryland Food Center Authority, the Maryland Port Administration, and the Maryland Stadium Authority.

B. "Employees of 24/7 operations" means direct care employees in health, juvenile services, and correctional facilities; police officers employed by the State at the rank of first sergeant or below, except those in administrative or clerical positions; and other employees designated by the Secretary of Budget and Management who work on a shift schedule providing services as part of a 24-hour operation.

C. (1) For Fiscal Year 2015, routine State government operations shall be significantly curtailed on the following days: the Friday before Labor Day; the day before Thanksgiving; the work day before the Christmas holiday; the work day before the New Year's holiday; and the Friday before Memorial Day. The only exception to this list will be that the Maryland Department of Transportation employees will have a service reduction day on the day after Thanksgiving instead of the day before Thanksgiving.

The Secretary of Budget and Management shall authorize paid administrative leave for the aforementioned five days for non-contractual, non-24/7 State employees.

(2) Employees of 24/7 operations will receive five days of Administrative Leave at the beginning of Fiscal Year 2015. The use of such Administrative Leave shall require supervisor approval and shall be authorized in a manner that minimizes the use of overtime at each affected agency. The Administrative Leave may be used at any time prior to the employee's separation from State employment. Employees are not entitled to compensation for unused Administrative Leave.

D. The Secretary of Budget and Management, the heads of every other personnel system, and the appointing authorities shall take all action as necessary or desirable to implement this plan.

E. This Executive Order does not apply to:

- (1) The Legislative Branch;
- (2) The Judicial Branch;
- (3) Officers whose compensation may not lawfully be reduced under Article III, § 35 of the Maryland Constitution;
- (4) Employees designated as entirely or partially exempt from any provision of this Executive Order by the Secretary of Budget and Management;
- (5) Employees of the Maryland Automobile Insurance Fund and the Injured Workers' Insurance Fund; and

(6) Employees of the University System of Maryland, St. Mary's College of Maryland, Morgan State University and Baltimore City Community College.

GIVEN Under My Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 20th day of June, 2014.

MARTIN O'MALLEY
Governor

ATTEST:

JOHN P. MCDONOUGH
Secretary of State

[14-14-37]

EXECUTIVE ORDER 01.01.2014.12

Overdose Prevention Council

Whereas, Many states across the country, including Maryland, have seen a rising number of deaths caused by alcohol and drug overdoses in recent years;

Whereas, Most recently, in 2013 a total of 858 drug and alcohol-related intoxication deaths occurred in Maryland, a seven percent increase over the number of deaths in 2012;

Whereas, Opioids have been involved in the majority of overdose deaths since 2007. Opioids include heroin and prescription opioid drugs such as oxycodone, hydrocodone, hydromorphone, methadone, fentanyl, tramadol, and codeine;

Whereas, The Maryland Department of Health and Mental Hygiene identified a shift from prescription opioids to heroin among drug overdose deaths in 2012 and 2013. There was an 18% increase in the number of heroin-related deaths between 2012 and 2013, and there has been an 88% increase since 2011;

Whereas, The rise in the number of opioid overdose deaths represents an urgent and growing public health threat, cutting across all demographics and geographical settings in Maryland, and also represents a serious threat to the security and economic well-being of the State;

Whereas, One of the Governor's 16 strategic goals is to reduce overdose deaths by 20% by the end of 2015;

Whereas, Maryland State agencies have different expertise, capabilities, and data that when shared can better inform a coordinated, statewide response to the opioid overdose epidemic; and

Whereas, Coordinated action among State agencies can make a greater impact in reducing overdose deaths.

NOW, THEREFORE, I, MARTIN O'MALLEY, GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, HEREBY PROCLAIM THE FOLLOWING EXECUTIVE ORDER, EFFECTIVE IMMEDIATELY:

A. Establishment. There is a Governor's Overdose Prevention Council (Council).

B. Membership.

(1) The Council is a subcabinet of the Governor and shall consist of the heads of the following State agencies or their designee and such other executive branch agencies as the Governor may designate:

(a) The Department of Health and Mental Hygiene;

(b) The Department of State Police;

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

(d) The Department of Juvenile Services; and

(e) The Institute for Emergency Medical Services Systems.

(2) Staff members from the Office of the Governor and from other State agencies, including the Governor's Office of Crime Control and Prevention and the Office of Problem Solving Courts, will also be regular participants.

(3) Other State agencies may be asked to participate at the invitation of the Chair.

C. Duties.

(1) The Council shall advise and assist the Governor in establishing a coordinated, statewide effort to reduce the number of fatal and non-fatal unintentional overdoses in the State.

(2) The member State agencies (Agencies) listed in Paragraph B(1) shall seek opportunities to share data with one another and with the Office of the Governor for the purpose of supporting public health and public safety responses to the opioid overdose epidemic. The Agencies shall share the data in their possession relevant to the overdose epidemic to the maximum extent permitted by law.

(3) The Council shall develop recommendations for policy, regulations, or legislation to address the opioid overdose epidemic and facilitate improved sharing of public health and public safety information among State agencies.

(4) The Council shall build on existing efforts and develop a statewide plan to reduce the number of fatal and non-fatal overdoses in the State, with strategic interventions to include:

(a) Sharing information and data on opioid interdiction, addiction, and overdose across State agencies and analyzing the data to detect trends and target prevention efforts;

(b) Expanding access and eliminating barriers to treatment and recovery services for individuals suffering from opioid use disorders;

(c) Exploring ways to offer treatment to individuals who may have experienced a drug overdose; and

(d) Considering opportunities to emphasize treatment over enforcement in appropriate circumstances, particularly as consistent with Maryland's "Good Samaritan Law" as enacted by Chapter 401 of the Acts of the General Assembly of 2014, effective October 1, 2014.

(5) The Department of State Police, the Institute for Emergency Medical Services Systems, and the Department of Health and Mental Hygiene shall work together to train and equip first responders, including law enforcement officers, to administer naloxone to individuals who may have experienced a drug overdose. Within 60 days, the Department of State Police, the Institute for Emergency Medical Services Systems, and the Department of Health and Mental Hygiene shall each submit to the Office of the Governor and the Council that agency's plan for expanding training for naloxone distribution.

(6) The Department of Public Safety and Correctional Services shall review the availability of treatment and recovery services in its facilities and, within 90 days, shall submit to the Office of the Governor and the Council a report and recommendations regarding access to treatment.

(7) In coordination with the Secretary of the Department of Health and Mental Hygiene, the Boards of Physicians, Nursing, and Dental Examiners shall consider requiring education among medical professionals on appropriate opioid prescribing and access to addiction treatment services.

(8) On behalf of the Council, the Department of Health and Mental Hygiene shall:

(a) Submit an annual report to the Governor and the public in the form of the Maryland Overdose Prevention Plan, which shall include contributions from each of the Council’s member agencies; and

(b) Release quarterly reports to the Governor and the public summarizing and analyzing data on fatal overdoses in the State.

(9) On behalf of the Council, the Department of Health and Mental Hygiene shall launch a public relations campaign, with a special focus on families, to raise awareness of the overdose epidemic.

D. Procedures.

(1) The Secretary of the Department of Health and Mental Hygiene shall chair the Council. The Chair shall:

(a) Oversee the implementation of this Executive Order and the work of the Council;

(b) Determine the Council’s agenda; and

(c) Identify additional support as needed.

(2) The Council shall meet on a quarterly basis, or more frequently if the members deem appropriate.

(3) In advance of each meeting of the Council, each of the Agencies shall provide updates to the Chair and the Office of the Governor regarding the agency’s efforts to reduce the number of overdoses.

(4) A majority of the Council members shall constitute a quorum for the transaction of any business.

(5) The Council may adopt other procedures as necessary to ensure the orderly transaction of business.

GIVEN Under My Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 27th Day of June, 2014.

MARTIN O’MALLEY
Governor

ATTEST:

JOHN P. MCDONOUGH
Secretary of State

[14-14-38]

The Judiciary

COURT OF APPEALS OF MARYLAND

June 25, 2014

DISCIPLINARY PROCEEDINGS

This is to certify that by an Order of the Court dated April 2, 2014, **CHRISTOPHER MICHAEL MAY, JR.**, 2015 Gov. Thomas Bladen Way, #301, Annapolis, Maryland 21401, has been disbarred by consent, effective June 2, 2014, from the further practice of law in the 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 by an Order of the Court dated June 6, 2014, **SANDY YEH CHANG**, 1 Research Court, Suite 140, Rockville, Maryland 20850, has been suspended, effective immediately, from the further practice of law in the State, and his name as an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 16-773(d)).

This is to certify that the name, **KENNETH MICHAEL ROBINSON**, 8457 Amanda Place, Vienna, Virginia 22180, has been replaced upon the register of attorneys in the Court of Appeals as of June 18, 2014. Notice of this action is certified in accordance with Maryland Rule 16-781(l).

This is to certify that by an Opinion and Order of the Court dated May 23, 2014, **SUDHA NARASIMHAN**, 22 Shady Elms Mews, Gaithersburg, Maryland 20878, has been suspended for sixty (60) days, effective June 23, 2014, from the further practice of law in the State, and his name as an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 16-760(e)).

[14-14-35]

STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

Notice of Proposed Rules Changes

The Rules Committee has submitted its One Hundred Eighty-Fourth Report to the Court of Appeals, transmitting thereby proposed amendments to Rule 1-322.1 and the proposed repeal of Rule 1-322.2.

The Committee's One Hundred Eighty-Fourth Report and the proposed rules changes are set forth below.

Interested persons are asked to consider the Committee's Report and proposed rules changes and to forward on or before August 11, 2014 any written comments they may wish to make to:

Sandra F. Haines, Esq.
Reporter, Rules Committee
2011-D Commerce Park Drive
Annapolis, Maryland 21401

BESSIE M. DECKER
Clerk
Court of Appeals of Maryland

The Honorable Mary Ellen Barbera,
Chief Judge

The Honorable Glenn T. Harrell, Jr.
The Honorable Lynne A. Battaglia
The Honorable Clayton Greene, Jr.
The Honorable Sally D. Adkins
The Honorable Robert N. McDonald,
The Honorable Shirley M. Watts
Judges

The Court of Appeals of Maryland
Robert C. Murphy Courts of Appeal Building
Annapolis, Maryland 21401

Your Honors:

The Rules Committee submits this, its One Hundred Eighty-Fourth Report and recommends that the Court repeal Rule 1-322.2 and adopt an amendment to Rule 1-322.1 transmitted with this Report.

As explained in a letter to the Court on June 12, 2014, both of those Rules were adopted by the Court in July 2013. Rule 1-322.1, which precludes pleadings and papers filed in court from containing certain personal identifiers, took effect on July 9, 2013. Implementation of Rule 1-322.2, which requires such pleadings and papers to contain a certificate of compliance with Rule 1-322.1, was delayed for a year, to give filers and the clerks an opportunity to become familiar with the requirement, and to make the effective date more consistent with that of a comparable Rule (Rule 20-201(f)(1)(B)) applicable to filings under MDEC.¹ See One Hundred Seventy-Ninth Report of the Rules Committee.

Beginning in late May and early June 2014, the Rules Committee began receiving questions and expressions of concern from the clerks of the Circuit and District Courts regarding the scope of Rule 1-322.2 – whether it applied to transcripts, trial exhibits, charging documents in criminal cases, landlord-tenant complaints, subpoenas and requests therefor, requests for postponements, changes of address, QDROs, requests for copies, and the like. Every few days, we received a new list of questions and concerns. No concerns were expressed with regard to Rule 1-322.1, which had been in effect for a year, or with regard to Rule 20-201(f)(1)(B). The questions and concerns focused solely on Rule 1-322.2.

Because none of those issues had been raised when Rules 1-322.1 and 1-322.2 were under consideration by the Rules Committee or the Court, neither the Committee nor the Court had an opportunity to consider them. Accordingly, we put the matter of the agenda for the June 19, 2014 meeting of the Committee and asked the Court to defer

¹ Rule 20-201(f)(1)(B) was made technically effective as of July 1, 2013, but because it applies only to filings under MDEC, its actual application commences only when and as MDEC takes effect in the various counties. Its earliest scheduled application was anticipated to be in Anne Arundel County on July 1, 2014. That date has been extended to October 1, 2014.

the effective date of Rule 1-322.2 in order to give the Committee an opportunity to hear directly from the clerks and other interested persons. By Order issued June 17, 2014, the Court deferred the effective date of Rule 1-322.2 until September 1, 2014.

As a result of the presentations and discussion at the June 19 meeting, the Committee concluded that Rule 1-322.2 should be repealed and that a clarifying amendment should be made to Rule 1-322.1. Those conclusions were based on the following facts and perceptions:

FIRST: Although Rule 1-322.1 was derived from comparable Rules adopted by the Federal Judiciary and in many other States, Rule 1-322.2 was our own invention. The purpose was to place the burden of assuring compliance on the filer, through the device of a certificate of compliance, and avoid any suggestion or inference that the clerks would be responsible for reviewing documents submitted for filing to assure that the documents did not contain impermissible personal identifiers. The Rule was intended for the benefit of the clerks, who then supported it.

SECOND: There is another way of making that burden on the filer clear -- by amending Rule 1-322.1 to state that burden more clearly.

THIRD: A somewhat informal survey of the clerks indicated that, in the year that Rule 1-322.1 has been in effect, there have been very few instances in which a violation of Rule 1-322.1 has been observed by the clerks or brought to the clerks' attention, the implication being that the Rule was being observed without the need of the certificate.

FOURTH: In the District Court, the great bulk of the papers being filed are on pre-printed District Court forms that do not seek the prohibited information, which may account for the fact that it is not supplied, yet, to comply with Rule 1-322.2, all, or nearly all, of those forms would have to be revised and reprinted.

In short, there is now considerable doubt whether Rule 1-322.2 really is necessary to assure compliance with Rule 1-322.1.

As noted, the proposed amendment to Rule 1-322.1 is essentially a clarifying one. Putting the prohibition in the active voice will make more clear that the duty of assuring compliance is on the filer, not the clerk.

For the further guidance of the Court and the public, following the proposed amendments to each of the existing Rules is a Reporter's note describing in further detail the reasons for the proposals. *We caution that the Reporter's notes are not part of the Rules, have not been debated or approved by the Committee, and are not to be regarded as any kind of official comment or interpretation.* They are included solely to assist the Court in understanding some of the reasons for the proposed changes.

Respectfully submitted,
Alan M. Wilner
Chair

AMW:cdc

**MARYLAND RULES OF PROCEDURE
TITLE 1 - GENERAL PROVISIONS
CHAPTER 300 - GENERAL PROVISIONS**

AMEND Rule 1-322.1 to clarify that compliance with the Rule is the duty of the filer of a paper or electronic filing, as follows:

Rule 1-322.1. EXCLUSION OF PERSONAL IDENTIFIER INFORMATION IN COURT FILINGS

(a) Applicability

This Rule applies only to pleadings and other papers filed in an action on or after July 9, 2013 by a person other than a judge or judicial appointee. The Rule does not apply to administrative records, business license records, or notice records, as those terms are defined in 16-1001 (a).

Committee note: Although not subject to this Rule, judges and judicial appointees should be aware of the purpose of the Rule and refrain from including personal identifier information in their filings, unless necessary.

Cross reference: For the definition of "action," see Rule 1-202. For the prohibition against including certain personal information on recordable instruments, see Code, Real Property Article, §3-111. For the prohibition against publicly posting or displaying on an Internet Website certain personal information contained in court records, including notice records, see Code, Courts Article, §1-205.

(b) Generally

Except as otherwise provided in this Rule, required by law, permitted by court order, or required to implement a court order, [the following personal identifier information shall not be included in any electronic or paper filing with a court] *the filer of any paper or electronic filing with a court shall not include in the filing the following personal identifier information:*

(1) an individual's Social Security number or taxpayer identification number; or

(2) the numeric or alphabetic characters of a financial or medical account identifier.

(c) Exceptions

Unless otherwise provided by law or court order, section (b) of this Rule does not apply to the following:

(1) a financial account identifier that identifies the property allegedly subject to forfeiture in a forfeiture proceeding; or

(2) the record of an administrative agency proceeding.

(d) Alternatives

If, by reason of the nature of the action, it is necessary to include in a filing personal identifier information described in section (b) of this Rule, the filer may:

(1) include in the filing only the last four digits of the Social Security or taxpayer identification number or the last four characters of the financial or medical account identifier, unless that identifier consists of fewer than eight characters, in which event all characters shall be redacted;

Committee note: Financial accounts include credit and debit card accounts, bank accounts, brokerage accounts, insurance policies, and annuity contracts. PIN numbers or other account passwords also may need to be redacted, as well as health information identifiers.

(2) file the unredacted document under seal, if permitted by order of court;

(3) if the full information is required to be provided only to another party or to a court official, other than a judge or judicial appointee, provide the information separately to that party or official and file only a certificate that the information has been so provided;

Committee note: It may be necessary to provide personal identifier information to a court official, including a clerk, sheriff, or constable, in order for that official to send or serve notices, summonses, or other

documents. Subsection (d)(3) of this Rule is not intended to permit ex parte communications with a judge.

(4) if the full information is required to be in the filing and the filing is a paper filing, file the paper in duplicate, one copy with the information redacted as required by section (b) of this Rule and one copy without redaction, together with instructions to the clerk to shield the unredacted copy in conformance with the Rules in Title 16, Chapter 1000; or

(5) if the full information is required to be in the filing and the filing is electronic, designate, in conformance with the applicable electronic filing requirements, the information to be redacted or shielded for purposes of public access.

Cross reference: See Rule 20-201.

(e) Protective Orders

For good cause, the court may, by order, in a case:

- (1) require redaction of additional information; and
- (2) limit or prohibit a nonparty's remote electronic access to a document filed with the court.

Committee note: Other than remote access to docket entries, nonparties currently do not have remote access to documents filed with the court, except under certain limited circumstances, such as in asbestos-related litigation.

(f) Non-conforming Documents

(1) Waiver

A person waives the protection of section (b) of this Rule as to the person's own information by filing it without redaction and not under seal.

(2) Sanctions

If a person fails to comply with this Rule, the court on motion of a party or on its own initiative, may enter any appropriate order.

Committee note: This Rule does not affect the discoverability of personal information.

Source: This Rule is in part derived from Fed. R. Civ. P. 5.2 (2007) and is in part new.

(b) Action by Clerk

The clerk shall not accept for filing any pleading or other paper requiring a certificate under section (a) of this Rule unless the pleading or paper contains the certificate.

Source: This Rule is new.]

REPORTER'S NOTE

In conjunction with a proposed amendment to Rule 1-322.1, Rule 1-322.2 is proposed to be repealed prior to its September 1, 2014 effective date.

[14-14-26]

REPORTER'S NOTE

Rule 1-322.1 is proposed to be amended to clarify that compliance with the Rule is the duty of the filer of a paper or electronic filing and is not the duty of the clerk. The clarification is effected by restating section (b) in the active voice, rather than in the passive voice.

**MARYLAND RULES OF PROCEDURE
TITLE 1 - GENERAL PROVISIONS
CHAPTER 300 - GENERAL PROVISIONS**

DELETE Rule 1-322.2, as follows:

[Rule 1-322.2. CERTIFICATE OF EXCLUSION OF PERSONAL IDENTIFIER INFORMATION

(a) Certificate Required

Every pleading or paper filed an action on or after July 1, 2014 shall contain either:

(1) a certificate of compliance with Rule 1-322.1 that is signed by an individual who is (A) the party filing it or an attorney for the party, or (B) if the paper is filed by a nonparty, the person filing it or the person's attorney, employee, or agent; or

(2) in an affected action under Title 20 of these Rules, a certificate that complies with Rule 20-201 (f)(1)(B).

Cross reference: For the definition of "affected action," see Rule 20-101.

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 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Notice of Availability of Evaluation Report

Pursuant to Executive Order 01.01.2003.20, Implementation of the Regulatory Review and Evaluation Act, notice is hereby given that the Evaluation Reports concerning COMAR 10.01—10.04, 10.06 and 10.23 are available for public inspection and comment for a period of 60 days following the date of this notice.

These reports may be reviewed at the Office of Regulations Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, Maryland 21201, Monday through Friday, 7 a.m. to 4 p.m., except State holidays, or on-line at <http://www.dhmv.maryland.gov/regs/SitePages/Work%20Plans%20and%20Evaluation%20Reports.aspx>. Information may be obtained by contacting Michele Phinney at (410) 767-6499 or dhmv.regs@maryland.gov

[14-14-33]

TITLE 13A STATE BOARD OF EDUCATION

Notice of Availability of Evaluation Report

Pursuant to State Government Article, §10-135(b)(1), Annotated Code of Maryland, Regulatory Review and Evaluation Act, and Executive Order 01.01.2003.20, notice is hereby given that the Evaluation Report regarding COMAR 13A.01, 13A.02, 13A.03, 13A.04, 13A.05, and 13A.06 is available for public inspection and comment for a period of 60 days following the date of this notice.

This report may be reviewed by appointment at the Maryland State Board of Education, 200 West Baltimore Street, 7th Floor, Baltimore, MD 21201. Information and appointments may be obtained by contacting Charlene Necessary, Regulations Coordinator, at 410-767-0467 or by email to stateboard@msde.state.md.us.

[14-14-31]

Final Action on Regulations

Symbol Key

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

Title 08

DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.15 Striped Bass

Authority: Natural Resources Article, §§4-215 and 4-701, Annotated Code of Maryland

Notice of Final Action

[14-127-F]

On July 1, 2014, the Secretary of Natural Resources adopted amendments to Regulations **.04** and **.07** under COMAR 08.02.15 Striped Bass. This action, which was proposed for adoption in 41:10 Md. R. 567—569 (May 16, 2014), has been adopted as proposed.

Effective Date: July 21, 2014.

JOSEPH P. GILL
Secretary of Natural Resources

Title 09

DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 10 RACING COMMISSION

09.10.01 Thoroughbred Rules

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

Notice of Final Action

[14-112-F]

On June 17, 2014, the Maryland Racing Commission adopted amendments to Regulation **.31** under COMAR **09.10.01 Thoroughbred Rules**. This action, which was proposed for adoption in 41:9 Md. R. 529—530 (May 2, 2014), has been adopted as proposed.

Effective Date: July 21, 2014.

J. MICHAEL HOPKINS
Executive Director

Title 13B

MARYLAND HIGHER EDUCATION COMMISSION

Subtitle 01 NONPUBLIC SCHOOLS

13B.01.01 Minimum Requirements for Private Career Schools

Authority: Education Article, §§11-105(u) and 11-201, Annotated Code of Maryland

Notice of Final Action

[14-096-F]

On June 25, 2014, the Maryland Higher Education Commission adopted amendments to Regulation **.04** under COMAR **13B.01.01 Minimum Requirements for Private Career Schools**. This action, which was proposed for adoption in 41:8 Md. R. 485 (April 18, 2014), has been adopted as proposed.

Effective Date: July 21, 2014.

CATHERINE M. SHULTZ, J.D.
Acting Secretary of Higher Education

Subtitle 02 ACADEMIC REGULATIONS

13B.02.02 Minimum Requirements for In-State Degree-Granting Institutions

Authority: Education Article, §§11-105(u), and 11-201 Annotated Code of Maryland

Notice of Final Action

[14-092-F]

On June 25, 2014, the Maryland Higher Education Commission adopted amendments to Regulation **.16** under COMAR **13B.02.02 Minimum Requirements for In-State Degree-Granting Institutions**. This action, which was proposed for adoption in 41:8 Md. R. 485—486 (April 18, 2014), has been adopted as proposed.

Effective Date: July 21, 2014.

CATHERINE M. SHULTZ, J.D.
Acting Secretary of Higher Education

Title 15

DEPARTMENT OF AGRICULTURE

Subtitle 18 STATE CHEMIST

15.18.03 Commercial Fertilizer and Soil Conditioner

Authority: Agriculture Article, §6-203, Annotated Code of Maryland; *Chs. 484 and 485, §8, Acts of 2011*

Notice of Final Action

[14-068-F]

On July 2, 2014, the Secretary of Agriculture adopted amendments to Regulation **.06** under **COMAR 15.18.03 Commercial Fertilizer and Soil Conditioner**. This action, which was proposed for adoption in 41:3 Md. R. 254—255 (February 7, 2014) and repropoed in 41:9 Md. R. 533 (May 2, 2014), has been adopted as repropoed.

Effective Date: July 21, 2014.

MARY ANN SETTING
Deputy Secretary of Agriculture

Title 17

DEPARTMENT OF BUDGET AND MANAGEMENT

Subtitle 04 OFFICE OF PERSONNEL SERVICES AND BENEFITS

17.04.11 Leave

Authority: State Personnel and Pensions Article, §§4-106 and 9-101, Annotated Code of Maryland

Notice of Final Action

[14-111-F]

On June 18, 2014, the Secretary of Budget and Management adopted amendments to Regulation **.22** under **COMAR 17.04.11 Leave**. This action, which was proposed for adoption in 41:9 Md. R. 533 (May 2, 2014), has been adopted as proposed.

Effective Date: July 21, 2014.

T. ELOISE FOSTER
Secretary of Budget and Management

Title 21

STATE PROCUREMENT REGULATIONS

Subtitle 01 GENERAL PROVISIONS

21.01.02 Terminology

Authority: State Finance and Procurement Article, §§11-101 and 12-101, Annotated Code of Maryland

Notice of Final Action

[14-116-F]

On July 1, 2014, the Secretary of General Services adopted amendments to Regulation **.01** under **COMAR 21.01.02 Terminology**. This action, which was proposed for adoption in 41:9 Md. R. 534 (May 2, 2014), has been adopted as proposed.

Effective Date: July 21, 2014.

ALVIN C. COLLINS
Secretary of General Services

Subtitle 02 STATE PROCUREMENT ORGANIZATION

21.02.05 Department of General Services

Authority: State Finance and Procurement Article, §§4-204, 12-101, 12-107(b)(3), 12-108, and 13-108(a)(1), Annotated Code of Maryland

Notice of Final Action

[14-117-F]

On July 1, 2014, the Secretary of General Services adopted amendments to Regulation **.04** under **COMAR 21.02.05 Department of General Services**. This action, which was proposed for adoption in 41:9 Md. R. 534 (May 2, 2014), has been adopted as proposed.

Effective Date: July 21, 2014.

ALVIN C. COLLINS
Secretary of General Services

Title 26

DEPARTMENT OF THE ENVIRONMENT

Subtitle 08 WATER POLLUTION

26.08.05 Certification of State Water Quality Laboratories

Authority: Environment Article, Title 9, Subtitle 10, Annotated Code of Maryland

Notice of Final Action

[14-081-F-I]

On June 12, 2014, the Secretary of the Environment adopted the repeal of existing Regulations **.01—.16** and new Regulations **.01—.18** under **COMAR 26.08.05 Certification of State Water Quality Laboratories**. This action, which was proposed for adoption in 41:7 Md. R. 435—441 (April 4, 2014), has been adopted as proposed.

Effective Date: July 21, 2014.

ROBERT M. SUMMERS, Ph.D.
Secretary of the Environment

Subtitle 11 AIR QUALITY

26.11.13 Control of Gasoline and Volatile Organic Compound Storage and Handling

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

Notice of Final Action

[14-108-F]

On June 18, 2014, the Secretary of the Environment adopted amendments to Regulations **.04** and **.05** under **COMAR 26.11.13 Control of Gasoline and Volatile Organic Compound Storage and Handling**. This action, which was proposed for adoption in 41:8 Md. R. 490—491 (April 18, 2014), has been adopted as proposed.

Effective Date: July 21, 2014.

ROBERT M. SUMMERS, Ph.D.
Secretary of the Environment

Proposed Action on Regulations

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

Symbol Key

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

Promulgation of Regulations

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

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

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

Title 05

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Subtitle 04 SPECIAL LOAN PROGRAMS

05.04.15 Accessible Homes for Senior Homeowners Grant Program

Authority: Housing and Community Development Article, §§4-910 and 4-931, Annotated Code of Maryland

Notice of Proposed Action

[14-198-P]

The Secretary of Housing and Community Development proposes to adopt new Regulations .01 — .15 under a new chapter, **COMAR 05.04.15 Accessible Homes for Senior Homeowners Grant Program**.

Statement of Purpose

The purpose of this action is to describe the policies, procedures, and eligibility requirements for grants under the Accessible Homes for Senior Homeowners Grant Program.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Tonna Phelps, Director of Single Family Housing Programs, Division of Development Finance, Department of Housing and Community Development, 100 Community Place, Crownsville, MD 21032, or call 410-514-7509, or email to phelps@mdhousing.org, or fax to 410-510-1897. Comments will be accepted through August 11, 2014. A public hearing has not been scheduled.

.01 General.

These regulations prescribe the policies, procedures, and authorizations for making grants to elderly homeowners to finance accessibility-related modifications to make the owner's dwelling unit more accessible to or functional for the elderly.

.02 Definitions.

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

B. Terms Defined.

(1) "Act" means Housing and Community Development Article, Title 4, Subtitle 9, Annotated Code of Maryland, as amended.

(2) "Annual income" means total household income from all sources, including wages, investment income, Social Security, retirement, disability, and unemployment benefits, less:

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

(b) Abnormal expenses of a long-term nature, such as extraordinary medical, rehabilitation, or special education expenses.

(3) "Applicant" means any person applying for a grant under the Program.

(4) "Authorized officer", for purposes of executing the Program documents, means any of the following:

(a) The Director and any Deputy Director of the Community Development Administration, an agency within the Division of Development Finance of the Department;

(b) The Director of Single Family Housing Programs; and

(c) The Deputy Director of Single Family Housing Programs.

(5) "Contract" means the agreements between a grantee and a licensed general contractor or licensed home improvement contractor accepted by the Department setting forth the terms of performance of work to be financed by a grant made under the Program.

(6) "Department" means the Department of Housing and Community Development.

(7) "Director" means the Director of Single Family Housing Programs of the Department.

(8) "Deputy Director" means the Deputy Director of Single Family Housing Programs of the Department.

(9) "Elderly" means the age limit specified by the Secretary, which is 55 years old or older.

(10) Family of Limited Income.

(a) "Family of limited income" means one or more individuals permanently residing as a household in a dwelling unit in an eligible building whose combined annual income does not exceed an amount established by the Secretary in accordance with Housing and Community Development Article, §4-915, Annotated Code of Maryland.

(b) "Family of limited income" includes a trust described in 42 U.S.C. §1396P(D)(4), or a trust established for the benefit of an individual with a disability by an individual other than the beneficiary and that is funded with the assets that were never owned or controlled by the beneficiary, if:

(i) The income of the trust does not exceed an amount established by the Secretary in accordance with Housing and Community Development Article, §4-915, Annotated Code of Maryland; and

(ii) The beneficiary of the trust is an individual who resides in the residential building owned by the trust.

(11) "Grantee" means a single family owner-occupant who receives a grant to make modifications to an eligible building.

(12) "Household" means an individual or a group of individuals who occupy a dwelling unit as their permanent residence.

(13) "Level I local administrator" means a political subdivision certified by the Department under COMAR 05.04.01.16.

(14) "Level II local administrator" means a political subdivision certified by the Department under COMAR 05.04.01.16.

(15) "Local administrator" means a level I or level II local administrator.

(16) Modification.

(a) "Modification" means any improvement, addition, repair, renovation, or alteration to the interior or exterior of a grantee's residence to make it more accessible or functional for the elderly owner.

(b) Modification includes any improvement or repair that is:

(i) Directly related to making the dwelling unit more accessible or functional; and

(ii) Necessary to ensure the modification can appropriately be made or installed.

(17) "Program" means the Accessible Homes for Senior Homeowners Grant Program.

(18) "Program Director" means the Assistant Director of Special Loan Programs in the Division of Development Finance of the Department.

(19) "Secretary" means the Secretary of Housing and Community Development.

(20) Single Family Owner-Occupant.

(a) "Single family owner-occupant" means an eligible grantee that owns and resides, or intends to reside, in an eligible building.

(b) "Single family owner-occupant" includes a trust described in 42 U.S.C §1396P(D)(4), or a trust established for the benefit of an elderly individual with a disability by an individual

other than the beneficiary and that is funded with the assets that were never owned or controlled by the beneficiary, if:

(i) The income of the trust does not exceed an amount established by the Secretary in accordance with Housing and Community Development Article, §4-916(b), Annotated Code of Maryland; and

(ii) The beneficiary of the trust is an individual who resides in the eligible building owned by the trust.

(21) "Structurally sound" means not having any physical conditions serious enough to endanger the life, property, or safety of the occupants or their invitees, whether or not the building is in compliance with applicable codes and rehabilitation standards.

(22) "Work write-up" means a description of the modifications, and other work items needed for the modification of an eligible building.

.03 Eligible Grantees.

To qualify as an eligible grantee under the Program, single family owner-occupants shall:

A. Be a "family of limited income" as defined in Regulation .02B of this chapter;

B. Own the eligible property in fee simple or under a freely transferable ground rent lease;

C. Have at least one of the owners meet the definition of elderly in Regulation .02B of this chapter who resides in or intends to reside in the property to be modified;

D. Have the legal capacity to incur the obligations of the grant; and

E. Demonstrate to the Department that they cannot undertake the modifications without a grant.

.04 Eligible Buildings.

A. Buildings shall meet the following requirements:

(1) Be located within the State;

(2) Contain not more than four residential units;

(3) Be properly zoned for the proposed use;

(4) Be in need of modifications considered eligible under this chapter;

(5) Be owned by an eligible grantee who shall provide assurance of title or evidence of ownership acceptable to the Department;

(6) Be covered by property insurance; and

(7) If the building is in the 100-year flood plain, as designated by the U.S. Department of Housing and Urban Development, be covered by a flood plain insurance policy.

B. A grant may not be approved unless:

(1) Safe, sanitary, and adequate water supply and sewage disposal are available; and

(2) The building is structurally sound and free of health and safety hazards.

C. A manufactured housing unit is eligible if it is intended for residential use by a single household, and meets the conditions of COMAR 05.04.01.05B.

D. Manufactured homes which are taxed as personal property may be eligible buildings and shall be reviewed by the Department on a case-by-case basis before grant approval.

E. Condominiums and cooperative units owned by an eligible grantee may be eligible buildings and shall be reviewed by the Department on a case-by-case basis before grant approval.

.05 Eligible Uses.

A. Grant proceeds may only be used for the cost, labor and materials for modifications to an eligible building.

B. Grant proceeds may not be used to pay for taxes, insurance, mortgage payments, or nonessential repairs.

C. If a building contains between 2—4 dwelling units, grant proceeds may only be used for:

(1) Modifications to the interior of the eligible grantee's dwelling unit; and

(2) Modifications to the exterior of the eligible building necessary to make the grantee's dwelling unit more accessible.

D. Modifications to the exterior of a condominium or cooperative unit that serves the eligible grantee's dwelling unit may be eligible and shall be reviewed by the Department on a case-by-case basis.

.06 Grant Terms and Conditions — General.

A. The Department shall enter into a grant agreement with each grantee.

B. The Department may establish other terms and conditions in the grant agreement, and any other documents related to the grant, which the Department considers reasonable and necessary to accomplish the objectives of the Program or to ensure compliance with all federal, State, and local laws, ordinances, and regulations, and departmental programs and policies.

C. Maximum Grant Amount.

(1) A grant for a residential building may not exceed \$25,000.

(2) The Director or Deputy Director may, in their discretion, approve increases in the maximum grant amount to cover exceptional circumstances in an amount determined to be reasonable but not exceeding \$60,000.

D. The Department may require that the grant be secured by an instrument recorded in the land records of the county in which the property is located.

E. Insurance.

(1) A grantee shall provide evidence that fire and extended coverage insurance are in effect for 1 year from the date of closing for not less than the replacement value of the home.

(2) If applicable, a grantee shall provide evidence that flood insurance on the home is in effect for 1 year based on the current Federal Emergency Management Administration's requirements.

F. Appraisals. At the discretion of the Program Director or the local administrator, a grantee may be required to obtain an appraisal in a form and manner acceptable to the Department from an acceptable independent fee appraiser showing a building's value before and after the proposed modification.

G. Default. Remedies upon grant default shall be exercised in the discretion of the Department and may be one or more of the remedies provided for in the grant documents or by law, which may include:

(1) Repaying all or a portion of the grant; and

(2) Any other legal action which protects the Department's interests.

.07 Grant Application.

A. The Department may operate the Program or establish procedures that allow a local administrator to accept applications and approve grants under the Program.

B. Application Forms. Grant applications shall be made upon standard forms prescribed by the Department.

C. Application Fee. An applicant may be required to pay an application fee as designated by the Department from time to time.

D. Documentation.

(1) An applicant shall submit with the application any documentation that the Department requires, including, but not limited to, any documentation needed to establish the eligibility of the applicant.

(2) An applicant shall provide evidence satisfactory to the Program demonstrating that the applicant could not undertake the modification without a grant due to:

(a) Insufficient household income to make loan payments; or

(b) The property not having sufficient value to secure private financing.

(3) An applicant shall submit supporting documentation required by the Program guidelines.

.08 Grant Approval and Disapproval.

A. Initial Eligibility Determination.

(1) Each application shall be submitted to the Department or local administrator, as applicable, for initial review to make a preliminary determination of the eligibility of the applicant and the project.

(2) If an applicant is determined preliminarily to be eligible, the applicant will be provided with a letter acknowledging receipt of the application and notifying the applicant of the ongoing review process.

(3) If an applicant is ineligible for a grant, the applicant shall be informed in writing of the determination and the reasons for it.

B. Building Evaluation.

(1) Each building for which an eligible application is received shall be inspected for the purpose of preparing a work write-up by:

(a) The Department;

(b) The local administrator;

(c) A nonprofit corporation that acceptable to the Program; or

(d) A licensed contractor who is acceptable to the Program.

(2) The applicant shall be provided with a copy of the work write-up or an analysis of the modification and instructions for obtaining the contractor's proposals to complete the work.

C. Grant Approval.

(1) Upon receipt and approval of all documentation and the contractor's proposals, the local administrator or the Department shall undertake an analysis of each grant as to amount and other grant terms and conditions.

(2) Approval to make a grant is as follows:

(a) Grants in amounts of \$25,000 or less may be approved by the:

(i) Level II local administrator, when a level II local administrator originates the grant; or

(ii) Program Director, when a level I local administrator or the Department originates a grant; and

(b) Grants or a combination of Program grants in amounts greater than \$25,000 and up to a maximum of \$60,000 may be approved by the Director or Deputy Director.

D. Grant Commitments.

(1) Grant commitments shall be made on forms provided by the Program.

(2) Grant commitments shall specify a time limit for closing the grant which may be extended with the approval of the Program.

(3) If the grant closing does not occur within the specified time, the local administrator or Department, as applicable, shall notify the applicant that the commitment is officially canceled.

E. If a grant application is rejected, the Department or the local administrator, as the case may be, shall notify the applicant in writing stating the reason the grant is rejected.

F. Reconsideration. Applicants may request reconsideration of a rejection in accordance with the procedures contained in the Program guidelines.

G. An initial decision or reconsideration of a decision is not a contested case within the meaning of the Administrative Procedure Act or COMAR 05.01.01.

H. Withdrawal of Application. An applicant may withdraw a grant application at any time before closing by delivering written notice to the Department or the local administrator originating the grant. The applicant shall bear any costs incurred for items other than internal processing including, but not limited to, title examinations, credit reports, and appraisals.

I. Cancellation of Application.

(1) *The Program or the local administrator may cancel an application at any time during processing if the applicant fails to provide information requested by the Program which is required to evaluate the request.*

(2) *Notification of the cancellation of an application shall be made in writing.*

(3) *A canceled application may be reinstated upon the applicant's written request within 60 days following the date of the cancellation.*

(4) *Any time after 60 days following cancellation, a new application with supporting documents may be required.*

.09 Grant Closing.

A. The grant closing shall be scheduled by the Department or the local administrator.

B. Grant Documents.

(1) *Grant document forms shall be provided by the Program and may not be altered.*

(2) *Grant documents shall be executed on behalf of the Department by an Authorized Officer of the Department or an authorized local administrator.*

C. Charges and Fees. The Department or the local administrator may charge and collect from the grantee reasonable and customary amounts acceptable to the Department.

.10 Work Requirements.

A. Contractors and their subcontractors shall meet the requirements of COMAR 05.04.01.13.

B. Work done, materials supplied, and construction procedures employed shall comply with all contract documents, applicable codes and standards, including those set forth in these regulations, and those general specifications established by the Department.

C. Permits. If required by State codes or local codes, all building permits shall be obtained and posted at the project before the beginning of construction.

D. Compliance with applicable codes and obtaining required permits and licenses are the responsibility of the grantee and contractor.

E. Any action taken by the Department or the local administrator to prepare or review work write-ups, evaluate the property, or review and approve plans and specifications is:

(1) *To assure the Department and the local administrator of the adequacy of the proposed work; and*

(2) *Not intended to substitute for or ensure compliance with appropriate State and local building codes.*

.11 Contract Documents.

A. There shall be no modification of any contract documents without the prior written consent of the Department or the local administrator, as evidenced by an approved change order, executed by:

(1) *The contractor; and*

(2) *The grantee.*

B. Contract documents are listed and described in Program guidelines.

C. Inspections. The Department or local administrator, or an agent authorized by the local administrator and acceptable to the Program, may conduct inspections to determine the required scope of work, to verify payments, and to facilitate construction problems and disputes and arbitration procedures.

D. Construction Disputes. If disputes between the contractor and the grantee occur, the Department shall recognize the findings of the Maryland Home Improvement Commission and the Consumer Protection Division of the Office of the Attorney General.

E. Termination of Contracts. Contracts may be terminated for cause in accordance with the grant documents and contract documents

.12 Grant Disbursements.

A. Monitoring of Disbursements.

(1) *The local administrator or Department shall monitor grants and disbursement of grant funds during rehabilitation to assist grantees and to assure that grant funds are properly used.*

(2) *The local administrator or Department shall determine the frequency and level of inspections during rehabilitation based on Program guidelines.*

B. Payments Generally.

(1) *If a grant is originated by a local administrator, Grant funds may be disbursed in full at the closing of the grant to an account established under §C of this regulation.*

(2) *Grant proceeds shall be disbursed for modifications in accordance with the requirements of §B(3)—(5) of this regulation.*

(3) *The local administrator shall return any unused grant proceeds to the Department.*

(4) *Payments of draws shall be by joint payee check issued to the grantee and contractor unless an alternative payment method is approved by the Program Director.*

(5) *Except as provided in §D of this regulation, payments shall be made only for work completed.*

C. Grant accounts established by a local administrator shall comply with the following:

(1) *Grant funds shall be held in a non-interest-bearing account established by the local administrator or the subcontractor and approved by the Department.*

(2) *The account may be:*

(a) *An account with a depository institution that is separate from the other operating accounts of the local administrator or subcontractor;*

(b) *An account with a depository institution that is not separate from the other operating accounts of the local administrator or subcontractor using a separate reconciled general ledger account for all Program funds;*

(c) *An escrow account or attorney's trust account held and managed by an escrow agent if the escrow agent meets the following minimum criteria to the satisfaction of the Department:*

(i) *Any employee of the escrow agent with access to the account shall be covered by a fidelity bond, or insured with employee dishonesty liability insurance, in an amount not less than \$100,000;*

(ii) *The escrow agent shall provide the local administrator or the subcontractor, if any, and the Department with any statements required under this subsection; and*

(iii) *Any other requirements established by the Department; or*

(d) *Another type of account approved by the Department.*

(3) *The Department may require the local administrator or the subcontractor to provide periodic statements to the Department of all grant funds in an account.*

(4) *If the statements do not correspond with the Department's records of grant funds in the account, the local administrator or the subcontractor shall work with the Department to reconcile the differences.*

(5) *The Department may revoke, at any time, its approval of any grant account established under this regulation.*

D. Advance Payments. Advances or down payments may be made to contractors to purchase materials delivered on site or valid purchase requisitions not to exceed 10 percent of the contract costs.

E. Progress Payments.

(1) Progress payments may not be made until the grantee has delivered satisfactory evidence, such as receipts or bills, of the amount of the payment requested.

(2) Progress payments may not be made without an inspection to verify completion of the work, except at the discretion of the Department or the local administrator.

(3) A grantee shall be notified in writing by the Department or the local administrator, as applicable, if their request for payment is refused.

F. Final Payment. Final payment shall be made as follows:

(1) A grantee shall submit a certificate of completion, executed by the grantee and contractor, certifying that all work has been completed in accordance with the contract documents.

(2) Upon final inspection and receipt and approval of the certificate of completion, final payment shall be processed.

(3) If, in the opinion of the local administrator or Department, the contractor has satisfied the contract and the grantee refuses to request or release the final payment, then the following procedures shall apply:

(a) The grantee shall be notified in writing by the local administrator or Department;

(b) The grantee shall explain in writing within 10 days of receiving the written notification why direct payment to the contractor should not be made;

(c) If the grantee responds within the 10-day period and requests a meeting, the local administrator or Department shall hold a meeting at which the grantee shall present the grantee's objections to requesting or releasing the final payment; and

(d) The local administrator or Department may then either approve or disapprove direct payment to the contractor or the grantee.

(4) If the local administrator or Department receives written notice that subcontractors, materialmen, or suppliers have not been paid for work done or material supplied to and for the project, it shall retain an amount equal to the lesser of all funds not yet disbursed and the amount needed to satisfy the claims.

G. Retainage.

(1) The local administrator or Department may retain until final payment 10 percent of the contract costs.

(2) The retainage shall be released at final payment upon verification that all contracted rehabilitation items are complete and acceptable to the Department.

H. Closeout Procedures. After final payment is made, the local administrator or the subcontractor shall reconcile all receipts and disbursements and prepare a close-out statement. A copy of the close-out statement shall be forwarded to the Program.

.13 Nondiscrimination.

A. A contractor, local administrator, or subcontractor may not discriminate against any person on the basis of race, color, religion, national origin, sex, sexual orientation, gender, marital status, physical or mental handicap, or age, except with regard to age as permitted under the federal Housing for Older Persons Act, as amended from time to time, or other similar federal laws, in any aspect of the Program.

B. Each contractor, local administrator, and subcontractor shall comply with all applicable federal, State, and local laws and Department policies regarding discrimination and equal opportunity in employment, housing, and credit practices, and drug and alcohol free workplaces, including:

(1) Title VI and VII of the Civil Rights Act of 1964, as amended;

(2) Title VIII of the Civil Rights Act of 1968, as amended;

(3) The Department's Minority Business Enterprise Program, as amended;

(4) The Americans with Disabilities Act of 1990, as amended;

(5) State Government Article, Title 20, Annotated Code of Maryland, as amended; and

(6) Executive Order 01.01.1989.18 relating to Drug and Alcohol Free Workplaces, and any Department or State regulations adopted or to be adopted to carry out the requirements of that Order.

C. Covenants implementing the requirements of this regulation, including affirmative action measures, shall be included in appropriate agreements between the Department and other parties.

.14 Books and Accounts.

A. Grantees, contractors, and subcontractors shall maintain such books, accounts, and records, and shall file with the Department such financial and other reports as the Department may from time to time require.

B. The books, accounts, and records shall be open to the inspection of representatives of the Department or other agencies of the State during reasonable working hours.

.15 General Provisions.

A. The Department may establish from time to time Program guidelines containing underwriting standards, grant processing requirements, and other requirements or matters relating to the financing of grants or to Program requirements.

B. The Department shall ensure that Program guidelines, fee information, and application forms are publically available on its website and at its offices.

C. Delegation. In addition to authorized officers identified in Regulation .02B of this chapter, the Secretary may delegate to any other official or employee of the Department or Administration the authority to execute or approve any Program documents or grant documents.

D. Through the agreement with the local administrator, specific staff members for the local administrator may be authorized by the Department to execute grant documents on behalf of the Department.

E. False Statements. A grantee who knowingly makes or causes to be made a false statement or report, whether in the nature of an understatement or overstatement of financial condition or any other fact material to the Department or the local administrator originating the grant, is subject to immediate acceleration of the grant, in addition to the penalties authorized by Housing and Community Development Article, §4-933, Annotated Code of Maryland.

F. Waiver. The Secretary may waive or vary particular provisions of these regulations to the extent that the waiver is not inconsistent with the Act if:

(1) Conformance to the requirements of any federal agency in connection with any modification with respect to which federal assistance is sought necessitates waiver or variance of a regulation; or

(2) In the determination of the Secretary, the application of a regulation in a specific case or in an emergency situation would be inequitable or contrary to the purposes of the Act.

RAYMOND A. SKINNER
Secretary of Housing and Community Development

Subtitle 06 HOUSING INSURANCE

05.06.01 Maryland Housing Fund — Multifamily Program

Authority: Housing and Community Development Article, Title 3, Subtitle 2, Annotated Code of Maryland

Notice of Proposed Action

[14-199-P]

The Secretary of Housing and Community Development proposes to amend Regulation .02 under **COMAR 05.06.01 Maryland Housing Fund — Multifamily Program**.

Statement of Purpose

The purpose of this action is to remove the reference to the Amended and Restated Insurance Agreement dated August 30, 1988.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to George Eaton, Director of Maryland Housing Fund, Division of Credit Assurance, Department of Housing and Community Development, 100 Community Place, Crownsville, MD 21032, or call 410-514-7348, or email to Eaton@mdhousing.org, or fax to 410-987-7013. Comments will be accepted through August 11, 2014. A public hearing has not been scheduled.

.02 Scope.

A. (text unchanged)

B. The Multifamily Insurance Reserve is governed by the [Amended and Restated] Multifamily Insurance Agreement [dated as of August 30, 1988], *as may be amended*, by and between the Fund and the Community Development Administration.

C. (text unchanged)

RAYMOND A. SKINNER

Secretary of Housing and Community Development

Title 08

DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.05 Fish

Authority: Natural Resources Article, §§4-215 and 4-701, Annotated Code of Maryland

Notice of Proposed Action

[14-195-P]

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

Statement of Purpose

The purpose of this action is to establish a 2-year study for summer flounder in the Atlantic Ocean in order to evaluate whether commercial size limits could be uniform across all gear types including hook and line. The action also clarifies the declaration period for a summer flounder permit and adds standard language to notify permittees of appeal rights should the Department undertake an administrative action against the permittee.

The action establishes a study for summer flounder in the area of the Atlantic Ocean between 1 and 3 miles from the Maryland coast. The study will consist of a season in May and a season in October. During these seasons in this area, summer flounder may be harvested by commercial licensees using hook-and-line gear at the size limit for all other commercial gear, which is 14 inches. Currently, commercial licensees using hook-and-line gear must abide by the recreational size limit when harvesting Summer Flounder. Outside of the study area, and outside of the study dates, commercial licensees using hook-and-line gear will still be required to follow the recreational size limit, which is currently 16 inches. The study will be run for 2 years, through May 2016. At the conclusion of this period, the Department will evaluate the effect of these regulations on summer flounder fisheries and the extent of conflict among various user groups.

The action also clarifies the declaration for the summer flounder permit. Currently, permittees declare for the permit during license renewal; the old language was not clear that license renewal was the only time to do so, but the new language does. Lastly, the action adds standard language to the penalty section of the regulation to notify permittees of their appeal rights.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed action may have a slight positive economic impact for certain commercial licensees, and may have a slight negative economic impact for other commercial licensees.

II. Types of Economic Impact.	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	NONE	
B. On other State agencies:		
NRP enforcement	NONE	
C. On local governments:	NONE	
	Benefit (+)	Magnitude
	Cost (-)	
D. On regulated industries or trade groups:		
(1) Commercial license holders fishing Atlantic Ocean	(+)	Indeterminable
(2) Chesapeake Bay pound netters	(-)	Indeterminable
(3) Non-Permitted Atlantic Ocean licensees	(-)	Indeterminable
E. On other industries or trade groups:	NONE	

F. Direct and indirect effects on public: NONE

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

B. Enforcement of the study regulations will be handled by current Natural Resources Police staff.

D(1). This action will potentially have a positive impact on commercial license holders fishing in the Atlantic Ocean with hook-and-line gear. This potentially includes all commercial licensees with TFL, FIN, and HLI licenses. Those licensees who use hook-and-line gear to catch summer flounder will now have a season and an area in which they will be able to catch summer flounder with a minimum size of 14 inches, rather than the current minimum size of 16 inches for recreational anglers and commercial hook-and-line anglers. If these licensees do not have summer flounder permits, they will be limited to the current 100-pound-per-day limit that all non-permitted licensees have. Based on research done by the Fisheries Service, a 14-inch summer flounder has a dockside value between \$1.25 and \$2.75/pound. Therefore, a licensee catching their full daily allowance of 14-inch summer flounder will stand to make between \$125 and 275 per trip based on the sale of the summer flounder prior to expenses. In comparison, a 16-inch summer flounder (the current minimum size for commercial fishermen using hook-and-line) would bring between \$1.50 and \$3.50/pound. Therefore, a licensee catching their full daily allowance of 16-inch summer flounder will stand to make between \$150 and \$350 per trip based on the sale of the summer flounder prior to expenses. The actual benefit these licensees will realize from this regulation will be those summer flounder that the licensees catch between 14 and 16 inches. It is not known at this time what percentage of the catch these fish will make up, nor is it known how many licensees will take advantage of the special season in the Atlantic Ocean.

D(2). The allowable quota for summer flounder caught by commercial licensees who are not summer flounder permit holders is shared by all commercial licensees who do not hold a summer flounder permit. In the Chesapeake Bay, pound nets make up the vast bulk of the summer flounder harvest. None of the pound net fishermen in the Chesapeake Bay hold a summer flounder permit. If more of the quota for non-permit holders is caught by hook-and-line fishermen in the Atlantic Ocean, it will decrease the quota available to Chesapeake Bay pound net fishermen, resulting in a negative economic impact. Because it is not known at this time how much the special season in the Atlantic Ocean will increase the hook-and-line fishery, it is not known at this time how great of an economic impact this regulation will have on the pound net fishermen in the Chesapeake Bay.

D(3). The allowable quota for summer flounder caught by commercial licensees who are not summer flounder permit holders is shared by all commercial licensees who do not hold a summer flounder permit. In the Atlantic Ocean, most commercial licensees use gear other than hook-and-line, and only seven licensees hold summer flounder permits. If more of the quota for non-permit holders is caught by hook-and-line fishermen in the Atlantic Ocean, it will decrease the quota available to commercial licensees in the Atlantic Ocean that use gear other than hook-and-line and do not have a summer flounder permit, resulting in a negative economic impact. Because it is not known at this time how much the special season in the Atlantic Ocean will increase the hook-and-line fishery, it is not known at this time how great of an economic impact this regulation will have on the commercial licensees in the Atlantic Ocean that use gear other than hook-and-line and do not have a summer flounder permit.

Economic Impact on Small Businesses

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

Please see analysis in under Types of Economic Impact. Most of the regulated industry, commercial licensees, are also 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 Summer Flounder Study Regulations, Regulatory Staff, Department of Natural Resources, Fisheries Service B-2, 580 Taylor Avenue, Annapolis MD 21401, or call (410) 260-8300, or email to fisheriespubliccomment@dnr.state.md.us, or fax to (401) 260-8310. Comments will be accepted through August 11, 2014. A public hearing has not been scheduled.

.12 Summer Flounder.

A.—B. (text unchanged)

C. Licenses and Permits.

(1)—(3) (text unchanged)

(4) Declaration.

(a) Tidal fish licensees shall declare their intent to fish for summer flounder [by] *between August 1 and August 31* of each year.

(b)—(e) (text unchanged)

(5)—(9) (text unchanged)

D. (text unchanged)

E. Reporting and Penalties.

(1)—(4) (text unchanged)

(5) *Prior to suspending a permit under this regulation or denying an application for a permit, the Department shall give the licensee notice of its intended action and an opportunity to appear at a hearing conducted in accordance with the contested case procedures set forth in State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland, and COMAR 08.01.04.*

F. (text unchanged)

G. Summer Flounder Study Area.

(1) *Study Area. The study area is that part of the Atlantic Ocean located between 1 and 3 miles from the Maryland shoreline.*

(2) *The study shall:*

(a) *Occur May 1 through May 15 and October 16 through October 31, dates inclusive; and*

(b) *Conclude on May 16, 2016.*

(3) *Any individual licensed to catch finfish for commercial purposes may harvest summer flounder in accordance with this section.*

(4) *Notwithstanding §B(2) of this regulation, a commercial licensee fishing in the study area may not catch or possess a summer flounder less than 14 inches total length, regardless of the gear type used.*

(5) *An individual participating in this study shall comply with all other commercial fishing requirements of this regulation.*

(6) *During the study period described in §G(2) of this regulation, a commercial licensee may not engage in fishing activities in the Atlantic Ocean within 1 mile of the Maryland shore, its coastal bays, or their tidal tributaries while in possession of summer flounder, caught by hook and line, that are less than the size described in §B(2)(a) of this regulation.*

JOSEPH P. GILL
Secretary of Natural Resources

Subtitle 07 FORESTS AND PARKS

08.07.07 Licensed Tree Experts

Authority: Natural Resources Article, §§[1-404] *1-104* and 5-415—5-423; State Government Article, §10-206; Annotated Code of Maryland

Notice of Proposed Action
[14-196-P-I]

The Department of Natural Resources proposes to amend Regulation **.02** under **COMAR 08.07.07 Licensed Tree Experts**.

Statement of Purpose

The purpose of this action is to amend the Incorporation by Reference regulation to reflect the most current versions of the existing incorporated documents.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Marian Honeczky, Supervisor, Urban & Community Forestry, MD DNR Forest Service, 580 Taylor Ave., E-1, Annapolis, MD 21401, or call 410-260-8511, or email to mhoneczky@dnr.state.md.us, or fax to 410-260-8595. Comments will be accepted through August 11, 2014. A public hearing has not been scheduled.

Editor’s Note on Incorporation by Reference

Pursuant to State Government Article, §7-207, Annotated Code of Maryland, the following have been declared documents generally available to the public and appropriate for incorporation by reference:

- (1) American National Standard for Arboricultural Operations — Safety Requirements ANZI Z133 — 2012;
- (2) American National Standard for Tree Care Operations — Tree, Shrub, and Other Woody Plant Management — Standard Practices (Supplemental Support Systems) ANSI A300 (Part 3) — 2013 Revision of ANSI A300 (Part 3) — 2006;
- (3) American National Standard for Tree Care Operations — Tree, Shrub, and Other Woody Plant Management — Standard Practices (Management of Trees and Shrubs During Site Planning, Site Development, and Construction) ANSI A300 (Part 5) — 2012 Revision of ANSI A300 (Part 5) — 2005;
- (4) American National Standard for Tree Care Operations—Tree, Shrub, and Other Woody Plant Management — Standard Practices (Planting and Transplanting) ANSI A300 (Part 6) — 2012 Revision of ANSI A300 (Part 6) — 2005;
- (5) American National Standard for Tree Care Operations — Tree, Shrub, and Other Woody Plant Management — Standard Practices (Integrated Vegetation Management a. Utility Rights-of-way) ANSI A300 (Part 7) — 2012 Revision of ANSI A300 (Part 7) — 2006; and
- (6) American National Standard for Tree Care Operations — Tree, Shrub, and Other Woody Plant Management — Standard Practices (Root Management) ANSI A300 (Part 8) — 2013.

For this reason, they will not be printed in the Maryland Register or the Code of Maryland Regulations (COMAR). Copies of these documents are filed in special public depositories located throughout the State. A list of these depositories was published in 41:1 Md. R. 9 (January 10, 2014), and is available online at www.dsd.state.md.us. These documents may also be inspected at the office of the Division of State Documents, 16 Francis Street, Annapolis, Maryland 21401.

.02 Incorporation by Reference.

- A. (text unchanged)
- B. Documents Incorporated.

(1) American National Standard for Arboricultural Operations—Safety Requirements[, ANSI Z133.1—2006] *ANZI Z133 — 2012*;

(2) — (3) (text unchanged)

(4) American National Standard for *Tree Care Operations—Tree, Shrub, and Other Woody Plant [Maintenance] Management—Standard Practices (Supplemental Support Systems)[,] ANSI A300 (Part 3)—[2006] 2013 Revision of ANSI A300 (Part 3) —[2000] 2006*;

(5) (text unchanged)

(6) American National Standard for Tree Care Operations—Tree, Shrub, and Other Woody Plant [Maintenance] *Management — Standard Practices (Management of Trees and Shrubs During Site Planning, Site Development, and Construction) ANSI A300 (Part 5)—[2005 Management] 2012 Revision of ANSI A300 (Part 5) — 2005*;

(7) American National Standard for Tree Care Operations—Tree, Shrub, and Other Woody Plant [Maintenance] *Management — Standard Practices (Planting and Transplanting)[,] ANSI A300 (Part 6)—[2005 Transplanting] 2012 Revision of ANSI A300 (Part 6) — 2005*;

(8) American National Standard for Tree Care Operations—Tree, Shrub, and Other Woody Plant [Maintenance] *Management—Standard Practices (Integrated Vegetation Management a. [Electric] Utility Rights-of-way)[,] ANSI A300 (Part 7)—[2006 IVM; and] 2012 Revision of ANSI A300 (Part 7) — 2006*; [and]

(9) American National Standard for Tree Care Operations—Tree, Shrub, and Other Woody Plant Management—Standard Practices (Root Management) ANSI A300 (Part 8)—2013; and

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

JOSEPH P. GILL
Secretary of Natural Resources

Title 09

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

Subtitle 10 RACING COMMISSION

09.10.03 Prohibited Acts

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

Notice of Proposed Action
[14-201-P]

The Maryland Racing Commission proposes to amend Regulation **.01-1** under **COMAR 09.10.03 Prohibited Acts**. This action was considered by the Maryland Racing Commission at a public meeting held on May 20, 2014, notice of which was given by publication in 41:9 Md. R. 542 (May 2, 2014), in accordance with State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to add two therapeutic medications to the current list of 24 permissive medications and to lower the permitted threshold of ketophen.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to J. Michael Hopkins, Executive Director, Maryland Racing Commission, 300 East Towsontown Blvd. Towson, MD 21286, or call 410-296-9682, or email to mike.hopkins@maryland.gov, or fax to 410-296-9687. Comments will be accepted through August 15, 2014. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Maryland Racing Commission during a public meeting to be held on August 19, 2014, at 12:30 p.m. at Ocean Downs Raceway, Berlin, Maryland.

.01-1 Restricted Use of Medications and Other Substances.

The use of the following medications and other substances are permitted if quantitated at not more than the specified thresholds:

A. (text unchanged)

A-1. Albuterol quantitated at not more than 1 nanogram per milliliter of urine;

B.— N. (text unchanged)

N-1. Isoflupredone quantitated at not more than 100 picograms per milliliter of blood plasma or serum;

O. Ketoprofen quantitated at not more than [10] 2 nanograms per milliliter of blood plasma or serum;

P. —Y. (text unchanged)

[Z. Stanozolol quantitated at not more than 1 nanogram per milliliter of urine;]

[AA.] Z. — [DD.] CC. (text unchanged)

J. MICHAEL HOPKINS
Executive Director

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

09.19.01 Appraiser Classifications

Authority: Business Occupations and Professions Article, §§16-101(q) and (r), 16-216, 16-220, 16-509 and 16-5A-03, Annotated Code of Maryland

Notice of Proposed Action

[14-205-P]

The Commission of Real Estate Appraisers, Appraisal Management Companies and Home Inspectors proposes to amend Regulation .01 under **COMAR 09.19.01 Appraiser Classifications**. This action was considered at a public meeting of the Commission held on April 8, 2014, notice of which was given in 41:6 Md. R 407 (March 21, 2014) pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to remove a provision that permits a real estate appraiser trainee to be supervised by a licensed real estate appraiser. The existing language is inconsistent with the definition of a supervising appraiser under Business Occupations and Professions Article, §16-101(r), Annotated Code of Maryland, which defines a supervising appraiser as “a certified residential real estate appraiser or a certified general real estate appraiser...” The statutory definition of a supervising appraiser was amended in 2008 to prohibit a licensed real estate appraiser from supervising a trainee appraiser.

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 Patricia Schott, Executive Director, Commission of Real Estate Appraisers, Appraisal Management Companies and Home Inspectors, 500 N. Calvert Street #302, Baltimore, MD 21202, or call 410-230-6165, or email to patricia.schott@maryland.gov, or fax to 410-333-6314. Comments will be accepted through August 11, 2014. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by Commission of Real Estate Appraiser, Appraisal Management Companies and Home Inspectors during a public meeting to be held on August 12, 2014, at 500 N. Calvert Street, Baltimore, MD 21202.

.01 Appraiser Classifications.

A.—D. (text unchanged)

E. An individual who is a real estate appraiser trainee may provide real estate appraisal services in accordance with Business Occupations and Professions Article, §16-101, Annotated Code of Maryland, and as stated in §§A—D of this regulation, while:

(1) Under the supervision of a certified *residential* or [licensed] *certified general* real estate appraiser; and

(2) (text unchanged)

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

09.19.02 Educational Requirements

Authority: Business Occupations and Professions Article, §§16-216, 16-220, 16-302(g), 16-308, 16-309 and 16-5A-01, Annotated Code of Maryland

Notice of Proposed Action
[14-203-P]

The Commission of Real Estate Appraisers, Appraisal Management Companies and Home Inspectors proposes to amend Regulations .01, .03, and .04 under COMAR 09.19.02 Educational Requirements. This action was considered at a public meeting of the Commission held on April 8, 2014, notice of which was given in 41:6 Md. R 407 (March 21, 2014) pursuant to State Government Article, §10-506(c) Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to amend educational requirements for real estate appraisers, as enacted and mandated by the federal Appraiser Qualifications Board (“AQB”) of The Appraisal Foundation, to become effective no later than January 1, 2015. Under the provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (“Title XI”), the AQB establishes the minimum education, experience and examination requirements for real property appraisers. Under Title XI and the enactment of 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 Qualifications Criteria.

The proposed action to amend Regulation .01 Eligibility to Take Examination or Obtain Original Trainee License proposed under COMAR 09.19.02 is to require an individual seeking an original real estate appraiser trainee license to complete a Commission-approved course oriented toward trainee appraiser expectations and responsibilities. This action also proposes to establish that an individual seeking an original trainee license must complete the prescribed qualifying education required for a trainee license within the five year period prior to the date of submission of an application for a trainee license.

This action proposes to require an individual seeking an original licensed real estate license to hold an associate’s degree or higher; or in lieu of an associate’s degree complete 30 semester credit hours of college-level education. This action proposes to require an individual seeking an original certified residential and certified general real estate appraiser license to hold a bachelor’s degree or higher. The proposed action eliminates an existing provision that allows an individual seeking an original certified residential license to hold an associate’s degree or in lieu of an associate’s degree complete 21 semester credit hours of college-level education; and eliminates an existing provision that allows an individual seeking an original certified general license to complete 30 semester credit hours of college-level education in lieu of holding a bachelor’s degree or higher.

The proposed action to amend Regulation .02 Required Courses is to require real estate appraiser trainees to complete a Commission-approved course oriented toward trainee appraiser expectations and responsibilities. It also proposes to add three subtopics of continuing education courses that will be accepted by the Commission.

The proposed action to amend Regulation .04 Continuing Education is to modify the existing list of subtopics of continuing education courses that will be accepted by the Commission. It proposes to establish a requirement that prohibits an appraiser from completing the same continuing education course offering within the appraiser’s continuing education cycle.

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 is sought in order to comply with a federal mandate increasing education requirements for prospective real estate appraiser license and certificate candidates effective January 1, 2015. The proposed action has no independent economic impact.

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 (-)	
D. On regulated industries or trade groups:		
(1) Trainees and Supervising Appraisers	(-)	Unknown
(2) Appraisers	(-)	Unknown
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

D(1). As a result of the federal mandate increasing education requirements, trainees and supervising appraisers may incur a nominal expense to complete the required pre-license requirements.

D(2). A prospective license or certificate candidate who has not earned a college degree, nor completed at least 30 semester credit hours of college level education, may incur an expense to comply with pre-license or certificate requirements mandated by federal oversight authorities.

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 Patricia Schott, Executive Director, Commission of Real Estate Appraisers, Appraisal Management Companies and Home Inspectors, 500 N. Calvert Street #302, Baltimore, MD 21202, or call 410-230-6165, or email to patricia.schott@maryland.gov, or fax to 410-333-6314. Comments

will be accepted through August 11, 2014. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by Commission of Real Estate Appraiser, Appraisal Management Companies and Home Inspectors during a public meeting to be held on August 12, 2014, at 500 N. Calvert Street, Baltimore, MD 21202.

.01 Eligibility to Take Examination or Obtain Original Trainee License.

A. *Licensed Real Estate Appraisers.* Except as provided in COMAR 09.19.04, *on or after January 1, 2015*, to be eligible to sit for the licensed real estate appraisers examination, an applicant shall have successfully completed [90 classroom hours of study which comply with this regulation. On and after January 1, 2008, an applicant shall have successfully completed 150 classroom hours of study.] :

- (1) 150 classroom hours of study; and
- (2) One of the following:
 - (a) An associate’s degree, or higher, from an accredited college, junior college, or community college; or
 - (b) 30 semester credit hours of college-level education from an accredited college, junior college, community college or university.

B. Residential Real Estate Appraisers.

[(1) To] *On and after January 1, 2015*, to be eligible to sit for the certified residential real estate appraisers examination, an applicant shall have successfully completed [120 classroom hours of study which comply with this regulation.] :

- (1) 200 classroom hours of study; and
- (2) [On and after January 1, 2008, an applicant shall have successfully completed:
 - (a) 200 classroom hours of study; and
 - (b) One of the following:
 - (i) An associate’s degree, or higher, from an accredited college, junior college, community college, or university; or
 - (ii) In lieu of an associate’s degree, 21 semester credit hours or their equivalent, including having passed collegiate-level subject matter courses at an accredited college, junior college, community college, or university, in the following: English composition; principles of microeconomics or macroeconomics; finance; algebra, geometry, or higher mathematics; statistics; introduction to computers—word processing/spreadsheets; and business or real estate law.] A bachelor’s degree or higher from an accredited college or university.

C. General Real Estate Appraisers.

[(1) To] *On and after January 1, 2015*, to be eligible to sit for the certified general real estate appraisers examination, an applicant shall have completed [180 classroom hours of study which comply with this regulation. (2) On and after January 1, 2008, an applicant shall have successfully completed]:

- [(a)] (1) (text unchanged)
- [(b)] One of the following:
 - (i) (2) [Bachelor’s] A bachelor’s degree or higher from an accredited college or university; or
 - [(ii)] In lieu of a bachelor’s degree, 30 semester credit hours or their equivalent, including having passed the following collegiate-level subject matter courses from an accredited college, junior college, community college, or university, in the following: English composition; microeconomics; macroeconomics; finance; algebra, geometry, or higher mathematics; statistics; introduction to computers—word processing/spreadsheets; business or real estate law; and two elective courses in accounting, geography, ag-economics, business management, or real estate].

D. [To] *On and after January 1, 2015*, to be eligible for a real estate appraiser trainee license, an applicant, *within the 5 year period prior to the date of submission of an application for a real estate appraiser trainee license*, shall have completed:

- (1) 75 hours of classroom study which comply with this regulation; and
- (2) A Commission-approved course oriented toward trainee appraiser expectations and responsibilities.

.03 Required Courses.

A.—C. (text unchanged)

D. Effective January 1, [2008] 2015, in order to meet the 75-hour requirement and the Trainee Appraiser Expectation and Responsibilities Course set forth in Regulation [.01] .01D of this chapter, an applicant shall, at a minimum, have completed the required Appraiser Qualifications Board core curriculum for the trainee education requirements, as follows:

- (1) (text unchanged)
- (2) Basic appraisal procedures—30 hours; [and]
- (3) The 15-hour national Uniform Standards of Professional Appraisal Practice course or its equivalent—15 hours[.] ; and
- (4) Trainee appraiser and responsibilities course.

E. Continuing education credit may be granted for educational offerings that:

- (1) (text unchanged)
 - (2) Cover real property related appraisal topics, including, but not limited to:
 - (a)—(e) (text unchanged)
 - (f) Land use planning[,] and zoning [, and taxation];
 - (g)—(k) (text unchanged)
 - (l) Real estate appraisal related computer applications; [and]
 - (m) Real estate securities and syndication[.];
 - (n) Developing opinions of real property value in appraisal that also include personal property and/or business value;
 - (o) Seller concessions and impact on value; and
 - (p) Energy efficient items and “green building” appraisals.
- F. (text unchanged)

.04 Continuing Education.

A.—C. (text unchanged)

D. The Commission may not approve a continuing education course unless the course:

- (1)—(2) (text unchanged)
- (3) Covers real estate appraisal-related topics, including but not limited to:
 - (a) (text unchanged)
 - (b) [Arbitrations] Arbitration and dispute resolution;
 - (c) [Business courses] Courses related to real estate appraisal or consulting;
 - (d) [Construction estimating] Development cost estimating;
 - (e) Ethics and standards of professional practice (USPAP);
 - (f) Land use planning[,] and zoning [and taxation];
 - (g) [Litigation] Management, leasing, and timesharing;
 - (h) [Management, leasing, brokerage, time-sharing] Property development and partial interests;
 - (i) [Property development] Real estate law, easements, and legal interests;
 - (j) [Real estate appraisal, that is, valuations/evaluations] Real estate litigation, damages, and condemnation;
 - (k) (text unchanged)
 - (l) Real estate [law] appraisal related computer applications;
 - (m) Real estate [litigation] securities and syndication;

(n) [Real estate appraisal-related computer applications] *Developing opinions of real property value in appraisals that also include personal property and/or business value;*

(o) [Real estate securities and syndication] *Seller concessions and impact on value; and*

(p) [Real property exchange] *Energy efficient items and “green building” appraisals.*

E. The Commission may approve up to one half of an individual’s continuing education credit for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities which are determined to be equivalent to obtaining continuing education.

F. (text unchanged)

G. *The Commission may not grant a licensee or certificate holder credit for completion of the same continuing education course offering within the appraiser’s continuing education cycle, with the exception of the 7-Hour National USPAP Update Course, or its AQB-approved equivalent.*

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, 16-220 and 16-5A-03 Annotated Code of Maryland

Notice of Proposed Action
[14-204-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 April 8, 2014, notice of which was given in 41:6 Md. R 407 (March 21, 2014) pursuant to State Government Article, §10-506(c) Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to amend requirements for supervisory real estate appraisers, in compliance with a mandate by the federal Appraiser Qualifications Board (“AQB”) of The Appraisal Foundation, for applicable provisions to become effective no later than January 1, 2015. Under the provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (Title XI), the AQB establishes the minimum education, experience and examination requirements for real property appraisers. Under FIRREA Title XI and the 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.

The purpose of this action is comply with a federal requirement increasing from 2 to 3 years, the length of time that an individual must hold a residential or general real estate appraiser certificate before the individual is eligible to become a supervising appraiser;

and to increase from 2 to 3 years, the length of time a supervising appraiser is prohibited from supervising a trainee appraiser following a disciplinary action imposed upon his or her certification. 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 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 Patricia Schott, Executive Director, Commission of Real Estate Appraisers, Appraisal Management Companies and Home Inspectors, 500 N. Calvert Street #302, Baltimore, MD 21202, or call 410-230-6165, or email to patricia.schott@maryland.gov, or fax to 410-333-6314. Comments will be accepted through August 11, 2014. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by Commission of Real Estate Appraiser, Appraisal Management Companies and Home Inspectors during a public meeting to be held on August 12, 2014, at 500 N. Calvert Street, Baltimore, MD 21202.

.02 Supervising Appraisers.

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

- (1) (text unchanged)
- (2) May not have been subject to any disciplinary action within the immediately preceding [2] 3 years; and
- (3) Shall have held a certified residential or certified general real estate appraisal license for at least [2] 3 years.

B. (text unchanged)

C. *A supervising appraiser must complete a Commission-approved course that, at a minimum, complies with the specifications for course content established by the AQB and is oriented toward the requirements, expectations and responsibilities of supervisory appraisers.*

GEORGE FAIR
Chairman

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

**Subtitle 28 BOARD OF EXAMINERS
OF LANDSCAPE ARCHITECTS**

09.28.04 Continuing Professional Competency Requirements

Authority: Business Occupations and Professions Article, §9-309(f), Annotated Code of Maryland

Notice of Proposed Action
[14-206-P]

The Board of Examiners of Landscape Architects proposes to adopt new Regulations .01—.11 under a new chapter, **COMAR 09.28.04 Continuing Professional Competency Requirements**. This action was considered by the Board of Examiners of Landscape Architects at a public meeting held on May 13, 2014, notice of which was given by publication in the Daily Record on May 5, 2014, pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to ensure that individuals licensed by the Board of Examiners of Landscape Architects comply with the continuing professional competency requirements as a condition of license renewal. Compliance with the CPC requirements is imperative in achieving the enhanced and contemporary knowledge level of those individuals who offer landscape architectural services and serves a significant role in assuring the health, safety, and welfare of the general public who utilize professional services of Maryland licensed landscape architects.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. Licensees may have to pay for some or all CPC courses in order to accumulate the 24 units required to renew a license on a bi-annual basis. Various public and private agencies, as well as other approved providers, that sponsor CPC activities can benefit by receiving additional revenues from licensees who attend the courses. The American Society of Landscape Architects, a pre-approved CPC provider under these regulations, estimates the cost per professional hour to be at \$40 on average. However, it is expected that a number of consultants and vendors will provide courses sponsored by them for no additional cost to members of landscape architectural firms as a networking/business development activity. Costs may also be lessened by virtue of the fact that Maryland licensees who are licensed in other states requiring compliance with continuing competency or education will be able to use those courses for credit in Maryland.

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:		
Licensees	(-)	Approximately \$480/ year
E. On other industries or trade groups:		
Continuing education providers	(+)	Approximately \$480 or more/ year
F. Direct and indirect effects on public:		
	NONE	

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

D. Based on the approximate per hour cost of \$40, a licensee would pay \$480 per year to comply with the CPC regulations, based on the requirement of 12 CPC hours per year.

E. Providers will collect revenue from licensees. The amount is based on the assumption of \$40 per credit hour.

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 Pamela J. Edwards, Executive Director, Professional Licensing Boards, 500 N. Calvert Street, Room 308, Baltimore, MD 21202, or call 410-230-6262, or email to pam.edwards@maryland.gov, or fax to 410-333-0021. Comments will be accepted through September 15, 2014. A public hearing will be held, on September 15, 2014, 2 pm, at 500 N. Calvert Street, Baltimore, MD 21202, to hear comments from the public. Written comments may be sent to Pamela J. Edwards, 500 N. Calvert Street, Room 308, Baltimore, MD 21202.

Open Meeting

Final action on the proposal will be considered by the Board of Examiners of Landscape Architects during a public meeting to be held on January 20, 2015, 2 p.m., at 500 N. Calvert Street, Third Floor Conference Room, Baltimore, MD 21202.

.01 Purpose.

The State legislature has determined that in order to safeguard the public's health, safety and welfare of Maryland citizens, licensed landscape architects must comply with the continuing professional competency requirements as a prerequisite to the renewal of a license.

.02 Definitions.

A. In this chapter, the following terms have the meaning indicated.
B. Terms Defined.

(1) "Board" means the State Board of Examiners of Landscape Architects.

(2) "Category A/Category B programs" means the types of programs set forth in Regulation .04 of this chapter.

(3) "Health, safety, and welfare subjects" means technical and professional subjects more specifically described in Regulation .04 below that the Board deems necessary and appropriate and that are related to the practice of landscape architecture, as defined in Business Occupations and Professions Article, §9-101, Annotated Code of Maryland.

(4) "Professional Development Hour (PDH)" means one continuous instructional hour spent attending and completing the

professional development activity. One PDH means a minimum of 50 minutes of face-to-face or distance learning instruction per 60-minute hour and is equivalent to a comparable single educational unit that may be utilized by American Society of Landscape Architects, Landscape Architect Continuing Education System, or Council of Landscape Architecture Registration Boards.

.03 Requirements.

A. A licensee shall complete, as a condition of a license renewal, a minimum of 24 PDHs in each individual 2-year licensing term with a:

(1) Minimum of 16 PDHs in Category A programs, including a minimum of 1 PDH in content areas related to the professional ethics; and

(2) Maximum of 8 PDHs in Category B programs.

B. A maximum of 12 PDHs earned in excess of 24 PDHs that are required for a license renewal during the licensing term may be carried forward to apply as credit toward the next individual licensing term.

.04 Professional Development Activities.

A. Professional Development Activity shall meet at least the following criteria in order to be considered qualifying activity:

(1) Maintain and enhance professional competency of licensed landscape architects;

(2) Foster improvement, advancement, and extension of professional skills and knowledge related to the practice of landscape architecture;

(3) Offer learning experiences relevant to current landscape architectural practices as they relate to the public health, safety, and welfare;

(4) Be presented, led or taught at a professional level by well-qualified professionals in the learning environment conducive to learning and appropriate for accomplishing learning objectives described in these regulations; and

(5) Are approved and accepted for credit by:

(a) The American Society of Landscape Architects (“ASLA”);

(b) The Landscape Architecture Continuing Education System (“LACES”); or

(c) The Board.

B. Qualifying activities may fall into one or more of the following categories:

(1) Category A programs shall have the content areas that focus on the following issues:

(a) Research, analysis, assessment, conservation, preservation, and enhancement of land use;

(b) Selection and allocation of cultural, historic and natural resources;

(c) Laws and regulations applicable to the practice of landscape architecture in Maryland;

(d) Standards of practice or care;

(e) Professional ethics; or

(f) Similar topics aimed to maintain, improve or expand the skills and knowledge relevant to the practice of landscape architecture.

(2) Category B activities shall have content areas that focus on the following issues:

(a) Business or government administration; or

(b) Development of traits, skills, or behavioral patterns geared towards improved communications skills, oral and written skills, personal management skills, or other similar programs which contain a clear purpose of improving a licensee’s methods of practice or operations or advancing professionally-related skills and practices as applicable to the practice of landscape architecture.

C. A professional development activity shall provide for clear outcome measures in the form of a narrative, quiz, test, questions and answers, project, or any other appropriate form or method.

D. A professional development activity may be presented by the following methods:

(1) Classroom instruction;

(2) In-house presentation;

(3) Distance learning delivery;

(4) On-line instruction; or

(5) Other formats approved by the Board.

.05 Submissions for Approval.

A. Entities or individuals, including, but not limited to, professional firms conducting in-house presentations, may submit a specific professional development activity for review and approval by the Board.

B. During the application process, the Board will evaluate the suitability of the activity and its presenter.

C. The presenter shall submit adequate information to enable the Board to evaluate the professional development activity. At a minimum, the Board requires the following information to be submitted with each application for approval:

(1) The types and descriptions of proposed or existing programs intended to be offered;

(2) The number of PDHs to be awarded for each activity;

(3) The identity and qualifications of the instructors;

(4) The explanation and sample of outcome measures; and

(5) The sample course outlines detailing the content of activity to be offered.

D. The Board may approve an activity only if it meets all of the following criteria:

(1) The activity’s main content areas are in the health, safety, and welfare subjects; and

(2) The activity enables a licensee to further the licensee’s competency and professionalism as a licensed landscape architect.

E. The Board may suspend or revoke its approval of an activity if, in the judgment of the Board, the intent of Business Occupations and Professions Article, §9-309, Annotated Code of Maryland, is no longer served or a presenter materially changed the content of the activity without the prior written approval of the Board.

.06 Record Keeping.

A. Responsibility to Maintain Records.

(1) The responsibility of maintaining records to be used to support the CPC credit claim is the responsibility of each licensee.

(2) A licensee shall maintain the records for a period of at least 2 years from the date of completion of the qualifying program.

B. Documentation referred to in §A(2) of this regulation, includes, but is not limited to, the following:

(1) Certificates of participation;

(2) Transcripts; or

(3) Any other appropriate evidence acceptable to the Board.

.07 Reporting Requirements for License Renewal.

A. A licensee shall attest on the license renewal form to the fact that the licensee has completed all applicable CPC requirements set forth in this chapter by the last day of the month preceding the month in which the licensee’s individual license is to be renewed for the following 2-year licensing term.

B. The Board at its discretion may audit randomly selected licensees to ascertain compliance with CPC requirements.

C. Licensees who are audited shall provide within 30 days of receipt of electronic notice of audit from the Board any additional documentation required by the Board to complete the audit.

.08 Extenuating Circumstances/Exceptions.

A. Notwithstanding other requirements set forth in this chapter, a licensee may renew a license for the next full term without complying with the CPC requirements if:

- (1) A licensee has been granted an initial license and is renewing a license for the next full term; or
- (2) A licensee qualifies under the criteria set forth in Title 2.5, Business Regulation Article, Annotated Code of Maryland.

B. Compliance Exception Request.

(1) If a licensee is unable to comply with all or part of CPC requirements due to physical disability, illness, or other extenuating circumstances, the licensee may request the Board to grant a one-time exception from compliance (“Compliance Exception Request”), provided that the Compliance Exception Request is filed with the Board at least 60 days prior to the license expiration date.

(2) If a Compliance Exception Request is based on physical disability or illness, the licensee must provide the Board with a written documentation acceptable to the Board supporting the basis for the request.

(3) A Compliance Exception Request must be accompanied by a detailed proposal acceptable to the Board indicating a licensee’s intended plan of compliance with the CPC requirements within no later than 6 months after the license expiration date. Failure to provide the acceptable plan of compliance within the time period specified in this regulation may result in the Board’s administrative dismissal of the Compliance Exception Request.

.09 Failure to Meet the CPC Requirements.

A. In the event the licensee fails to respond to the Board’s notice within 30 days as described in Regulation .07 of this chapter, the Board shall provide the licensee with the written notice affording the licensee additional 30 days from the date of the notice to provide evidence acceptable to the Board of compliance with applicable CPC requirements.

B. In the event the licensee does not respond to the Board’s notice or otherwise fails to comply with the CPC requirements set forth in this chapter, the Board, subject to the hearing provisions of Business Occupations and Professions Article, §9–312, Annotated Code of Maryland, may take any and all available disciplinary actions under Business Occupations and Professions Article, §9–310, Annotated Code of Maryland.

.10 Reinstatement of License.

A licensee who wishes to reinstate a license after failing to complete the CPC requirements shall fulfill past due CPC requirements for the immediately preceding CPC reporting periods up to 24 PDHs and pay all applicable fees. The Board may consider waiving, if the extenuating circumstances so warrant, all or part of applicable reinstatement fees.

.11 PDHs Earned in Other States.

The Board will accept PDHs earned for activities completed in other jurisdictions, provided that the activities and programs are consistent with and comply with the requisite criteria set forth in this chapter and the licensee otherwise fulfills all other applicable license renewal requirements of this chapter.

CHRISTOPHER SCHEIN
Chair
State Board of Examiners for Landscape Architects

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 09 MEDICAL CARE PROGRAMS

Notice of Proposed Action [14-200-P]

The Secretary of Health and Mental Hygiene proposes to repeal:

- (1) Regulation .12 under COMAR 10.09.23 **Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services;** and
- (2) Regulation .12 under COMAR 10.09.28 **Residential Rehabilitation for Children in Certain Out-of-Home Placements.**

Statement of Purpose

The purpose of this action is to repeal regulations due to conflicting effective dates within the administrative history.

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, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 TTY:800-735-2258, or email to michele.phinney@maryland.gov, or fax to 410-767-6483. Comments will be accepted through August 11, 2014. A public hearing has not been scheduled.

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

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.45 Mental Health Case Management: Care Coordination for Adults

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

Notice of Proposed Action [14-209-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .01—04, .06, and .07 under COMAR 10.09.45 **Mental Health Case Management: Care Coordination for Adults.**

Statement of Purpose

The purpose of this action is to limit the existing Targeted Case Management (TCM) program to adults because equivalent service for children and youth will be provided under a new chapter COMAR 10.09.90.

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 West Preston Street, Room 512, Baltimore, MD 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 August 11, 2014. A public hearing has not been scheduled.

.01 Scope.

A. This chapter applies to providers organized to deliver mental health case management services *to adults*.

B. (text unchanged)

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) "Adult" means an individual 18 years and older.

[(2)] (3)—[(8)] (9) (text unchanged)

[(10)] (11) "Mental health case management provider" means a provider that:

(a) Is approved under this chapter to provide mental health case management services *to adults 18 years or older*; and

(b) (text unchanged)

[(11)] (12)—[(14)] (15) (text unchanged)

[(15)] "Minor" means a child or adolescent younger than 18 years old.]

(16)—(20) (text unchanged)

[(21)] "Residential treatment center" has the meaning stated in COMAR 10.07.04.]

[(22)] (21) (text unchanged)

[(23)] "Serious emotional disturbance" means a condition that is:

(a) Manifested in an individual younger than 18 years old;

(b) Diagnosed according to a current diagnostic classification system that is recognized by the Secretary, excluding the following, unless they coexist with a diagnosable psychiatric disorder:

(i) Developmental disorders;

(ii) Substance abuse; and

(iii) Disorder classified under the "V" code; and

(c) Characterized by a functional impairment that substantially interferes with, or limits the minor's functioning in, the family, school, or community.]

[(24)] (22) (text unchanged)

.03 Participant Eligibility.

A. A recipient is eligible for mental health case management services if the recipient:

(1) Is in a federal eligibility category for Maryland Medical Assistance according to COMAR 10.09.24, which governs the determination of eligibility for the Maryland Medical Assistance Program; and

[(2)] Has a serious emotional disturbance and is in, at risk of, or needs continued community treatment to prevent:

(a) Inpatient psychiatric treatment;

(b) Treatment in a residential treatment center (RTC); or

(c) An out-of-home placement due to multiple mental health stressors; or]

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

B.—D. (text unchanged)

E. A participant may not be enrolled in Mental Health Case Management for Adults while receiving services under COMAR 10.09.90 or 10.09.33.

.04 Conditions for Mental Health Case Management Provider Participation.

A.—B. (text unchanged)

C. Providers of mental health case management shall:

(1) (text unchanged)

(2) Have at least 3 years experience providing mental health services, including serving high risk populations, to[:

(a) Adults] *adults* with serious mental illness[; or

(b) Minors with serious emotional disorders].

D. (text unchanged)

E. Specific Requirements. A mental health case management service provider:

(1) (text unchanged)

(2) Shall employ appropriately qualified individuals as community support specialists, community support specialist associates, and community support specialist supervisors with relevant work experience, including experience with the target [populations] *population*, including but not limited to [:

(a) Adults with a serious and persistent mental disorder;

and

(b) Minors with a serious emotional disorder] *adults with a serious and persistent mental disorder*;

(3)—(5) (text unchanged)

(6) Shall be available to participants and, as appropriate, their families [or, if the participant is a minor, the minor's parent or guardian,] for 24 hours a day, 7 days a week in order to refer:

(a)—(b) (text unchanged)

(7)—(14) (text unchanged)

.06 Covered Services.

A.—B. (text unchanged)

C. Comprehensive Assessment and Periodic Reassessment.

(1) (text unchanged)

(2) The assessment or reassessment of the participant's stated needs and service needs is conducted by the community support specialist and incorporates input from the participant, family members, and friends of the participant, as appropriate, [or, if the participant is a minor, the minor's parent or guardian,] and community service providers, such as mental health providers, medical providers, social workers, and educators, if necessary.

(3)—(4) (text unchanged)

D. Development and Periodic Revision of a Specific Care Plan.

(1)—(2) (text unchanged)

(3) The participant, a legal guardian, the participant's family or any significant others with the participant's consent, [or, if the participant is a minor, the minor's parent or guardian's consent,] shall participate with the community support specialist, to the extent practicable, in the development and regular updating of the participant's care plan.

(4) The specific care plan shall:

(a)—(b) (text unchanged)

(c) Include the active participation and agreement of the participant, the participant's authorized health care decision maker, if

applicable, and others designated by the participant [and for minors, the minor’s parent or guardian]; and

(d) (text unchanged)

(5) The care planning process may include, as necessary and appropriate:

(a)—(b) (text unchanged)

(c) Transitional care planning that involves contact with the participant [or, if the participant is a minor, the minor’s parent or guardian,] or the staff of a referring agency, or a service provider who is responsible to plan for continuity of care from inpatient level of care or an out-of-home placement to another type of community service; and

(d) (text unchanged)

E. Referral and Related Activities.

(1) The community support specialist or associate, under the direction of a community support specialist, shall assure that the participant [, or, if the participant is a minor, the minor’s parent or guardian,] has applied for, has access to, and is receiving the necessary services available to meet the participant’s needs, such as mental health services, resource procurement, transportation, or crisis intervention.

(2) (text unchanged)

(3) The linkage process shall include:

(a) Community support development by contacting, with the participant’s consent, members of the participant’s support network, for example, family, friends, and neighbors, as appropriate, [or, if the participant is a minor, the minor’s parent or guardian,] to mobilize assistance for the participant;

(b) Crisis intervention by referral of the participant [or, if the participant is a minor, the minor’s parent or guardian], to services on an emergency basis when immediate intervention is necessary;

(c) (text unchanged)

(d) Outreach in an attempt to locate service providers which can meet the participant’s needs [or, if the participant is a minor, the minor’s parent or guardian’s needs for the child or adolescent]; and

(e) Reviewing the care plan with the participant and with the participant’s family and friends, as appropriate, [or, if the participant is a minor, to the minor’s parent or guardian,] so as to enable and facilitate their participation in the plan’s implementation.

F. Monitoring and Follow-Up Activities.

(1) A mental health case management provider shall monitor, as frequently as necessary, the activities and contacts that are considered necessary to ensure the care plan is implemented and adequately addresses the participant’s needs, and include:

(a) The participant [, or if the participant is a minor, the minor’s parent or guardian]; and

(b) (text unchanged)

(2) (text unchanged)

(3) The mental health case management provider shall:

(a) (text unchanged)

(b) Monitor service provision on an ongoing basis, to ensure that the agreed-upon services are provided, are adequate in quantity and quality, and meet the participant’s needs and stated goals[, or, if the participant is a minor, the parent’s or guardian’s stated needs and goals for the participant].

(4) (text unchanged)

G. (text unchanged)

H. The mental health case management provider shall engage in participant advocacy, including:

(1) Empowering the participant [or, if the participant is a minor, the minor’s parent or guardian,] to secure needed services;

(2) (text unchanged)

(3) Encouraging and facilitating the participant’s decision making and choices leading to accomplishment of the participant’s

goals [or, if the participant is a minor, encourage the parent or guardian to carry out these decisions].

I. (text unchanged)

.07 Limitations.

A.—B. (text unchanged)

C. Mental health case management services do not restrict or otherwise affect:

(1) (text unchanged)

(2) The freedom of a participant [or, if the participant is a child or adolescent, the child’s or adolescent’s parent or guardian,] to select from all available services for which the participant is found to be eligible; or

(3) A participant’s free choice among qualified providers [or, if the participant is a child or adolescent, the child’s or adolescent’s parent or guardian’s free choice among qualified providers].

D.—F. (text unchanged)

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

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.89 1915(i) Community Options for Children, Youth, and Families

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

Notice of Proposed Action

[14-208-P]

The Secretary of Health and Mental Hygiene proposes to adopt new Regulations **.01—,20** under a new chapter, **COMAR 10.09.89 1915(i) Community Options for Children, Youth, and Families**.

Statement of Purpose

The purpose of this action is to implement a home and community-based services benefit for children and youth with serious emotional disturbances and their families, authorized under a 1915(i) Medicaid State Plan Amendment.

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 Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499, TTY:800-735-2258, or email to dhhm.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through August 11, 2014. A public hearing has not been scheduled.

.01 Scope.

The purpose of this chapter is to implement a home and community-based services benefit for children and youth with serious emotional disturbances (SED) and their families, authorized under a

1915(i) Medicaid State Plan Amendment. Eligible participants are served by care coordination organizations through a wraparound service delivery model that utilizes child and family teams to create and implement individualized plans of care that are driven by the strengths and needs of the participants and their families.

.02 Definitions.

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

B. Terms Defined.

(1) "1915(c)" means a federal waiver that allows states to provide home- and community-based care to individuals who would otherwise be institutionalized.

(2) "1915(i)" means the 1915(i) Community Options for Children, Youth, and Families program described in this chapter.

(3) "Administrative services organization (ASO)" has the meaning stated in COMAR 10.09.62.01.

(4) "Behavioral Health Administration (BHA)" means the Department's administration, as defined by Health General Article Title XX, Annotated Code of Maryland, or its designee.

(5) "Care coordinator" means an individual employed through the care coordination organization that is responsible for providing case management services to 1915(i) participants and families as described in COMAR 10.09.90.

(6) "Caregiver" means an individual with responsibility for 24-hour care and supervision of a minor.

(7) "Care coordination organization (CCO)" means an entity with a minimum of 3 years of experience providing care coordination services that is approved by the Department to provide case management services to 1915(i) participants and their families, pursuant to COMAR 10.09.90.

(8) "Child and family team (CFT)" means a team of individuals selected by the participant and family to work with them to design and implement the plan of care.

(9) "Core service agency (CSA)" has the meaning stated in COMAR 10.21.17.

(10) "Crisis plan" means a document that is developed by a CFT to address actions that need to be taken in the event that an individual is experiencing a behavioral health crisis, which is included as part of the plan of care.

(11) "Department" means the Maryland Department of Health and Mental Hygiene (DHMH) or its designee.

(12) "Department of Human Resources (DHR)" has the meaning stated in Human Services Article, Title 2, Annotated Code of Maryland.

(13) "Department of Public Safety and Correctional Services (DPSCS)" has the meaning stated in Correctional Services Article, Title 2, Annotated Code of Maryland.

(14) "Expressive and experiential behavioral services" means the use of art, dance, music, equine, horticulture, or drama to accomplish individualized goals as part of the plan of care.

(15) "Family" means:

(a) One or more parents and children related by blood, marriage, or adoption, and residing in the same household; or

(b) A parent substitute or substitutes, including informal and formal kinship caregivers as set forth in Health-General Article, §20-105, Annotated Code of Maryland, and Education Article, §7-101, Annotated Code of Maryland, or legal guardians, who have responsibility for the 24 hour care and supervision of a child.

(16) "Family peer support" means a service as described in Regulation .10 of this chapter.

(17) "Family peer support partner" means an individual providing family peer-to-peer support services.

(18) "Family support organization (FSO)" means an approved entity under Regulation .10D of this chapter.

(19) "Institution for mental disease (IMD)" has the meaning stated in COMAR 10.09.62.01B.

(20) "Local departments of social services (DSS)" has the meaning stated in Human Services Article, Title 3, Annotated Code of Maryland.

(21) "Maryland Children's Health Program (MCHP)" has the meaning stated in COMAR 10.09.43.

(22) "Medical Assistance Program" has the meaning stated in COMAR 10.09.36

(23) "Mental health professional" has the meaning stated in COMAR 10.21.17.02.

(24) "Mobile crisis response and stabilization services (MCRS)" has the meaning stated in Regulation .13 of this chapter.

(25) "Natural support" means a family member, friend, or community member, or organization selected by the participant or family, or both, to participate on the CFT.

(26) "Participant" means an individual who meets the qualifications, as specified in Regulation .03 of this chapter, for benefit eligibility.

(27) "Plan of care (POC)" means a written document that is:

(a) Developed by the CFT that describes the services to be provided to the participant; and

(b) Approved by the Department in accordance with 42 CFR §441.301.

(28) "Office of Health Care Quality (OHCQ)" means the Office of Health Care Quality of the Department of Health and Mental Hygiene.

(29) "Program" means the Maryland Medical Assistance Program.

(30) "Provider" means an individual or entity that has enrolled with the Program to provide one or more benefit services covered under this chapter.

(31) "Public mental health system" means the system for the delivery of mental health treatment and supports to eligible individuals as described in COMAR 10.09.70.

(32) "Residential treatment center" has the meaning stated in Health-General Article, §19-301, Annotated Code of Maryland.

(33) "Room and board" means rent or mortgage, utilities, maintenance, furnishings, and food provided in or associated with an individual's place of residence.

(34) "Respite care" has the meaning stated in COMAR 10.21.27.

(35) "Serious emotional disturbance (SED)" has the meaning stated in COMAR 10.21.17.

(36) "Service area" means, during the phase-in of the 1915(i), the geographic area in Maryland where the 1915(i) is available.

(37) "State Plan" means the Plan described in §1902(a) of Title XIX of the Social Security Act.

(38) "Supplemental Security Income (SSI)" means a federally administered program providing benefits to needy aged, blind, and disabled individuals under Title XVI of the Social Security Act, 42 U.S.C. §1381 et seq.

(39) "Wraparound" means a service delivery model that uses a collaborative process in which the CFT assists in the development and implementation of an individualized plan of care with specified outcomes.

.03 Participant Eligibility.

A. For an applicant to be eligible for 1915(i) services, the applicant shall meet all of the criteria in §§B—H of this regulation.

B. The applicant shall be younger than 18 years old at the time of enrollment.

C. The applicant shall reside in a home-and community-based setting that is:

(1) Located in the 1915(i) service area; and

(2) Not any of the following excluded settings:

(a) Therapeutic Group Home (TGH) licensed by the Office of Health Care Quality (OHCQ) under COMAR 10.21.07;

(b) Psychiatric Respite Care facility located on the grounds of an institution for mental disease (IMD) for the purpose of placement;

(c) Residential program for adults with serious mental illness licensed under COMAR 10.21.22; or

(d) Group residential facility licensed under COMAR 14.31.05—.07.

D. The family or medical guardian of the participant shall give consent to participate in the 1915(i), with consent given by the participant upon reaching age 18.

E. The applicant shall:

(1) Have a face-to-face psychiatric evaluation completed or updated within 30 days of submission of the enrollment application to the ASO that:

(a) Assigns a Diagnostic and Statistical Manual (DSM) behavioral health diagnosis;

(b) Determines the applicant to be amenable to active clinical treatment; and

(c) Is conducted by a provider not associated with the CCO by which the participant may eventually be served; and

(2) Meet the Department's written medical necessity criteria.

F. The accessibility or intensity of currently available community supports and services are inadequate to meet the applicant's needs due to the severity of the impairment without the provision of one or more of the services contained in the 1915(i) benefit.

G. The applicant may not be served in a Health Home as defined in COMAR 10.09.33 while enrolled in the 1915(i).

H. Medical Assistance Eligibility.

(1) *Categorically Needy.* An applicant is eligible for 1915(i) services if the applicant is eligible for Medicaid or Maryland Children's Health Program (MCHP) in accordance with COMAR 10.09.11 or 10.09.24 and has a family income that does not exceed 150 percent of the Federal Poverty Line (FPL).

(2) *Optional Categorically Needy.* An applicant is eligible for the 1915(i) benefit as optionally categorically needy in accordance with §1902(a)(10)(A)(ii)(XXII) if the individual is receiving services through an existing 1915(c) HCBS waiver program.

I. The Department may assist applicants in the benefit application process by:

(1) Informing the applicant and family verbally and in writing about services available in the 1915(i);

(2) Assisting the applicant and family to complete the eligibility determination for Medical Assistance for the 1915(i), if necessary; and

(3) Once Medical Assistance eligibility is determined, ensuring that the assessments and documentation required for a medical necessity determination are obtained and provided to the Department.

J. Based on the criteria established in §§A—H of this regulation:

(1) An applicant's eligibility for services under this regulation shall be established by the Department;

(2) There is no retroactive eligibility; and

(3) Benefit eligibility may not begin before:

(a) Verification of the applicant's Medical Assistance eligibility for the 1915(i); and

(b) Completion of the independent evaluation by the Department that the applicant meets all criteria established in §§A—H of this regulation.

K. If the applicant is determined to meet the needs-based eligibility criteria as established in §§A—H of this regulation, the Department shall:

(1) Obtain written consent from the family or medical guardian to participate in the 1915(i); and

(2) Ensure that the participant is referred immediately upon enrollment determination to a CCO.

L. The Department shall re-evaluate a participant's:

(1) Needs-based eligibility for 1915(i) services as specified in §§A—G of this regulation every 12 months, or more frequently due to a significant change in the participant's condition or needs, in accordance with the Department's medical necessity criteria; and

(2) Medical Assistance eligibility for 1915(i) services in accordance with the Department's redetermination policy for all Medical Assistance enrollees.

.04 Termination of Participant Enrollment.

A. A participant shall be disenrolled from the 1915(i), as of the date established by the Department, if the participant:

(1) No longer meets all of the criteria for 1915(i) eligibility specified in §§A—H of Regulation .03 of this chapter;

(2) Voluntarily chooses to disenroll from the benefit, if the participant is 18 years old, or the participant's family or medical guardian chooses to do so on behalf of a participant who is younger than 18 years old or in the custody of the State, or both;

(3) Is hospitalized for longer than 30 days;

(4) Moves out of the service area and cannot reasonably access services and supports;

(5) Is admitted to and placed in an RTC for longer than 60 days;

(6) Is admitted to and placed in a Therapeutic Group Home (TGH) licensed by OHCQ under COMAR 10.21.07 or an adult residential program approved under COMAR 10.21.22;

(7) Is placed in a Psychiatric Respite Care program, a non-medical group residential facility located on the grounds of an IMD primarily for the purpose of placement;

(8) Loses eligibility for Maryland Medical Assistance for more than 30 days;

(9) Turns 22 years old;

(10) Is detained, committed to a juvenile justice or correctional facility, or incarcerated for longer than 60 days;

(11) Does not meet medical re-certification criteria;

(12) Does not participate in a Child and Family Team (CFT) meeting within 90 days;

(13) Is no longer actively engaged in ongoing behavioral health treatment with a licensed mental health professional; or

(14) Is placed in a group residential facility licensed under COMAR 14.31.05—.07.

B. A participant who is not receiving 1915(i) services continuously after reaching age 18 is ineligible to enroll in the program at a later date.

.05 1915(i) Model.

A. The 1915(i) shall provide community-based treatment to children with SED through a wraparound service delivery process.

B. Enrollment in 1915(i) services qualifies and requires the participant to receive case management services through a CCO, pursuant to COMAR 10.09.90.

C. Each participant shall have an individualized POC that is managed by the CCO, pursuant to COMAR 10.09.90:

D. In partnership with the CFT, the CCO shall:

(1) Reevaluate the POC at least every 45 days with re-administration of BHA-approved assessments as appropriate, and more frequently in response to a crisis;

(2) Determine the family vision, which will guide the planning process;

(3) Identify strengths of the entire team;

(4) Determine the needs that the team will work on;

(5) Determine outcome statements for meeting identified needs;

(6) Determine the specific services and supports required in order to achieve the goals identified in the POC;

(7) Create a mission statement that the team generates and commits to following;

(8) Identify the individuals responsible for each of the strategies in the POC;

(9) Review and update the crisis plan; and

(10) Meet at least every 45 days or more frequently as clinically indicated to:

(a) Coordinate the implementation of the POC; and

(b) Re-evaluate and update the POC as necessary.

E. Benefit participants shall have access to specialty behavioral health services through the Department's public behavioral health system. Participants shall also be enrolled in the Medical Assistance Program's managed care program, known as HealthChoice, in accordance with eligibility requirements set forth in COMAR 10.09.63.

.06 Conditions for Provider Participation.

A. The Department shall grant approval to providers to be eligible to receive Medicaid funds for 1915(i) services if the provider meets the requirements set forth in this chapter.

B. Application. To provide 1915(i) services, a provider applicant shall:

(1) Submit an application to the Department on the form approved by the Department, with all questions answered and all required documents attached; and

(2) Attest that the provider applicant is in compliance with the general provider requirements and specific 1915(i) service requirements set forth in this chapter and in COMAR 10.09.36.

C. Application Modification.

(1) A provider that proposes to change its 1915(i) service sites by adding, closing, or moving locations shall submit an application modification, on the form required by the Department, to the Department.

(2) If the Department approves the application modification, the existing provider approval shall extend to the additional site, as applicable.

D. Approval.

(1) The Department may grant approval to an applicant provider if the Department determines that the provider:

(a) Has no deficiencies that constitute a threat to the health, safety, or welfare of the individuals served; and

(b) Attests that it complies with the requirements set forth in this chapter.

(2) If the provider is granted approval under §D(1) of this regulation, to continue to be approved, the provider shall maintain documentation of compliance with the requirements set forth in this chapter.

E. Sale or Transfer of Approval.

(1) The Department's approval of a 1915(i) service provider is valid only for the provider to which the Department grants approval.

(2) A provider may not sell, assign, or transfer approval to another provider.

.07 Denial, Emergency Suspension of Approval, and Disciplinary Action.

A. Denial of Approval.

(1) If the Department proposes to deny approval to an applicant under the provisions of this chapter, the Department shall give written notice of the proposed denial to the:

(a) Provider applicant;

(b) Care coordination organization (CCO); and

(c) Administrative service organization (ASO).

(2) In the notice under §A(1) of this regulation, the Department shall include:

(a) The date on which the Department proposes to deny approval;

(b) The facts that warrant the proposed denial of approval;

(c) Citation of the regulation or regulations upon which the proposed denial is based;

(d) Notification that before the denial of approval, the provider may request a hearing under the provisions of COMAR 10.21.16; and

(e) When feasible, notification of a case resolution conference.

B. Disciplinary Action.

(1) The Department may propose to take any of the following disciplinary actions against a provider:

(a) Revocation of approval;

(b) Suspension of approval;

(c) Probation with conditions; or

(d) Banning new admissions.

(2) The Department may propose to take one of the actions outlined in §B(1) of this regulation if the provider:

(a) Is out of compliance with the requirements of this chapter;

(b) Fails to maintain financial viability; or

(c) Obtains or attempts to obtain approval or payment by fraud, misrepresentation, or the submission of false information to the Department.

(3) Except under §C of this regulation, the Department shall send written notice of the proposed action not less than 45 calendar days in advance of the proposed action taken under this regulation to the:

(a) Provider;

(b) CCO;

(c) ASO; and

(d) Applicable CSA.

(4) In the notice under §B(3) of this regulation, the Department shall include:

(a) The date on which the Department proposes to take action and, when feasible, the date of a case resolution conference;

(b) The facts that warrant the proposed action;

(c) Citation of the regulation or regulations upon which the proposed action is based; and

(d) Notification that, before the action, the provider has the right to request a hearing under the provisions of COMAR 10.21.16.

(5) If, after notice and opportunity to be heard, the Department takes disciplinary action, the provider shall, within 10 working days:

(a) Notify individuals or the guardians of individuals receiving services of the action; and

(b) If the program ceases operations:

(i) Notify individuals or the guardians of individuals receiving services of the suspension; and

(ii) Cooperate with the CCO, child and family team, and the Department in accessing appropriate alternate services for individuals served by the provider.

C. Emergency Suspension of Approval.

(1) Under State Government Article, §10-226, Annotated Code of Maryland, upon findings of conditions that pose an imminent risk to the health, safety, or welfare of an individual served by a provider, the Department may order the immediate suspension of the approval of the provider and the cessation of operation.

(2) If the Department takes the action under §C(1) of this regulation, the Department shall promptly give written notice of the proposed emergency suspension to the:

(a) Provider;

(b) CCO;

(c) ASO; and

(d) Applicable CSA.

(3) In the notice under §C(2) of this regulation, the Department shall include:

(a) The proposed effective date of the emergency suspension;

(b) When feasible, the date of a pre-deprivation hearing and a case resolution conference before the Department's final action;

(c) The findings under §C(1) of this regulation and the reasons that support the findings; and

(d) Notification that:

(i) Following the emergency suspension, the provider may request a hearing under the provisions of COMAR 10.21.16; and

(ii) The emergency suspension may lead to revocation of the approval if the violation or violations are not corrected within the time period specified by the Department.

(4) If the Department suspends approval, the provider shall immediately:

(a) Notify individuals or the guardians of individuals receiving services of the suspension;

(b) Cooperate with the CCO, child and family team, and the Department in accessing appropriate alternate services for individuals in the program; and

(c) Cease operations of the program.

.08 General Conditions for 1915(i) Services Provider Participation.

A. A provider of 1915(i) services shall:

(1) Provide the documentation required by the Department for initial approval and provider recertification, or as requested by the Department;

(2) Be approved by the Department as meeting the requirements of being able to provide the services set forth in this chapter;

(3) Have a provider agreement in effect, to include adherence to quality assurance, auditing, and monitoring policies and procedures;

(4) Receive training and certification as required and approved by the Department and determined to be appropriate for the level and scope of services provided;

(5) Meet all the conditions for participation in COMAR 10.09.36 except as otherwise specified in this chapter;

(6) Maintain general liability insurance, and provide proof of this insurance:

(a) At the time of initial application to be a provider of 1915(i) services;

(b) At recertification; and

(c) Upon request by the Department;

(7) Make available to the Department and federal funding agents all records for inspection and copying, including but not limited to:

(a) Personnel files for each individual employed, regardless of method of compensation;

(b) Financial records;

(c) Treatment records; and

(d) Service records;

(8) Comply with the following prohibitions against utilization of staff:

(a) Unless waived by the Department in accordance with §D of this regulation, prohibit from working with the participant or the participant's family any staff, volunteers, students, or any individual who is:

(i) Convicted of, received probation before judgment, or entered a plea of nolo contendere to a felony or a crime of moral turpitude or theft; or

(ii) Has an indicated finding of child abuse or neglect;

and

(9) Maintain administrative and medical records documenting the date, time, duration, and substantive notes associated with the services delivered, which shall be signed by the provider and indicated by the participant's plan of care.

B. Required Criminal Background Checks. The provider shall, at the provider's own expense and for all staff, volunteers, students, and any individual providing services to participants and their families in the 1915(i):

(1) Before employment, submit an application for a child care criminal history record check to the Criminal Justice Information System Central Repository, Department of Public Safety and Correctional Services (DPSCS), in accordance with Family Law Article, §5-561, Annotated Code of Maryland;

(2) Request that DPSCS send the report to:

(a) The director of the agency if the request is from a provider agency concerning staff, volunteers, students, or interns who will work with the participant or family; or

(b) To the Department's designee, if the provider is a self-employed, independent practitioner, or the director of the agency; and

(3) Review the results of the background checks;

(4) Store background checks in a secure manner consistent with State and federal law; and

(5) Maintain written documentation in the individual's personnel file that the director and all direct service provider staff including, but not limited to, volunteers, interns, and students, meet the criteria set forth in this regulation.

C. Required Check for Abuse or Neglect. For each individual providing services to participants and the participant's families in the 1915(i), the provider shall:

(1) Before employing any individual, submit a notarized Consent for Release of Information/Background Clearance Request form to the Department of Human Resources (DHR) or a local department of social services (DSS) in the jurisdiction in which the individual lives, pursuant to COMAR 07.02.07.19; and

(2) Request that DHR or the local DSS send the report to:

(a) The director of the agency if the request is from a provider agency concerning staff, volunteers, or students who will work with the participant or family; or

(b) To the Department's designee, if the provider is a self-employed, independent practitioner, or the director of the agency.

D. To provide 1915(i) services, an individual may not:

(1) Be the participant's family member;

(2) Have been convicted of, received probation before judgment for, or entered a plea of nolo contendere to, a felony or any crime involving moral turpitude or theft, or have any other criminal history that indicates behavior which is potentially harmful to participants; or

(3) Be cited on any professional licensing or certification boards or any other registries with a determination of abuse, misappropriation of property, financial exploitation, or neglect.

E. Waiver of Employment Prohibitions. The Department may waive the prohibition against working with the participant or the participant's family if the provider submits a request to the Department together with the following documentation that:

(1) For criminal background checks:

(a) The conviction, the probation before judgment, or plea of nolo contendere to the felony or the crime involving moral turpitude or theft was entered more than 10 years before the date of the employment application;

(b) The criminal history does not indicate behavior that is potentially harmful to participants; and

(c) Includes a statement from the individual as to the reasons the prohibition should be waived; and

(2) For abuse and neglect findings:

(a) The indicated finding occurred more than 7 years before the date of the clearance request;

(b) The summary of the indicated finding does not indicate behavior that is potentially harmful to the participant or the participant's family; and

(c) Includes a statement from the individual as to the reasons the prohibition should be waived.

F. The Program covers the services listed in this chapter when the services are:

(1) Determined by the Department to be medically necessary;

(2) Preauthorized by Department; and

(3) Delivered in accordance with the participant's POC.

.09 Covered Services—Customized Goods and Services.

A. Customized goods and services are:

(1) Expenditures requested by the participant's CCO and made by the CSA to support the POC for the participant and family for costs that are:

(a) Reasonable, defined as a cost that, in its nature and amount, does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost; and

(b) Necessary, defined as those that are likely to improve outcomes or remediate a particular and specified need identified in the POC, to include:

(i) Success in an educational or vocational setting;

(ii) Maintaining the youth in the home;

(iii) Development and maintenance of healthy relationships;

(iv) Prevention of or reduction in adverse outcomes (e.g., arrest, delinquency, victimization, and exploitations); or

(v) Becoming or maintaining a stable and productive member of the community; and

(2) Used as a funding source of last resort, only for those costs that cannot be covered by any other source and are vital to the implementation of the POC.

B. A CSA may provide customized goods and services if the CSA:

(a) Has a written customized goods and services policy and procedures that:

(i) Ensures accountability;

(ii) Ensures that all customized goods and services expenditures are verifiable; and

(iii) Is revised as needed;

(b) Communicates any changes made to their customized goods and services policy to all parties;

(c) Accounts for all funds used; and

(d) Complies with requirements established by the Department.

.10 Covered Services—Family Peer Support Services.

Family peer support services:

A. May be provided without the presence of the participant;

B. Are delivered by a family peer support partner employed by a family support organization (FSO);

C. May include, but are not limited to:

(1) Explaining the role and function of the FSO to newly enrolled families and creating linkages to other peers and supports in the community;

(2) Working with the participant and family to identify and articulate concerns, needs, and vision for the future of the participant;

(3) Ensuring family and participant opinions and perspectives are incorporated into the CFT process and POC:

(a) Through communication with the care coordinator and team members; and

(b) By attending CFT meetings with the family to support family decision-making and choice of options;

(4) Listening to the family express needs and concerns and offering suggestions for engagement in the treatment process;

(5) Helping the family identify and engage its own natural support system and facilitating the family attending peer support groups and other FSO activities throughout the POC process;

(6) Working with the family:

(a) To organize and prepare for meetings in order to maximize participation in meetings;

(b) By informing the family about options and possible outcomes in selecting services and supports to assist with informed decision-making; and

(c) By supporting the family in meetings at school and other locations in the community and during court hearings;

(7) Empowering the family to make choices to achieve desired outcomes for the participant as well as the entire family; and

(8) Helping the family to acquire the skills and knowledge needed to attain greater self-sufficiency and maximum autonomy and assisting the family to develop the skills and confidence to independently identify, seek out and access resources that will assist in:

(a) Managing and mitigating the participant's behavioral health condition or conditions;

(b) Preventing the development of secondary or other chronic conditions;

(c) Promoting optimal physical and behavioral health; and

(d) Addressing and encouraging activities related to health and wellness.

D. Are provided by a family support organization (FSO) that:

(1) Is designated as a private, nonprofit entity designated under §501(c)(3) of the Internal Revenue Service Code, and submits copies of the certificate of incorporation and Internal Revenue Service designation;

(2) Has a board of directors comprised of more than 50 percent of individuals who are:

(a) Caregivers with a current or previous primary daily responsibility for raising a child or youth with behavioral health challenges,

(b) Individuals who have experience with State or local services and systems as a consumer who has or had behavioral health challenges; or

(c) Both §D(2)(a) and (b) of this regulation.

(3) Submits a list of board members with identification of those who are caregivers meeting the criteria in §D(2)(b) of this regulation;

(4) Establishes hiring practices that give preference to:

(a) Current or previous caregivers of a child or youth with behavioral health challenges;

(b) Individuals who have experience with State or local services and systems as a consumer who has or had behavioral health challenges; or

(c) Both §C(4)(d)(i) and (ii) of this regulation;

(5) Submits a copy of the organization's personnel policy that sets forth the preferred employment criteria stated in §A(4) of this regulation;

(6) Employs a staff that is comprised of at least 75 percent of individuals who are:

(a) Current or previous caregivers of a child or youth with behavioral health challenges; or

(b) Individuals who have experience with State or local services and systems as a consumer who has or had behavioral health challenges;

(7) Submits a list of staff and positions held with identification of those who fit the experienced caregiver and consumer criteria stated in §D(6) of this regulation; and

(8) Submits a certificate of eligibility that includes:

(a) Attestation of compliance with §D(1)—(6) of this regulation; and

(b) The organization's mission statement that establishes the purpose of the organization as providing support and education to youth with emotional, behavioral, or mental health challenges and their caregivers;

E. Shall be provided by family peer support partners who:

(1) Are employed by an FSO;

(2) Are 18 years old or older;

(3) Receive supervision from an individual who:

(a) Is 21 years old or older; and

(b) Has at least 3 years of experience providing family peer-to-peer support or working with children with serious behavioral health challenges and their families;

(4) Have current or prior experience as a caregiver of a child with behavioral health challenges or be an individual who has experience with State or local services and systems as a consumer who has or had behavioral health challenges; and

(5) Receive training and certification as approved by the Department; and

F. Are reimbursed at the following rates:

(1) \$15.97 per 15 minute unit for face-to-face services; or

(2) \$7.98 per 15 minute unit for telephonic or other non-face-to-face activities.

.11 Covered Services—Respite Services.

Respite services:

A. Include a set of specific short-term services documented in the POC that include:

(1) A schedule of the participant's activities during respite;

(2) Medication monitoring, if needed;

(3) The frequency, duration, and intensity of staff support;

(4) Respite locations; and

(5) The aftercare plan or recommendations;

B. Include community-based respite services, which are provided in the participant's home or other community-based setting;

C. Include out-of-home respite services, which provide a temporary overnight living arrangement outside of the participant's home;

D. Are provided by organizations that shall:

(1) Meet the requirements of COMAR 10.21.27;

(2) Employ respite care specialists who are:

(a) 21 years old or older and have a high school diploma or high school equivalency; or

(b) At least 18 years old and enrolled in, or in possession of at least an associate degree from, an accredited college or university in a human services field, and are limited to providing services to participants under 13 years of age;

(3) Ensure that community-based respite services are provided in the participant's home or other community-based setting; and

(4) Ensure that out-of-home respite services are:

(a) Provided in a community-based temporary overnight living arrangement outside the participant's home; and

(b) Where applicable, delivered in accordance with COMAR 14.31.05-14.31.07; and

E. Are reimbursed at the following rates:

(1) \$25.16 per one hour unit of service for community-based respite services; or

(2) \$199.44 per unit of out-of-home respite care.

.12 Covered Services—Expressive and Experiential Behavioral Services.

A. Expressive and experiential behavioral services:

(1) May be provided to an individual or group;

(2) Provide sensory modalities to participants to assist in achieving POC objectives; and

(3) Include:

(a) Art behavioral services;

(b) Dance behavioral services;

(c) Equine-assisted behavioral services;

(d) Horticultural behavioral services;

(e) Music behavioral services; or

(f) Drama behavioral services.

B. Qualification to Provide Expressive and Experiential Behavioral Services.

(1) To provide expressive and experiential behavioral services, an individual shall have:

(a) A bachelor's or master's degree from an accredited college or university; and

(b) Current registration in the applicable association as outlined in §E(5) of this regulation;

(2) Association Registration.

(a) Art Behavioral Services. To provide art behavioral services, an individual shall be currently registered as a registered art therapist by:

(i) The Art Therapy Credentials Board in the American Art Therapy Association; or

(ii) A comparable association with equivalent requirements.

(b) For Dance Behavioral Services. To provide dance behavioral services, an individual shall be currently registered as a dance therapist registered, or an academy of dance therapists registered in:

(i) The American Dance Therapy Association; or

(ii) A comparable association with equivalent requirements.

(c) For Equine-Assisted Behavioral Services. To provide equine-assisted behavioral services, an individual shall be currently certified by:

(i) The Equine Assisted Growth and Learning Association (EAGALA) to provide services under the EAGALA model;

(ii) Professional Association of Therapeutic Horsemanship International (PATHI); or

(iii) A comparable association with certification requirements at least equivalent to EAGALA or PATHI.

(d) For Horticultural Behavioral Services. To provide horticultural behavioral services, an individual shall be currently registered as a horticultural therapist registered in:

(i) The American Horticultural Therapy Association; or

(ii) A comparable association with equivalent requirements.

(e) For Music Behavioral Services. To provide music behavioral services, an individual shall be currently registered as a music therapist-board certified by:

(i) The Certification Board for Music Therapists, Inc; or

(ii) A comparable association with equivalent requirements.

(f) For Drama Behavioral Services. To provide psychodrama/drama behavioral services, an individual shall be currently registered as a registered drama therapist or a board certified trainer in:

(i) The National Association for Drama Therapy; or

(ii) A comparable association with equivalent requirements.

C. *Reimbursement. Reimbursement for services described in this regulation shall be as follows:*

- (1) *For individual therapy provided by a:*
 - (a) *Licensed mental health professional at a rate of:*
 - (i) *\$68.41 per 45—50 minute session; or*
 - (ii) *\$89.62 per 75—80 minute session;*
 - (b) *Non-licensed mental health professional at a rate of:*
 - (i) *\$62.19 per 45-minute session; or*
 - (ii) *\$80.85 per 75—80 minute session; and*
- (2) *For group therapy provided by a:*
 - (a) *Licensed mental health professional at a rate of:*
 - (i) *\$27.20 per 45—60 minute session; or*
 - (ii) *\$35.36 per prolonged (75—90 minute) session;*
 - (b) *Non-licensed mental health professional at a rate of:*
 - (i) *\$24.16 per 45—60 minute session; or*
 - (ii) *\$31.41 per prolonged (75—90 minute) session.*

.13 Covered Services—Mobile Crisis Response Services.

A. *Mobile crisis response services (MCRS):*

- (1) *Are offered in response to urgent mental health needs;*
- (2) *Are available on a short-term on-call basis 24 hours per day, 7 days per week;*
- (3) *Are coordinated with the care coordinator and CFT, and are incorporated into the participant's POC;*
- (4) *Are short-term, individualized services that assist in de-escalating crises and stabilizing children and youth in their home and community setting;*
- (5) *Are designed to:*
 - (a) *Maintain the participant in the participant's current living arrangement;*
 - (b) *Prevent movement from one living arrangement to another; and*
 - (c) *Prevent repeated hospitalizations;*
 - (6) *Include the delivery of a variety of flexible services detailed in a comprehensive, individualized plan for stabilization that:*
 - (a) *Addresses safety concerns and risk factors, including the family's definition of the crisis;*
 - (b) *Includes family triggers, strengths, and supports; and*
 - (c) *Identifies both immediate and continued interventions to ensure stabilization in the home and community setting, which may include:*
 - (i) *Strategies to de-escalate and prevent a crisis situation;*
 - (ii) *Short-term in-home therapy;*
 - (iii) *Behavioral management and support;*
 - (iv) *Coordination and development of natural supports;*

and

- (v) *Skills training on coping and activities of daily living;*

and

(7) *May be provided in any community location to prevent emergency room visit, hospitalization, or movement from one living arrangement to another, including but not limited to the:*

- (a) *Family home;*
- (b) *Foster home;*
- (c) *School; and*
- (d) *Emergency room.*

B. *MCRS are provided by organizations that:*

- (1) *Are approved by the Department as:*
 - (a) *A provider of Mobile Treatment Services, as outlined in COMAR 10.21.19;*
 - (b) *A provider of Psychiatric Rehabilitation Services for Minors, as outlined in COMAR 10.21.29; or*
 - (c) *An Outpatient Mental Health Clinic (OMHC), as outlined in COMAR 10.21.20;*

(2) *Have capacity to provide or arrange for immediate crisis services 24 hours a day, 7 days per week, including:*

- (a) *Face-to-face clinical care;*
- (b) *Psychiatric consultation; and*
- (c) *Person-to-person phone coverage;*

(3) *Employ clinical supervisors who:*

(a) *Are licensed and in good standing under Health Occupations Article, Annotated Code of Maryland, as a:*

- (i) *Psychiatrist;*
- (ii) *Psychologist;*
- (iii) *Licensed certified social worker-clinical (LCSW-C);*
- (iv) *Licensed clinical professional counselor (LCPC);*
- (v) *Nurse psychotherapists; or*
- (vi) *Advanced practice registered nurse - psychiatric mental health (APRN-PMH);*

(b) *Are permitted to provide supervision under their respective practice act; and*

(c) *Have experience providing crisis response services;*

(4) *Employ crisis responders who are psychiatrists, psychologists, LCSW-C, LCSW, LCPC, nurse psychotherapists, or APRN-PMH, as outlined in the Health Occupations Article, Annotated Code of Maryland; and*

(5) *Employ crisis stabilizers who:*

- (a) *Are 21 years old or older;*
- (b) *Have a bachelor's degree in a human services field; and*
- (c) *Receive initial and ongoing training in crisis response and stabilization.*

C. *The MCRS provider may be reimbursed for:*

(1) *An assessment, which is pre-authorized for all participants and conducted prior to a crisis, in coordination and, together, where possible, with the care coordinator to develop an initial crisis plan within the first week of enrollment in the 1915(i);*

(2) *Crisis response, which is an in-person response to the location where a crisis is occurring to assess, de-escalate, and provide initial stabilization pre-authorized for all participants up to 3 days; and*

(3) *Stabilization, which is in-person support:*

(a) *Following a crisis response and dependent upon obtaining prior-authorization, to support revisions to the crisis plan and provide education and training on preventing and responding to crises; or*

(b) *Provided at the recommendation of the CFT to prevent a crisis.*

D. *MCRS are reimbursed at the following rates:*

- (1) *\$25.62 per 15 minute unit of service for crisis response or stabilization; and,*
- (2) *\$307.39 per assessment.*

.14 Covered Services—Intensive In-Home Services.

A. *Intensive In-Home Services (IIHS):*

(1) *Are strengths-based interventions with the child and his or her identified family that includes a series of components, such as:*

- (a) *Functional assessments and treatment planning;*
- (b) *Individualized interventions;*
- (c) *Crisis response and intervention; or*
- (d) *Transition support;*

(2) *May be provided to the child alone, to other family members, or to the child and family members together;*

(3) *Are intended to support a child to remain in his or her home and reduce hospitalizations and out-of-home placements or changes of living arrangements through focused intervention in the home and community; and*

(4) *May be used in situations such as the start of a child's enrollment in the 1915(i), upon discharge from a hospital or*

residential treatment center, or to prevent or stabilize after a crisis situation.

B. *Types of IIHS Providers.* The Department may approve two types of IIHS providers:

(1) *Evidence-Based Practice (EBP)-IIHS providers, to include providers of Functional Family Therapy (FFT) and other EBPs, as determined by the Department; and*

(2) *Promising Practice IIHS providers (non-EBP), to include providers of the In-Home Intervention Program for Children (IHIP-C) and other promising practices, as determined by the Department.*

C. *A EBP-IIHS provider shall have a certificate or letter from the national or intermediate surveyor or developer of the particular evidence-based practice to demonstrate that the EBP-IIHS provider meets all requirements for FFT or other Department-approved EBP-IIHS, to include participating in all fidelity monitoring activities.*

D. *A Non-EBP IIHS provider shall have a certificate or letter from the national or intermediate purveyor or developer of the particular promising practice or from the Department to demonstrate that the Non-EBP IIHS provider meets all requirements for IHIP-C or other Department-approved non-EBP IIHS.*

E. *All IIHS providers shall:*

(1) *Ensure that there are Clinical Leads, Supervisors, and Therapists on staff who are responsible for creating, implementing and managing the treatment plan with the child and family and the CFT;*

(2) *Provide crisis response services for the participants on the IIHS provider's caseload and ensure that on-call and crisis intervention services are:*

(a) *Provided by a licensed mental health professional trained in the intervention;*

(b) *Available 24-hours per day, 7 days per week, during the hours the provider is not open to the individual enrolled in the treatment; and*

(c) *In compliance with staffing, supervision, training, data collection, and fidelity monitoring requirements set forth by the purveyor, developer, or DHMH and approved by the Department;*

(3) *Employ Clinical Leads and Supervisors who:*

(a) *Have a current license under the Health Occupations Article, Annotated Code of Maryland, as a:*

(i) *Licensed certified social worker-clinical (LCSW-C);*

(ii) *Licensed clinical professional counselor (LCPC);*

(iii) *Psychologist;*

(iv) *Psychiatrist;*

(v) *Nurse psychotherapist; or*

(vi) *Advanced practice registered nurse/psychiatric mental health (APRN-PMH); and*

(b) *Have at least 3 years of experience in providing mental health treatment to children and families;*

(4) *Employ therapists who:*

(a) *Have a current license under the Health Occupations Article, Annotated Code of Maryland, as a:*

(i) *Licensed certified social worker (LCSW);*

(ii) *LCSW-C;*

(iii) *LCPC;*

(iv) *Psychologist;*

(v) *Psychiatrist;*

(vi) *Nurse psychotherapist; or*

(vii) *APRN-PMH.*

(b) *Are supervised by a clinical lead supervisor;*

(c) *See the child in-person at least once per 7 days while receiving IIHS services;*

(5) *Employ in-home stabilizers who:*

(a) *Support the implementation of the treatment plan, but are not responsible for creating it or modifying it;*

(b) *Are at least 21 years old;*

(c) *Have at least a high school diploma or equivalency; and*
(d) *Have completed relevant, comprehensive, appropriate training before providing services, as outlined by the purveyor, developer, or the Department and approved by the Department;*

(6) *Provide a minimum of one face-to-face contact with the participant per week of service;*

(7) *Ensure a minimum of 50 percent of the therapist's contacts with the participant or family, or both, is face-to-face; and*

(8) *Ensure that a minimum of 50 percent of the therapist's time is spent working outside the agency's office and in the participant's home or community, as documented in case notes.*

F. *Reimbursement for IIHS services shall be provided at the rate of:*

(1) *\$248.90 per week of service for EBP-IIHS providers; or*

(2) *\$197.47 per week of service for non-EBP IIHS providers.*

.15 Limitations.

A. *Reimbursement shall be made by the Program only when all of the requirements of this chapter are met.*

B. *The Program may not reimburse for:*

(1) *Services that are:*

(a) *Provided by a member of the recipient's immediate family or an individual who resides in the recipient's home;*

(b) *Not preauthorized by the Department;*

(c) *Not medically necessary;*

(d) *Beyond the provider's scope of practice;*

(e) *Provided at no charge to the general public;*

(f) *Not appropriately documented;*

(g) *Part of another service paid for by the State; or*

(h) *Provided without a valid required license or appropriate credentials as specified in this chapter;*

(2) *Completion of forms or reports;*

(3) *Broken or missed appointments;*

(4) *Time spent in travel by the provider to and from site of service, except when with the participant or the participant's family; or*

(5) *Costs of travel by the provider to and from the site of service.*

C. *The Program may not reimburse more than the following:*

(1) *1 session per day for out-of-home respite;*

(2) *6 hours per day of community-based respite;*

(3) *24 overnight units of respite annually;*

(4) *2 types per day of expressive and experiential behavioral services;*

(5) *\$2,000 per participant per State Fiscal Year for customized goods and services;*

(6) *1 MCRS assessment for the development of the initial crisis plan.*

D. *Intensive in-home services may not be reimbursed for the same day of service or on the same day of service as:*

(1) *Partial hospitalization/day treatment;*

(2) *Mobile crisis response services; or*

(3) *Other family therapies.*

E. *Out-of-home respite and community-based respite services may not be reimbursed for the same day of service or on the same day of service as:*

(1) *Residential rehabilitation;*

(2) *Therapeutic behavioral services; or*

(3) *Any other public mental health system respite services.*

F. *Out-of-home respite and community-based respite services do not include on-going day care or before or after school programs.*

G. *Out-of-home respite and community based respite services may not be delivered to youth residing in Treatment Foster Care.*

H. Unallowable costs for customized goods and services include, but are not limited to the following:

- (1) Alcoholic beverages;
- (2) Bad debts;
- (3) Contributions and donations;
- (4) Defense and prosecution of criminal and civil proceedings, claims, appeals, and patent infringement;
- (5) Entertainment costs;
- (6) Incentive compensation to employees;
- (7) Personal use by employees of organization-furnished automobiles, including transportation to and from work;
- (8) Fines and penalties;
- (9) Goods or services for personal use;
- (10) Interest on borrowed capital/lines of credit;
- (11) Costs of organized fundraising;
- (12) Costs of investment counsel/management;
- (13) Lobbying; or
- (14) Renovation/remodeling and capital projects.

I. No more than 25 percent of the family support organization's claims in a 30-day period for family peer support may be telephonic for a participant or the participant's family.

.16 Payment Procedures.

A. Request for Payment.

(1) An approved provider shall submit requests for payment for the services covered under this chapter according to the procedures set forth in COMAR 10.09.36.04.

(2) The provider shall:

(a) Bill the ASO in accordance with the payment methodology specified in this chapter;

(b) Accept payment from the ASO as payment in full for the covered services rendered, and make no additional charge to the participant or any other party for these services; and

(c) Submit a request for payment in a manner approved by the Program, which includes a certification of the:

(i) Date or dates of service;

(ii) Participant's name and Medicaid number;

(iii) Provider's name, location, and provider identification number;

(iv) Type, procedure code or codes, and unit or units of covered services provided; and

(v) Amount of reimbursement requested.

B. Documentation Required.

(1) Payments by the Program or its designee may be withheld or recovered if the provider fails to submit:

(a) Requested evidence of services provided;

(b) Staff qualifications;

(c) Corrective action plans; or

(d) Any other types of documentation related to ensuring the health and safety of a participant.

(2) Payments shall be released upon receipt and approval by the Program or its designee of the requested documentation.

(3) An appeal by the provider under COMAR 10.01.03 does not stay the withholding of payments.

C. Billing time limitations for the services covered under this chapter are the same as those set forth in COMAR 10.09.36.06.

D. Payments.

(1) Payments shall be made only for services rendered by a 1915(i) provider approved by the Department and enrolled as a Medicaid provider.

(2) Services will only be paid when delivered in accordance with the POC that has been authorized by the Department.

(3) The Program shall pay according to the fee-for-service schedule for each of the covered services, as set forth in this regulation.

.17 Recovery and Reimbursements.

Recovery and reimbursement are set forth in COMAR 10.09.36.07.

.18 Cause for Suspension or Removal and Imposition of Sanctions.

Cause for suspension or removal and imposition of sanctions is as set forth in COMAR 10.09.36.08 and 10.21.10.

.19 Appeal Procedures for Providers.

Appeal procedures for providers are those set forth in COMAR 10.09.36.09.

.20 Appeal Procedures for Applicants and Participants.

Appeal procedures for applicants and participants are those set forth in COMAR 10.01.04, 10.09.24.13, and 10.09.70.

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

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.90 Mental Health Case Management: Care Coordination for Children and Youth

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

Notice of Proposed Action

[14-207-P]

The Secretary of Health and Mental Hygiene proposes to adopt new Regulations .01—.14 under a new chapter, **COMAR 10.09.90 Mental Health Case Management: Care Coordination for Children and Youth**.

Statement of Purpose

The purpose of this action is to implement a separate targeted case management program for children and youth with serious emotional disturbances. Currently this population is served under a program (COMAR 10.09.45) which serves all age groups. The separation allows the State to implement special provisions related to children and youth.

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 West Preston Street, Room 512, Baltimore, MD 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 August 11, 2014. A public hearing has not been scheduled.

.01 Scope.

A. This chapter applies to providers organized to deliver mental health case management services for children and youth.

B. The purpose of mental health case management care coordination is to assist participants in gaining access to needed medical, mental health, social, educational, and other services.

.02 Definitions.

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

B. Terms Defined.

(1) "Care coordination" means services which assist participants in gaining access to a full range of behavioral health services and, as necessary, any medical, social, financial assistance, counseling, educational, housing, and other support services.

(2) "Care coordination organization (CCO)" means an entity with a minimum of 3 years of experience providing care coordination services that:

(a) Are approved by the Department under this chapter; and

(b) Meet the requirements of COMAR 10.09.89 to provide care coordination to participants in the 1915(i) Community Options for Children, Youth and Families.

(3) "Care coordinator" means an individual employed through the care coordination organization who is responsible for providing care management services to benefit participants and families, including, but not limited to:

(a) Coordination of child and family team meetings; and

(b) Completion of the initial and revised plan of care.

(4) "Child and family team (CFT)" means the group of individuals, including both formal and informal supports and inclusive of the youth and the youth's family, responsible for the creation and implementation of the plan of care.

(5) "Co-occurring disorder" means a diagnosis based on the current Diagnostic and Statistical Manual published by the American Psychiatric Association where the participant is indicated as having both a mental illness and substance use disorder.

(6) "Core service agency" has the meaning stated in COMAR 10.21.17.

(7) "Department" has the meaning stated in COMAR 10.09.36.01 and refers to the Department or its designee.

(8) "Medical Assistance Program" has the meaning stated in COMAR 10.09.36.01.

(9) "Mental Health Case Management: Care Coordination for Children and Youth" has the same meaning as "care coordination" as defined in this regulation.

(10) "Mental health professional" has the meaning stated in COMAR 10.21.17.02.

(11) "Mental health services" means those services described in COMAR 10.09.70.

(12) "Minor" means a child or adolescent younger than 18 years old.

(13) "Natural supports" means any individual who plays a positive, but nonprofessional, role in someone's plan of care.

(14) "Participant" means an individual who meets the qualifications for participation in care coordination that are specified in Regulation .03 of this chapter.

(15) "Plan of care (POC)" means the individualized plan for supports and services prepared according to the requirements outlined in this chapter for a specific participant in care coordination, including a POC developed for 1915(i) participants pursuant to COMAR 10.09.89.

(16) "Program" has the meaning stated in COMAR 10.09.36.01.

(17) "Provider" means the care coordination provider.

(18) "Recipient" has the meaning stated in COMAR 10.09.36.01.

(19) "Residential treatment center (RTC)" has the meaning stated in COMAR 10.07.04.

(20) "Serious emotional disturbance (SED)" has the meaning stated in COMAR 10.21.17.02.

(21) "Young adult" means an individual who is 18 years old or older but not older than 21 years old.

.03 Participant Eligibility.

A. A participant shall be eligible for care coordination services if the recipient:

(1) Is in a federal eligibility category for Maryland Medical Assistance according to COMAR 10.09.24, which governs the determination of eligibility for the Maryland Medical Assistance Program; and

(2) Meets the criteria of either §B(1) or (2) of this regulation.

B. The participant:

(1) Shall:

(a) Meet the diagnostic requirements of being either a:

(i) Minor with a serious emotional disturbance or co-occurring disorder; or

(ii) Young adult with a serious emotional disturbance or co-occurring disorder enrolled in care coordination services continuously under this chapter since reaching age 18; and

(b) Require community treatment and support in order to prevent or address:

(i) Inpatient psychiatric or substance use treatment;

(ii) Treatment in a RTC or residential substance use treatment facility;

(iii) An out-of-home placement;

(iv) Emergency room utilization due to multiple behavioral health stressors;

(v) Homelessness or housing instability, or otherwise lacking in permanent, safe housing; or

(vi) Arrest or incarceration due to multiple behavioral health stressors; or

(2) Shall:

(a) Meet the requirements of §A(1)(a); and

(b) Need care coordination services to facilitate community treatment following:

(i) Release from a detention center or correctional facility; or

(ii) Discharge to the community from RTC placement or inpatient psychiatric unit.

C. A participant that disenrolls after reaching 18 years of age and wishes to re-enroll in care coordination services at a later date shall do so pursuant to COMAR 10.09.45 if more than 120 calendar days has passed since disenrollment.

.04 Participant Eligibility — Levels of Intensity.

A. In addition to meeting the eligibility criteria outlined under Regulation .03 of this chapter, participants shall be classified according to the levels of intensity listed in Regulation .05, .06, or .07 of this chapter, based on the severity of the participant's behavioral health or co-occurring disorder, along with assessed strengths and needs.

B. The Department or its designee shall review participant levels of care to confirm these are appropriate to the participants' needs.

C. Participants may not remain at Level III for longer than 6 consecutive months unless approved by the Department or its designee.

.05 Participant Eligibility — Level I—General Care Coordination.

The participant as described in Regulation .03A of this chapter shall meet at least two of the following conditions:

A. The participant is not linked to behavioral health, health insurance, or medical services;

B. The participant lacks basic supports for education, income, shelter, or food;

C. The participant is transitioning from one level of intensity to another level of intensity of services;

D. The participant needs care coordination services to obtain and maintain community-based treatment and services;

E. The participant:

(1) Is currently enrolled in Level II or Level III Care Coordination services under this chapter; and

(2) Has stabilized to the point that Level I is most appropriate.

.06 Participant Eligibility — Level II—Moderate Care Coordination.

The participant as described in Regulation .03A of this chapter shall meet three or more of the following conditions:

A. The participant is not linked to behavioral health services, health insurance, or medical services;

B. The participant lacks basic supports for education, income, food, or transportation;

C. The participant is homeless or at-risk for homelessness;

D. The participant is transitioning from one level of intensity to another level of intensity including transitions out of the following levels of service:

(1) Inpatient psychiatric or substance use services;

(2) RTC; or

(3) 1915(i) services under COMAR 10.09.89;

E. Due to multiple behavioral health stressors within the past 12 months, the participant has a history of:

(1) Psychiatric hospitalizations; or

(2) Repeated visits or admissions to:

(a) Emergency room psychiatric units;

(b) Crisis beds; or

(c) Inpatient psychiatric units;

F. The participant needs care coordination services to obtain and maintain community-based treatment and services;

G. The participant:

(1) Is currently enrolled in Level III Care Coordination services under this chapter; and

(2) Has stabilized to the point that Level II is most appropriate;

H. The participant:

(1) Is currently enrolled in Level I Care Coordination services under this chapter; and

(2) Has experienced one of the following adverse childhood experiences during the preceding 6 months:

(a) Emotional, physical, or sexual abuse;

(b) Emotional or physical neglect; or

(c) Significant family disruption or stressors.

.07 Participant Eligibility — Level III — Intensive Care Coordination.

A. The participant shall meet at least one of the following conditions:

(1) The participant has been enrolled in the 1915(i) program for 6 months or less;

(2) The participant is currently enrolled in Level I or Level II Care Coordination services under this chapter and has experienced one of the following adverse childhood experiences during the preceding 6 months:

(a) Emotional, physical, or sexual abuse;

(b) Serious emotional or physical neglect; or

(c) Significant family disruption or stressors;

(3) The participant meets the following conditions:

(a) The participant has a behavioral health disorder amenable to active clinical treatment, resulting from a face-to-face psychiatric evaluation;

(b) There is clinical evidence the minor has a SED and continues to meet the service intensity needs and medical necessity criteria for the duration of their enrollment;

(c) A comprehensive psychosocial assessment performed by a licensed mental health professional finds that the minor exhibits a significant impairment in functioning, representing potential serious harm to self or others, across settings, including the home, school, or community;

(d) The psychosocial assessment supports the completion of the Early Childhood Service Intensity Instrument (ECSII) for youth ages 0—5 or the Child and Adolescent Service Intensity Instrument (CASII) for youth ages 6—21, by which the participant receives a score of:

(i) 4 or 5 on the ECSII; or

(ii) 5 or 6 on the CASII;

(e) Youth with a score of 5 on the CASII also shall meet the conditions outlined in §B of this regulation; and

(f) Youth with a score of 4 on the ECSII also shall meet the conditions outlined in §C of this regulation.

B. Youth with a score of 5 on the CASII shall meet one of the following criteria to be eligible based on their impaired functioning and service intensity level:

(1) Transitioning from a residential treatment center; or

(2) Living in the community:

(a) Be at least 13 years old and have:

(i) 3 or more inpatient psychiatric hospitalizations in the past 12 months; or

(ii) Been in an RTC within the past 90 calendar days; or

(b) Be 6 through 12 years old and have:

(i) 2 or more inpatient psychiatric hospitalizations in the past 12 months; or

(ii) Been in an RTC within the past 90 calendar days.

C. Youth who are younger than 6 years old who have a score of 4 on the ECSII shall either:

(1) Be referred directly from an inpatient hospital unit; or

(2) If living in the community, have two or more psychiatric inpatient hospitalizations in the past 12 months.

.08 Conditions for Provider Participation.

A. Selection of CCOs.

(1) The local core service agencies shall select child and youth CCOs through a competitive procurement process, at least once every 5 years.

(2) Regional CCOs may be procured at the mutual agreement of local core service agencies so long as the local core service agencies demonstrate that there is sufficient provider capacity to serve the children and youth in a particular region.

B. The CCO shall:

(1) Be approved by the Department as a CCO;

(2) Commit to coordination with all agencies involved in the participant's POC; and

(3) Work with the State and local child- and family-serving agencies to develop a network of clinical and natural supports in the community to address strengths and needs identified in each POC.

C. Required Criminal Background Checks. The provider shall, at the provider's own expense and for all staff, volunteers, students, and individuals providing care coordination services to participants and their families:

(1) Before employment, submit an application for a child care criminal history record check to the Criminal Justice Information System Central Repository, Department of Public Safety and Correctional Services (DPSCS), in accordance with Family Law Article, §5-561, Annotated Code of Maryland;

(2) Request that DPSCS send the report to:

(a) The director of the agency if the request is from a provider agency concerning staff, volunteers, students, or interns who will work with the participant or family; or

(b) The Department's designee, if the provider is a self-employed, independent practitioner, or the director of the agency;

(3) Review the results of the background checks;

(4) Store background checks in a secure manner consistent with State and federal law; and

(5) Maintain written documentation in the individual's personnel file that the director and all direct service provider staff including, but not limited to, volunteers, interns, and students, meet the criteria set forth in this regulation.

D. *Prohibitions Against Utilization of Staff.* Unless waived by the Department in accordance with §E of this regulation, the provider shall prohibit from working with the participant or the participant's family any staff, volunteers, students, or individuals who:

(1) Are convicted of, received probation before judgment for, or entered a plea of *nolo contendere* to a felony or a crime of moral turpitude or theft or have any other criminal history that indicates behavior which is potentially harmful to a participant;

(2) Are cited on any professional licensing or certification boards or any other registries with a determination of abuse, misappropriation of property, financial exploitation, or neglect; or

(3) Have an indicated finding of child abuse or neglect.

E. *Waiver of Employment Prohibitions.* The Department may waive the prohibition against working with the participant or the participant's family if the provider submits a request to the Department together with the following documentation that:

(1) For criminal background checks:

(a) The conviction of, the probation before judgment for, or plea of *nolo contendere* to the felony or the crime involving moral turpitude or theft was entered more than 10 years before the date of the employment application;

(b) The criminal history does not indicate behavior that is potentially harmful to participants; and

(c) Includes a statement from the individual as to the reasons the prohibition should be waived; and

(2) For abuse and neglect findings:

(a) The indicated finding occurred more than 7 years before the date of the clearance request;

(b) The summary of the indicated finding does not indicate behavior that is potentially harmful to the participant or the participant's family; and

(c) Includes a statement from the individual as to the reasons the prohibition should be waived.

F. The CCO shall provide all three levels of care coordination to ensure continuity of care for participants.

.09 Conditions for Provider Participation — Eligibility.

A. *General Requirements.* To be eligible to be approved as a care coordination organization, an entity shall meet all of the:

(1) Conditions for participation as set forth in COMAR 10.09.36.03; and

(2) Medical Assistance provisions listed in COMAR designated for their provider type.

B. *Specific Requirements.* A CCO:

(1) May not place restrictions on the qualified recipient's right to elect to or decline to:

(a) Receive care coordination as authorized by the Department; and

(b) Choose a care coordinator, as approved by the Department, and other care providers;

(2) Shall employ appropriately qualified individuals as care coordinators, and care coordinator supervisors with relevant work experience, including experience with the populations of focus, including but not limited to:

(a) Minors with a serious emotional disturbance or co-occurring disorder; and

(b) Young adults with a serious emotional disturbance or co-occurring disorder;

(3) Shall assign care coordinators to the participant and family;

(4) Shall schedule a face-to-face meeting with the participant and family within 72 hours of notification of the participant's enrollment in Care Coordination services;

(5) Shall convene the first CFT meeting within 30 calendar days of notification of enrollment to begin developing the POC;

(6) Shall collect information gathered during the application process including results from the physical examination, psychosocial and psychiatric screening, assessments, evaluations, and information from the CFT, participant, and family, and the identified supports to be incorporated as a part of POC development process;

(7) For 1915(i) participants:

(a) Shall arrange for the participant and family to meet with peer support partners within 30 calendar days of notification of enrollment to allow the participant and family the opportunity to determine the role of peer support in the development and implementation of the POC; and

(b) Shall arrange for the participant and family to meet with the intensive in-home service (IIHS) or mobile crisis response service (MCRS) provider, or both, to develop the initial crisis plan within 1 week of enrollment in the 1915(i);

(8) Shall assure that:

(a) A participant's initial assessment is completed within 10 calendar days after the participant has been authorized by Department and determined eligible for, and has elected to receive, care coordination services; and

(b) An initial POC is completed within 15 calendar days after completion of the initial assessment;

(9) Shall maintain an electronic health record for each participant which includes all of the following:

(a) An initial referral and intake form with identifying information, including, but not limited to, the individual's name and Medicaid identification number;

(b) A written agreement for services signed by the participant or the participant's legally authorized representative and by the participant's care coordinator;

(c) An assessment as specified in Regulation .07 of this chapter; and

(d) A POC as specified in Regulation .07D—E of this chapter;

(10) Shall have formal written policies and procedures, approved by the Department, or the Department's designee, which specifically address the provision of care coordination to participants in accordance with the requirements of this chapter;

(11) Shall be available to participants and, as appropriate, their families or, if the participant is a minor, the minor's parent or guardian, for 24 hours a day, 7 calendar days a week, in order to refer:

(a) Participants to needed services and supports; and

(b) In the case of a behavioral health emergency, participants to behavioral health treatment and evaluation services in order to divert the participant's admission to a higher level of care;

(12) Shall document in the participant's care coordination records if the participant declines care coordination services or if a service is terminated because it was not working;

(13) May not provide other services to participants unless the Department approves how conflict of interest standards would be safely addressed.

(14) Shall be knowledgeable of the eligibility requirements and application procedures of federal, State, and local government assistance programs that are applicable to participants;

(15) Shall maintain information on current resources for behavioral health, medical, social, financial assistance, vocational, educational, housing, and other support services including informal community resources;

(16) Shall safeguard the confidentiality of the participant's records in accordance with State and federal laws and regulations governing confidentiality;

(17) Shall comply with the Department's fiscal and program reporting requirements and submit reports to the Department in the manner specified by the Department;

(18) Shall provide services in a manner consistent with the best interest of recipients and may not restrict an individual's access to other services;

(19) Shall assure the amount, duration, and scope of the care coordination activities are documented in a participant's POC, which includes care coordination activities before discharge and after discharge when transitioning from an institution, to facilitate a successful transition into the community; and

(20) Shall commit to coordinating with all agencies involved in the participant's POC.

.10 Mental Health Case Management Care Coordination Provider Staff.

CCOs are required to maintain the following positions:

A. Care coordinator supervisor who:

(1) Is a mental health professional with a minimum of a Master's degree and who is licensed and legally authorized to practice under Health Occupations Article, Annotated Code of Maryland, and who is licensed under Maryland Practice Boards in the profession of:

- (a) Social work;
- (b) Professional Counseling;
- (c) Psychology;
- (d) Nursing; or
- (e) Medicine;

(2) Has a minimum of 1 year of experience in behavioral health working as a supervisor;

(3) Has a minimum of 1 year of experience working with children and youth with mental health or co-occurring disorders;

(4) Provides clinical consultation and training to care coordinators regarding mental health or co-occurring disorders;

(5) Provides supervision of the POCs, and consultation to the CFT meetings, as needed;

(6) Is employed or contracted at a ratio of one supervisor to no more than eight care coordinators; and

(7) Meets training and certification requirements for care coordinator supervisors, as set by the Department; and

B. Care coordinator who:

(1) Has at least a:

(a) Bachelor's degree and has met the Department's training requirements for care coordinators, or

(b) High school diploma or equivalency and is 21 years old or older and was a participant in, or is a direct caregiver, or was a direct caregiver of an individual who received services from the public and child- and family-serving system and meets the training and certification requirements for care coordinators as set forth by the Department;

(2) Is employed by the CCO to provide care coordination services to participants; and

(3) Provides management of the POC and facilitation of the CFT meetings.

.11 Covered Services.

A. The Department shall reimburse for the care coordination services in this regulation when these services have been documented, pursuant to the requirements of this chapter, as necessary.

B. Care coordination services shall be coordinated with, and may not duplicate activities provided as part of, institutional services and discharge planning activities.

C. Care coordination may include contacts that are directly related to identifying the needs and supports for helping the participant to access services.

D. The CCO shall engage in participant advocacy, including:

(1) Empowering the participant and, if the participant is a minor, the minor's parent or guardian to secure needed services;

(2) Taking any necessary actions to secure services on the participant's behalf; and

(3) Encouraging and facilitating the participant's decision making and choices leading to accomplishment of the participant's goals or, if the participant is a minor, encouraging the parent or guardian to carry out these decisions.

E. Comprehensive Participant Assessment and Periodic Participant Reassessment.

(1) Providers shall use a child and youth assessment tool approved by the Department to perform participant assessments and reassessments.

(2) Initial assessment or reassessment involves the participant's stated needs and review of information concerning the participant's mental health, social, familial, educational, cultural, medical, developmental, legal, vocational, and economic status to assist in the formulation of a POC.

(3) The initial assessment or reassessment of the participant's needs and progress shall be facilitated by the care coordinator and monitored by the CFT, which includes the participant, family members, and friends of the participant, as appropriate, or, if the participant is a minor, the minor's parent or guardian, and community service providers, such as mental health providers, medical providers, social workers, and educators, as appropriate.

(4) Coordination and Facilitation of the CFT. The care coordinator shall:

(a) Identify a location for the CFT meetings that is suitable to the participant's needs;

(b) Convene the CFT at least every 6 months, or more frequently, as clinically necessary; and

(c) For 1915(i) participants, convene as per the timeline and functions pursuant to COMAR 10.09.89.

(5) After an initial assessment, each participant shall be reassessed at a minimum of every 6 months.

F. Development and Periodic Revision of the POC.

(1) After the initial assessment is completed, a POC shall be developed based on the information obtained through the comprehensive screening and assessment tools approved by the Department.

(2) The CCO shall finalize the POC within 30 calendar days of notification of enrollment and submit it to the Department or its designee.

(3) Development of and updates to the POC shall be youth- and family-directed and managed through CFT meetings.

(4) The POC shall meet the requirements of Regulation .12 of this chapter.

(5) The POC development process shall include:

(a) The CFT meeting, which includes the participant, and if the participant is a minor, the minor's parent or guardian, providers, family members, and other interested persons, as appropriate, for the purpose of establishing, revising, and reviewing the POC;

(b) The development of the written, individualized POC based on the participant's strengths, needs, and progress toward outcome measures;

(c) Transitional care planning that involves contact with the participant or, if the participant is a minor, the minor's parent or guardian, or the staff of a referring agency, or a service provider

who is responsible to plan for continuity of care from inpatient level of care or an out-of-home placement to another type of community service; and

(d) Discharge planning from care coordination, when appropriate and when the family is closer to its identified vision, when family needs have been met, and when outcome measures for care coordination have been achieved.

(6) After the POC is developed, the CCO shall update the POC as often as clinically indicated based on the strengths and needs of the participant but not less than:

- (a) For Level I participants, every 6 months;
- (b) For Level II participants, every 3 months;
- (c) For Level III participants, every 45 calendar days; and
- (d) For all participants, within 7 calendar days following a crisis event.

.12 Covered Services — Plan of Care.

The POC shall contain, at minimum:

A. A description of the participant’s strengths and needs;
 B. The diagnosis or diagnoses established as evidence of the participant’s eligibility for services under this chapter;

C. The goals of care coordination services to address the behavioral health, medical, social, educational, and other services needed by the participant, with expected target completion dates;

D. A crisis plan including the proposed strategies and interventions for preventing and responding to crises and the youth and family’s definitions of what constitutes a crisis;

E. Designation of the care coordinator with primary responsibility for implementation of the POC;

F. Signatures of the care coordinator and other CFT members, if appropriate;

G. Signatures of the participant and family indicating that the participant and family have:

- (1) Participated in the development of the POC; and
- (2) Had choice in the selection of services, providers, and interventions, when possible, in the wraparound process of building the POC;

H. An ongoing record of contacts made on the participant’s behalf, which includes all of the following:

- (1) Date, start and end time, and subject of contact;
- (2) Individual contacted;
- (3) Electronic or scanned signature of care coordinator making the contact;
- (4) Nature, content, and unit or units of service provided;
- (5) Place of service;
- (6) Whether strategies and tasks specified in the POC have been achieved;
- (7) The timeline for obtaining needed services;
- (8) The timeline for reevaluation of the plan;
- (9) The need for and occurrences of coordination with child- and family-serving agencies and providers;
- (10) The names and contact information for the participant’s primary care provider, dentist, and other health care providers;
- (11) The medications that the participant is currently taking and the dosage and frequency of the medications; and
- (12) Monthly summary notes, which reflect progress made towards the identified needs and outcome measures; and

I. For 1915(i) participants, specified for each recommended service, the following information as appropriate or as required by the Department:

- (1) Description of the service;
- (2) Service start date;
- (3) Estimated duration;
- (4) Frequency and units of service as measured in 15 minute increments to be delivered;

- (5) The specific need or goal that the service is related to; and
- (6) The provider name and contact information.

.13 Covered Services — Child and Family Team Meetings.

The CCO shall:

A. Coordinate and facilitate the CFT, with CFT meetings convened at least every 45 calendar days or more frequently as clinically indicated;

B. Record and keep notes at every CFT meeting that include the CFT members who were present, a summary of the discussion, any changes to the POC, and action items for follow up, and share them with the CFT members, including those who were not in attendance;

C. Update the POC to include change in progress, services, or other areas within 5 calendar days of the CFT meeting; and

D. Ensure that the care coordinator:

- (1) Facilitates CFT meetings;
- (2) Facilitates access to the services and supports in the POC; and
- (3) At the first meeting:

(a) Administers the appropriate assessments, as designated by the Department;

(b) Works with the participant and family to develop an initial crisis plan that includes response to immediate service needs; and

(c) For 1915(i) participants, provides an overview of the wraparound process.

.14 Covered Services — Referral and Related Activities.

A. The care coordinator shall ensure that the participant or, if the participant is a minor, the minor’s parent or guardian has applied for, has access to, and is receiving the necessary services available to meet the participant’s needs, such as mental health services, resource procurement, transportation, or crisis intervention.

B. The care coordinator shall take the necessary action as defined by the Department when the services identified under Regulation .13 of this chapter have not occurred.

C. The linkage process shall include:

(1) Community and natural support development by contacting, with the participant’s consent, members of the participant’s support network, including CFT members, for example, family, friends, and neighbors, as appropriate, or, if the participant is a minor, the minor’s parent or guardian, to mobilize assistance for the participant;

(2) Crisis intervention by referral of the participant or, if the participant is a minor, the minor’s parent or guardian, to services on an emergency basis when immediate intervention is necessary;

(3) Arranging for the participant’s transportation to and from services;

(4) Outreach in an attempt to locate service providers which can meet the participant’s needs, or, if the participant is a minor, the minor’s parent or guardian’s needs;

(5) Reviewing the POC with the participant and the participant’s CFT, as appropriate, or, if the participant is a minor, with the minor’s parent or guardian, so as to enable and facilitate their participation in the plan’s implementation; and

(6) Provision of health and wellness education, information, and linkages to high-quality health care services, preventive and health promotion resources, and chronic disease management services with an emphasis on resources available in the family’s community and peer group.

.15 Covered Services — Monitoring and Follow-Up Activities.

A. A CCO shall monitor, as per standards set forth by the Department, the activities and contacts that are considered necessary to ensure the POC is implemented and adequately addresses the participant’s needs, and include:

- (1) The participant or, if the participant is a minor, the minor’s parent or guardian; and

(2) With proper consent:

(a) Family members and friends, if appropriate;

(b) Other individuals or agency representatives identified and approved as CFT members by the participant or, if the participant is a minor, the minor's parent or guardian; and

(c) Other service providers, if any.

B. The CCO shall:

(1) Follow up any service referral within 7 calendar days to determine whether the participant, or, if the participant is a minor, the minor's parent or guardian, made contact with the service provider that the participant was referred to; and

(2) Monitor service provision on an ongoing basis, to ensure that the agreed-upon services are provided, are adequate in quantity and quality, and meet the participant's needs and stated goals, or, if the participant is a minor, the parent's or guardian's stated needs and goals for the participant.

C. The CCO shall, in accordance with the decisions and recommendations of the CFT, revise the POC to reflect the participant's changing needs.

.16 Limitations.

A. Care coordination services are facilitative in nature.

B. A restriction may not be placed on a qualified recipient's option to receive mental health case management services.

C. Care coordination services do not restrict or otherwise affect:

(1) Eligibility for Title XIX benefits or other available benefits or programs, except as limited by §E of this regulation;

(2) The freedom of a participant or, if the participant is a minor, the minor's parent or guardian to select from all available services for which the participant is found to be eligible; or

(3) A participant's free choice among qualified providers or, if the participant is a minor, the minor's parent or guardian's free choice among qualified providers.

D. The CCO may not bill the Program for:

(1) The direct delivery of an underlying medical, educational, social, or other service to which a participant has been referred;

(2) Activities integral to the administration of foster care programs;

(3) Activities not consistent with the definition of case management services under Section 6052 of the federal Deficit Reduction Act of 2005 (P.L. 109-171);

(4) Activities for which third parties are liable to pay;

(5) Activities delivered as part of institutional discharge planning;

(6) CFT participation, with the exception of when a participant is transferring from one CCO to a different CCO and only with the pre-authorization of the Department; or

(7) A 15-minute unit of service for telephonic contact, unless the provider has delivered at least 8 minutes of service.

E. Reimbursement may not be made for care coordination services if the participant is receiving a comparable care coordination service under another Program authority.

F. A participant's care coordinator may not be the participant's family member or a direct service provider for the participant.

G. Units of services for all levels of care coordination shall be 15 minutes of contact, which may include face-to-face and, with the exception of §G(4) of this regulation, non-face-to-face contacts with the participant, or, if the participant is a minor, with the minor's parent or guardian, and indirect collateral contacts on behalf of the participant with other community providers, as per the following:

(1) For participants in Level I — General Coordination, allows a maximum of 12 units of service per month, with a minimum of two units of face-to-face contact;

(2) For participants in Level II — Moderate Care Coordination, allows a maximum of 30 units of service per month, with a minimum of four units of face-to-face contact;

(3) For participants in Level III — Intensive Care Coordination, allows a maximum of 60 units of service per month, with a minimum of six units of face-to-face contact; and

(4) For Level I and Level II, four additional units of service above and beyond the monthly maximum may be billed during the first month of service to the participant and every 6 months thereafter to allow for comprehensive assessment and reassessment of the participant, which shall be performed as a face-to-face service.

.17 Preauthorization.

All covered services under this chapter shall be preauthorized and comply with the requirements of COMAR 10.09.70.07 and COMAR 10.09.89 for services delivered to 1915(i) participants.

.18 Payment Procedures.

A. The Program shall reimburse the provider according to the requirements in this chapter and COMAR 10.09.89 for services delivered to 1915(i) participants, and the fees established under COMAR 10.21.25.

B. Request for Payment.

(1) A provider shall submit requests for payment of mental health case management services according to procedures established by the Department.

(2) A provider shall bill the Program for the appropriate fee under COMAR 10.21.25.

(3) The Program may not make direct payment to recipients.

C. Minutes of service and units per participant are to be totaled by day and by service.

D. Billing time limitations for services covered under this chapter are the same as those set forth in COMAR 10.09.36.06.

E. Payment shall be made:

(1) Only to a qualified provider for covered services rendered to a participant, as specified in these regulations; and

(2) According to the requirements of this chapter and COMAR 10.09.89 for 1915(i) participants, and the fees established in COMAR 10.21.25.

F. Service Provision. Units of services for all levels of care coordination shall be 15 minutes of contact, which may include:

(1) Face-to-face and non-face-to-face contacts with the participant or, if the participant is a minor, with the minor's parent or guardian; and

(2) Indirect collateral contacts on behalf of the participant with other community providers.

.19 Recovery and Reimbursement.

Recovery and reimbursement are as set forth in COMAR 10.09.36.07.

.20 Cause for Suspension or Removal and Imposition of Sanctions.

Cause for suspension or removal and imposition of sanctions is as set forth in COMAR 10.09.36.08.

.21 Appeal Procedures.

Appeal procedures are those set forth in COMAR 10.09.36.09.

.22 Interpretive Regulation.

State regulations are interpreted as those set forth in COMAR 10.09.36.10.

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

**Subtitle 21 MENTAL HYGIENE
REGULATIONS**

**10.21.25 Fee Schedule — Mental Health Services
— Community-Based Programs**

Authority: Health-General Article, §§10-901, 15-103, and 15-105; Title 16, Subtitles 1 and 2; Annotated Code of Maryland

Notice of Proposed Action

[14-210-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .09 under **COMAR 10.21.25 Fee Schedule — Mental Health Services — Community-Based Programs and Individual Practitioners**.

Statement of Purpose

The purpose of this action is to amend regulations to change the unit of service for targeted case management services for children and youth.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele A. Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 512, Baltimore, MD 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 August 11, 2014. A public hearing has not been scheduled.

.09 Fee Schedule — Support Services.

A.—H. (text unchanged)

I. *Adult Mental Health Case Management.* The Department shall reimburse a designated program that is approved by the Core Service Agency for mental health case management according to COMAR 10.09.45 for providing case management services to [a child or adolescent with a serious emotional disorder or] an adult with a serious and persistent mental health disorder as follows:

(1)—(3) (text unchanged)

J. *Mental Health Case Management: Care Coordination for Children and Youth.* The Department shall reimburse a designated program that is approved by the Core Service Agency to provide mental health case management services to a child or adolescent with a serious emotional disorder, according to COMAR 10.09.90, as follows:

(1) *Case Management Service units, for a minimum of 15 minutes of face-to-face and non-face-to-face case management service at a rate of \$20.19 per 15 minutes for:*

(a) *Level I -- General Coordination up to 12 units of service per month, with a minimum of two units of face-to-face contact;*

(b) *Level II -- Moderate Care Coordination up to 30 units of service per month, with a minimum of four units of face-to-face contact; and*

(c) *Level III -- Intensive Care Coordination up to 60 units of service per month, with a minimum of six units of face-to-face contact; and*

(2) *For comprehensive assessment and reassessment case management service units, for Level I and Level II only, four additional face-to-face units of service above the monthly maximum may be billed during the first month of service to the participant and every 6 months thereafter.*

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

Notice of Proposed Action

[14-197-P]

The Secretary of Health and Mental Hygiene proposes to:

(1) Amend Regulations .01 and .02 under **COMAR 10.27.19 Code of Ethics;**

(2) Amend Regulations .01 and .02 under **COMAR 10.39.07 Certified Nursing Assistants/Certified Medication Technicians (CNA/CMT)—Code of Ethics;** and

(3) Adopt new Regulation .01, recodify existing Regulations .01 and .03 to be Regulations .02 and .04, and amend and recodify existing Regulation .02 to be Regulation .03 under **COMAR 10.53.05 Standards of Practice and Conduct.**

Statement of Purpose

The purpose of this action is to amend the Code of Ethics regulations for licensed nurses, certified nursing assistants, certified medication technicians, and electrologists to clarify that privacy violations resulting from misuse of electronic devices and committing acts of moral turpitude, dishonesty, or corruption are unethical and to substitute current language for obsolete language.

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 West Preston Street, Room 512, Baltimore, MD 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 August 11, 2014. A public hearing has not been scheduled.

Subtitle 27 BOARD OF NURSING

10.27.19 Code of Ethics

Authority: Health Occupations Article, §§8-205 and 8-316(a)(25), Annotated Code of Maryland

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) Abandonment.

(a) "Abandonment" means:

(i) Termination by a nurse of a [patient] *client* assignment which had been accepted by the nurse, without reasonable notification to the immediate supervisor to allow for the continuation of the [patient's] *client's* care;

(ii) (text unchanged)

(iii) In the case of a private duty assignment or hospice, if the nurse is the sole provider of care, failure to report for assigned duty or leaving the [patient] *client* unattended at the end of the assigned shift without prior notification to the nursing supervisor, the cognitive capable adult [patient] *client*, or the [patient's] *client's* designated representative.

(b) (text unchanged)

(2) "Accepting a [patient] *client* assignment" means a nurse has arrived on duty and assumed responsibility for [patient] *client* care based on the nurse's reasonable and prudent professional judgment and the standards of nursing practice.

(3) (text unchanged)

(4) "Client" means a patient, resident, or recipient of care.

(5) "Electronic devices" means, but is not limited to, any of the following:

(a) Telephones with recording and picture-taking ability;

(b) Digital cameras or any other device that can record pictures and data;

(c) Facsimile machines, photocopiers, and scanners for copying; and

(d) Recording devices.

[(4)] (6) (text unchanged)

(7) "Social media" means any form of electronic communication, including, but not limited to, communication by use of websites for social networking and blogging through which users create online communities to share information, ideas, personal messages, and other content such as videos.

.02 Ethical Responsibilities.

A. A nurse shall:

(1)—(3) (text unchanged)

(4) Promptly report a breach of confidentiality or privacy;

[(4)] (5)—[(7)] (8) (text unchanged)

B. A nurse may not, when acting in the capacity or identity of a licensed nurse:

(1)—(6) (text unchanged)

(7) Abandon a [patient] *client*.

C. A nurse may not engage in behavior that dishonors the profession whether or not acting in the capacity or identity of a licensed nurse, including, but not limited to:

(1) Verbal abuse, including use of racial or ethnic [slur of] slurs, directed toward a coworker, employer, Board staff member, [patient] *client*, or [patient's] *client's* family member;

(2) Physically abusing, threatening, or intimidating a coworker, employer, [patient] Board staff member, *client*, or [patient's] *client's* family member;

(3) Deceiving, defrauding, or stealing from a coworker, employer, [patient] *client*, or [patient's] *client's* family member;

(4)—(6) (text unchanged)

(7) Obtaining or copying any part of a [patient's] *client's* health record for purposes other than:

(a) Providing health care to the [patient] *client*;

(b)—(c) (text unchanged)

(d) Allowing a nursing student to use records for educational purposes if [patient] *client* identification has been redacted or disguised;

(8) (text unchanged)

(9) Reporting for employment under the influence of alcohol or [drugs] a controlled dangerous substance or submitting a [preemployment] pre-employment sample that is positive for alcohol or a controlled dangerous substance without having provided evidence of valid prescriptions for all [drugs] controlled dangerous substances in the sample; [or]

(10) Reporting for employment under the influence of an illicit drug or submitting a pre-employment sample that is positive for an illicit drug;

[(10)] (11) Using the power, influence, or knowledge, inherent in or obtained during the nurse-patient relationship, for the nurse's personal gratification or benefit[.];

(12) Engaging in unprofessional or immoral conduct;

(13) Misrepresenting or concealing a material fact in obtaining a license, renewing a license, or reinstating a license; or

(14) Committing an act of moral turpitude, dishonesty, or corruption when the act directly or indirectly affects the health, welfare, or safety of the citizens of this State, and, if the act constitutes a crime, conviction thereof in a criminal proceeding is not a condition precedent to disciplinary action.

D. (text unchanged)

(1) Sexual behavior with a [patient] *client* in the context of a professional evaluation, treatment, procedure, or service to the [patient] *client*, regardless of the setting in which the professional service is rendered;

(2) Sexual behavior with a [patient] *client* under the pretext of diagnostic or therapeutic intent or benefit;

(3) Solicitation of a sexual relationship, whether consensual or nonconsensual, with a [patient] *client*;

(4) Sexual advances toward, or the request of sexual favors from, a [patient] coworker, student, employer, *client*, or *client's* family member;

(5) Discussion of nontherapeutic sexual matters while treating a [patient] *client*;

(6) Taking photographs of a [patient] *client* for a sexual purpose;

(7) Sexual harassment of a coworker, student, employer, [patient] *client*, or [patient's] *client's* family member;

(8) Sexual contact with an incompetent or unconscious [patient] *client*;

(9) (text unchanged)

(10) Intentionally exposing any of the [patient's] *client's* sexual body parts for a nontherapeutic purpose.

E. Electronic devices, including but not limited to telephones, may not be used to record medical records and take pictures or videos of clients without written client authorization.

F. A nurse:

(1) May not make use of electronic devices and social media to transmit or place any client information online; and

(2) Shall adhere to the following principles for the use of electronic devices and social media:

(a) Every nurse has an obligation to understand the nature, benefits, and consequences of the use of electronic devices and participating in social media networking;

(b) Nurses are bound to observe ethically prescribed client-nurse boundaries online as in any other setting;

(c) Client information shall be maintained in separate encrypted and secured files on personal computers and online;

(d) A nurse has an obligation to report any electronically generated material that could harm a client's privacy rights; and

(e) The standards of professionalism are the same when using electronic devices and social media as in any other circumstance.

**Subtitle 39 BOARD OF NURSING —
CERTIFIED NURSING ASSISTANTS**

**10.39.07 Certified Nursing Assistants/Certified
Medication Technicians (CNA/CMT)—Code of
Ethics**

Authority: Health Occupations Article, §§8-205(a)(1) and (2), 8-6A-05(a)(5), and 8-6A-10, Annotated Code of Maryland

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(5) (text unchanged)

(6) “Electronic devices” means, but is not limited to, any of the following:

(a) Telephones with recording and picture-taking ability;

(b) Digital cameras or any other device that can record pictures and data;

(c) Facsimile machines, photocopiers, and scanners for copying; and

(d) Recording devices.

(7) “Social media” means any form of electronic communication, including, but not limited to, communication by use of websites for social networking and blogging through which users create online communities to share information, ideas, personal messages, and other content such as videos.

.02 Ethical Responsibilities.

A. A certificate holder shall:

(1)—(2) (text unchanged)

(3) Promptly report a breach of confidentiality or privacy;

[(3)] (4)—[(8)] (9) (text unchanged)

B. (text unchanged)

C. A certificate holder may not engage in the following behaviors that dishonor the practice, whether or not acting in the capacity or identity of a certificate holder, including, but not limited to:

(1) Verbal abuse, including use of [a] racial or ethnic [slur] slurs, directed toward a coworker, employer, Board staff member, client, or client’s family member;

(2) [Physical abuse of, making threats toward, or intimidation of] Physically abusing, threatening, or intimidating a coworker, employer, Board staff member, client, or client’s family member;

(3)—(7) (text unchanged)

(8) Reporting for employment under the influence of alcohol or [drugs] a controlled dangerous substance or submitting a [preemployment] pre-employment sample that is positive for alcohol or a controlled dangerous substance without having provided evidence of valid prescriptions for all [drugs] controlled dangerous substances in the sample;

(9) Reporting for employment under the influence of an illicit drug or submitting a pre-employment sample that is positive for an illicit drug;

[(9)] (10) Using the power, influence, or knowledge obtained during the certificate holder’s relationship with the client for the certificate holder’s personal gratification or benefit; [or]

(11) Performing acts beyond the scope of practice for which the individual is certified, unless acting in accordance with COMAR 10.27.11;

(12) Engaging in unprofessional or immoral conduct;

(13) Misrepresenting or concealing a material fact in obtaining a certificate, renewing a certificate, or reinstating a certificate;

(14) Committing an act of moral turpitude, dishonesty, or corruption when the act directly or indirectly affects the health, welfare, or safety of the citizens of this State, and, if the act

constitutes a crime, conviction thereof in a criminal proceeding is not a condition precedent to disciplinary action; or

[(10)] (15) (text unchanged)

D. A certificate holder may not engage in sexual misconduct, including, but not limited to:

(1)—(3) (text unchanged)

(4) Sexual advances toward, or requesting sexual favors from, a coworker, student, employer, client, or client’s family member;

(5)—(10) (text unchanged)

E. Electronic devices, including but not limited to telephones, may not be used to record medical records and take pictures or videos of clients without written client authorization.

F. A certificate holder:

(1) May not make use of electronic devices and social media to transmit or place any client information online; and

(2) Shall adhere to the following principles for the use of social media:

(a) Every certificate holder has an obligation to understand the nature, benefits, and consequences of the use of electronic devices and participating in social media networking;

(b) Certificate holders are bound to observe ethically prescribed client-certificate holder boundaries online as in any other setting;

(c) Client information shall be maintained in separate encrypted and secure files on personal computers and online;

(d) A certificate holder has an obligation to report any content that could harm a client’s privacy rights; and

(e) The standards of professionalism are the same when using electronic devices and social media as in any other circumstance.

**Subtitle 53 BOARD OF NURSING —
ELECTROLOGY PRACTICE
COMMITTEE**

10.53.05 Standards of Practice and Conduct

Authority: Health Occupations Article, §§8-205 and 8-6B-03, Annotated Code of Maryland

.01 Definitions.

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

B. Terms Defined.

(1) “Electronic devices” means, but is not limited to, any of the following:

(a) Telephones with recording and picture-taking ability

(b) Digital cameras or any other device that can record pictures and data;

(c) Facsimile machines, photocopiers, and scanners for copying; and

(d) Recording devices.

(2) “Social media” means any form of electronic communication, including, but not limited to, communication by use of websites for social networking and blogging through which users create online communities to share information, ideas, personal messages, and other content such as videos.

[.02].03 Unprofessional Conduct.

A.—C. (text unchanged)

D. Electronic devices, including but not limited to telephones, may not be used to record medical records and take pictures or videos of clients without written client authorization.

E. An electrologist:

(1) *May not make use of electronic devices and social media to transmit or place any client information online; and*

(2) *Shall adhere to the following principals for the use of electronic devices and social media:*

(a) *Every electrologist has an obligation to understand the nature, benefits, and consequences of using electronic devices and participating in social media networking;*

(b) *An electrologist is bound to observe ethically prescribed client-electrologist boundaries when using electronic devices and social media as in any other setting;*

(c) *Client information shall be maintained in separate encrypted and secured files on personal computers and online; and*

(d) *The standards of professionalism are the same when using electronic devices and social media as in any other circumstance.*

F. An electrologist may not engage in behavior that dishonors the profession whether or not acting in the capacity of a licensed electrologist, including, but not limited to:

(1) *Reporting for employment under the influence of alcohol or a controlled dangerous substance or submitting a pre-employment sample that is positive for alcohol or a controlled dangerous substance without having provided evidence of valid prescriptions for all controlled dangerous substances in the sample;*

(2) *Reporting for employment under the influence of an illicit drug or submitting a pre-employment sample that is positive for an illicit drug; or*

(3) *Committing an act of moral turpitude, dishonesty, or corruption when the act directly or indirectly affects the health, welfare, or safety of the citizens of this State, and, if the act constitutes a crime, conviction thereof in a criminal proceeding is not a condition precedent to disciplinary action.*

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

Title 11
DEPARTMENT OF
TRANSPORTATION
Subtitle 01 OFFICE OF THE
SECRETARY

Notice of Proposed Action

[14-192-P]

The Secretary of the Maryland Department of Transportation proposes to amend:

(1) Regulation .04 under **COMAR 11.01.13 Release of Public Records**; and

(2) Regulation .05 under **COMAR 11.01.15 Correction or Amendment of Personal Records**.

Statement of Purpose

The purpose of this action is to amend existing regulations to reflect the change in title of Executive Secretary of the Maryland Transportation Authority to Executive Director.

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 Matthew Garbark, State Legislative Analyst, Maryland Department of Transportation, 7201 Corporate Center Drive, MS-340, Hanover MD 21076, or call 410-865-1096, or email to mgarbark@mdot.state.md.us, or fax to 410-865-1113. Comments will be accepted through August 11, 2014. A public hearing has not been scheduled.

11.01.13 Release of Public Records

Authority: State Government Article, §§10-611—10-623, Annotated Code of Maryland

.04 Form of Request.

A. —C. (text unchanged)

D. Applicants may obtain Form D-RM-005 or may request public records by writing, visiting, or calling any Office of the Department of Transportation, or by contacting the appropriate official custodian as listed below:

(1) —(6) (text unchanged)

(7) Executive [Secretary] *Director*, Maryland Transportation Authority, 2310 Broening Highway, Suite 150, Baltimore, Maryland 21224-6639.

11.01.15 Correction or Amendment of Personal Records

Authority: State Government Article, §10-625, Annotated Code of Maryland

.05 Filing the Request.

A request for correction or amendment of the records shall be filed with the Department by addressing it to the custodian of the record. If the custodian is unknown to the person in interest, the request may be addressed to the appropriate official custodian as listed below:

A. —F. (text unchanged)

G. Executive [Secretary] *Director*, Maryland Transportation Authority, 2310 Broening Highway, Suite 150, Baltimore, Maryland 21224-6639.

JAMES T. SMITH, JR.
Secretary

Subtitle 02 TRANSPORTATION
SERVICE HUMAN RESOURCES
SYSTEM

11.02.01 Applicability and Definitions

Authority: Transportation Article, §§2-102, 2-103.4, and 7-201; State Personnel and Pensions Article, §2-106; Annotated Code of Maryland

Notice of Proposed Action

[14-193-P]

The Secretary of the Maryland Department of Transportation proposes to amend Regulation .02 under **COMAR 11.02.01 Applicability and Definitions**.

Statement of Purpose

The purpose of this action is to amend existing regulations to reflect the change in title of Executive Secretary of the Maryland Transportation Authority to Executive Director.

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 Matthew Garbark, State Legislative Analyst, Maryland Department of Transportation, 7201 Corporate Center Drive, MS-340, Hanover MD 21076, or call 410-865-1096, or email to mgarbark@mdot.state.md.us, or fax to 410-865-1113. Comments will be accepted through August 11, 2014. A public hearing has not been scheduled.

.02 Definitions.

- A. (text unchanged)
- B. Terms Defined.
 - (1) (text unchanged)
 - (2) "Administrator" means the:
 - (a) —(e) (text unchanged)
 - (f) Executive [Secretary] *Director* of the Maryland Transportation Authority.
 - (2-1) —(29) (text unchanged)

JAMES T. SMITH, JR.
Secretary

**Subtitle 07 MARYLAND
TRANSPORTATION AUTHORITY**

Notice of Proposed Action

[14-191-P]

The Executive Director of the Maryland Transportation Authority proposes to amend:

- (1) Regulation **.24** under **COMAR 11.07.03 Permits for Towing, Road Service, and Storage of Vehicles**;
- (2) Regulations **.02** and **.04** under **COMAR 11.07.05 Public Notice of Toll Schedule Revisions**; and
- (3) Regulations **.03**, **.05**, and **.12** under **COMAR 11.07.09 Vehicle Parking Facilities**.

This action was considered by the Chairman and members of the Maryland Transportation Authority at an open meeting held on December 19, 2013 notice of which was given through publication in the Maryland Register pursuant to State Government Article §10-505, Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to amend regulations to reflect the change of the position title of Executive Secretary of the Maryland Transportation Authority to Executive Director of the Maryland Transportation Authority.

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 Eric Backes, Assistant Manager of Government Relations, Maryland Transportation Authority, 2310 Broening Highway, Baltimore MD 21224, or call 413-537-1032, or email to ebackes@mdta.maryland.gov, or fax to 410-537-5659. Comments will be accepted through August 11, 2014. A public hearing will be scheduled upon request.

11.07.03 Permits for Towing, Road Service, and Storage of Vehicles

Authority: Transportation Article, §§4-204, 4-205, 4-208, 4-208.1, 21-1403, 21-1407, and 26-301 et seq., Annotated Code of Maryland

.24 Appeal of Suspension or Revocation of a Permit.

A. A permittee whose permit is suspended, revoked, or denied pursuant to Regulation .09E of this chapter may appeal the suspension or revocation to the Executive [Secretary] *Director* of the Authority within 7 calendar days of receipt of the written notice of the suspension, revocation, or denial.

B. (text unchanged)

C. The Executive [Secretary] *Director* or the Executive [Secretary's] *Director's* designee shall review the permittee's written appeal and shall set a date to conduct a contested case hearing. The Executive [Secretary] *Director* may delegate the authority to conduct the contested case hearing to the Office of Administrative Hearings in accordance with State Government Article, §10-205, Annotated Code of Maryland.

D. The Executive [Secretary] *Director* or the Executive [Secretary's] *Director's* designee shall render a final agency decision in writing.

E. (text unchanged)

11.07.05 Public Notice of Toll Schedule Revisions

Authority: Transportation Article, §§4-205, 4-312, 21-1401, 21-1414, and 27-110, Annotated Code of Maryland

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) —(2) (text unchanged)

(3) "Executive [Secretary] *Director*" means the Executive [Secretary] *Director* of the Maryland Transportation Authority.

(4) —(11) (text unchanged)

.04 Procedures for Increases on Variably Priced Toll Facilities.

A. (text unchanged)

B. The Executive [Secretary] *Director* of the Authority may set or adjust the mileage rate, pricing period, or toll zones consistent with the ranges established by the Authority in accordance with §A of this regulation. The Authority shall post notice of such action by the Executive [Secretary] *Director* on the Authority's official website at least 10 days prior to the effective date.

11.07.09 Vehicle Parking Facilities

Authority: Transportation Article, §§4-205 and 4-311.1, Annotated Code of Maryland

.03 Definitions.

- A. (text unchanged)
- B. Terms Defined.
 - (1) —(3) (text unchanged)
 - (4) “Executive [Secretary] *Director*” means the Executive [Secretary] *Director* of the Maryland Transportation Authority.
 - (5) — (13) (text unchanged)

.05 Terms and Conditions.

- A. — B. (text unchanged)
- C. A proposer may not rely upon oral responses to inquiries. If a proposer has a question regarding this chapter, the proposer shall submit the question in writing to the Executive [Secretary] *Director* and the Authority shall provide written answers.
- D. — E. (text unchanged)

.12 Delegation.

The Authority may delegate to the Executive [Secretary] *Director* the authority to execute or approve any documents related to a vehicle parking facility project under this chapter or the Act.

BRUCE W. GARTNER
Executive Director

Title 13B MARYLAND HIGHER EDUCATION COMMISSION Subtitle 05 FULLY ONLINE PROGRAMS

13B.05.01 Registration

Authority: Education Article, §§11-105(u), 11-202, and 11-202.2, Annotated Code of Maryland

Notice of Proposed Action
[14-202-P]

The Maryland Higher Education Commission proposes to amend Regulations .06 and .11 under **COMAR 13B.05.01 Registration**. This action was considered by the Commission at an open meeting held on May 28, 2014, notice of which was given as required by the State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to amend the application fee for registration with the Maryland Higher Education Commission for institutions of higher education enrolling no more than 20 Maryland students in fully online programs, and to establish annual reporting requirements for institutions of higher education having no more than 5 students at sites in Maryland.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed action may result in reduced revenues to the Commission, owing to the reduced application fee for institutions enrolling no more than 20 Maryland

students in fully online programs. However, for these institutions, payment of a reduced fee will be a benefit.

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

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

A. Some 24 institutions currently registered with the Commission would be eligible to pay a reduced fee of \$500 rather than \$1,000. This would result in a revenue loss of \$12,000. However, the reduced fee may result in additional registrations from institutions that have avoided or declined registration in prior years. The Commission is aware of such institutions, but is uncertain how many of them will register given the opportunity to do so by paying a lower fee.

D. Some 24 institutions currently registered with the Commission would be eligible to pay a reduced fee of \$500 rather than \$1,000. If an institution increases its enrollments to more than 20 students in the future, it would be required to pay the higher registration fee of \$1,000. Whether the numbers of enrolled students will remain steady, so that these institutions continue to qualify for payment of the lower fee, is unknown.

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 Dr. Shawna Acker-Ball, Director, Academic Affairs, Maryland Higher Education Commission, 6 N. Liberty St., 10th Floor, Baltimore, MD 21201, or call 410-767-3268, or email to sackerball@mhec.state.md.us, or fax to 410-332-0270. Comments will be accepted through August 11, 2014. A public hearing has not been scheduled.

.06 Registration Procedure.

A. An institution seeking registration with the Commission as required in Regulation .04 of this chapter shall submit to the Commission:

- (1) (text unchanged)
- (2) An application fee in the amount of:
 - (a) For an institution having an enrollment of no more than 20 Maryland students, \$500; and
 - (b) For an institution having an enrollment of more than 20 students, \$1,000;

- (3) — (8) (text unchanged)
- B.— I. (text unchanged)

.11 Institutional Operations.

- An institution that is registered under this chapter shall:
 - A.—B. (text unchanged)
 - C. Make refunds to Maryland students as required by Regulation .10 of this chapter; [and]
 - D. Make public and post on its website:
 - (1) (text unchanged)
 - (2) The process for Maryland students to make complaints about the institution[.]; and

E. If the institution has no more than five students in a single program at one or more sites in the State in a supervised internship, practicum, or field experience as a required part of a degree or certificate program, submit to the Secretary, by June 30 of each year, an annual report detailing the number of students placed at each internship, practicum, or field experience location, in a form and manner required by the Secretary.

CATHERINE M. SHULTZ, J.D.
Acting Secretary of Higher Education

Title 14 INDEPENDENT AGENCIES

Subtitle 31 OFFICE FOR CHILDREN

14.31.01 Local Care Teams and State Coordinating Council

Authority: Education Article, §§8-103—8-303 and 8-401—8-417; Health-General Article, §§2-102, 2-104, 2-105, 4-305—4-307, 7-1007, 10-204, 10-712, 10-1203, and 15-102.1; Human Services Article, §§2-202, 2-203, 2-209, 4-204, 4-205, 4-207, 9-202, 9-204, and 9-221; Annotated Code of Maryland

Notice of Proposed Action
[14-189-P]

The Secretaries of Human Resources, Juvenile Services, and Health and Mental Hygiene, the State Superintendent of Schools, and the Executive Director of the Governor’s Office for Children propose to repeal existing Regulation .05 and adopt new Regulation .05 under **COMAR 14.31.01 Local Care Teams and State Coordinating Council**.

Statement of Purpose

The purpose of this action is to define the policies and procedures for Local Care Teams in order to promote interagency coordination.

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 Anne Sheridan, Executive Director, Governor’s Office for Children, 301 W. Preston Street, Baltimore, MD 21201, or call 410-767-6211, or email to

anne.sheridan@maryland.gov. Comments will be accepted through August 11, 2014. A public hearing has not been scheduled.

.05 LCT Policies and Procedures.

- A. Each LCT shall develop policies and procedures to govern the:
 - (1) Conduct of regular meetings of the LCT; and
 - (2) Discussion of any requests for assistance by member agencies of individual children with intensive needs, including procedures for:
 - (a) Timely discussion of all requests for assistance;
 - (b) Expedited discussion of any request for assistance designated as an emergency matter by the referring agency; and
 - (c) Assurances of parental participation, or documentation of the LCT’s diligent efforts to assure parental participation, in the discussion of a child’s care.

B. The LCT shall meet a minimum of four times per calendar year for the purposes stated in Human Services Article, §8-407, Annotated Code of Maryland.

C. The Executive Director of the Governor’s Office for Children may grant waivers to the number of meetings required under §B of this regulation if:

- (1) The LCT requests a waiver in writing prior to January 1 of the applicable calendar year;
- (2) The LCT explains the reason for the waiver request;
- (3) The request does not violate any applicable statute, law, regulation, ordinance, or bylaw; and
- (4) The request is reasonable under the circumstances.

D. Waivers under this chapter may be granted for a 1-year period, are renewable, and are subject to reconsideration at any time.

E. The denial of a waiver may not be appealed.

ANNE SHERIDAN
Executive Director
Governor’s Office for Children

Title 18 DEPARTMENT OF ASSESSMENTS AND TAXATION

Subtitle 08 PUBLIC SERVICE COMPANY FRANCHISE TAX

18.08.01 Administration

Authority: Tax-Property Article, §2-201; Tax-General Article, §§8-402, 8-402.1, 8-404, 8-408, [and] 13-303, 13-402, 13-701, 13-702, and 13-708; Annotated Code of Maryland

Notice of Proposed Action
[14-188-P]

The Director of the Department of Assessments and Taxation proposes to amend Regulation .04 under **COMAR 18.08.01 Administration**.

Statement of Purpose

The purpose of this action is to increase to the statutory limit the penalty for failing to file a public service company franchise tax form, to require certain documents to be included with the form and to give the Department the same authority over incomplete forms as it has over unfiled forms.

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 Renee Manuel-Savage, Administrator Franchise Tax/Public Utility, State Department of Assessments and Taxation, 301 W. Preston Street, 8th Floor, Baltimore, MD 21201, or call 410-767-4185, or email to renee.manuel-savage@maryland.gov, or fax to 410-333-5873. Comments will be accepted through August 11, 2014. A public hearing has not been scheduled.

.04 Filing Forms and Additional Information.

A. — C. (text unchanged)

D. On or before March 15 annually, each company shall file with the Department a return detailing all operating and nonoperating revenues for the preceding calendar year. Each company shall attach to the return:

(1) [a] A check made payable to the Department for the remaining tax due for the period covered by the return[.]; and

(2) Financial statements and a copy of the company's annual report as submitted to the appropriate regulatory authorities.

E. If a company fails to file the return as required under this regulation, the Department will mail to the company a notice and demand for the return. If the return is not filed within 30 days of the mailing of the notice, the Department will estimate the company's operating revenues and assess an additional penalty of up to [20] 25 percent of the estimated tax liability.

F. Returns Filed Without Supporting Documents.

(1) If a company files a return but fails to include financial statements and a copy of the company's annual report as required in §D(2) of this regulation, the Department will mail to the company a notice and demand for the supporting documents. If the supporting documents are not filed within 30 days of the mailing of the notice, the Department will estimate the company's operating revenues and assess an additional penalty of up to 25 percent of the estimated tax liability.

(2) If, at the time of filing a return, a company's annual report has not been submitted to the appropriate regulatory authorities, the company shall furnish to the Department the date that it is due to be submitted. If the company's annual report is not filed with the Department within 30 days of the date that it is due to be submitted, the Department will mail to the company a notice and demand for the annual report. If the annual report is not filed within 30 days of the mailing of the notice, the Department will estimate the company's operating revenues and assess an additional penalty of up to 25 percent of the estimated tax liability.

[F.] G. — [G.] H. (text unchanged)

ROBERT E. YOUNG
Director

**Title 20
PUBLIC SERVICE
COMMISSION**

Notice of Proposed Action

[14-194-P]

The Public Service Commission proposes to:

(1) Amend Regulation .02 under **COMAR 20.51.01 General Provisions;**

(2) Amend Regulations .02 and .08 under **COMAR 20.51.02 Administrative Provisions;**

(3) Amend Regulation .05 under **COMAR 20.51.03 Electricity Supplier License Requirements;**

(4) Amend Regulations .03, .05, and .06 under **COMAR 20.61.01 General;**

(5) Amend Regulations .01 and .02 under **COMAR 20.61.04 Consumer Protection, Reporting, and Enforcement;** and

(6) Adopt new Regulations .01—.20 under a new chapter, **COMAR 20.61.06 Offshore Wind.**

This action was considered at a scheduled rule making meeting on May 8 and 12, 2014.

Statement of Purpose

The purpose of this action is to implement the Offshore Wind Energy Act of 2013. The regulations establish a process for the Commission to receive and evaluate offshore wind project applications. The regulations also establish an escrow account to facilitate the transfer of funds among electricity suppliers, retail electric customers, and a project owner.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The Offshore Winds Energy Act, and these regulations promulgated pursuant to the Act, impact the State, localities and small businesses, by creating a carve-out for energy derived from offshore wind development in the State Renewable Energy Portfolio Standard, and though the establishment of various funds and assessments to implement the Act.

II. Types of Economic Impact.	Revenue	
	(R+/R-)	Magnitude
	Expenditure	
	(E+/E-)	
A. On issuing agency:		
(1)	(R+)	\$2,000,000
(2)	(E+)	\$2,000,000
B. On other State agencies:		
(1)	(R+)	\$2,500,000
(2)	(E+)	\$2,500,000
C. On local governments:	NONE	

	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(+)	Unknown at this time
E. On other industries or trade groups:	(+)	Unknown at this time
F. Direct and indirect effects on public:		
(1)	(-)	\$1.50 per month residential surcharge in 2012
(2)	(-)	1.5% charge on non-residential accounts (annual)

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

- A(1). Identified specifically in legislation
- A(2). Estimated based on RFP to be awarded for expert consultants
- B(1). Identified specifically in legislation
- B(2). Identified specifically in legislation
- D. Fiscal Note
- E. Fiscal Note
- F(1). Identified in legislation
- F(2). Identified in legislation

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows. See fiscal note HB226, page 26.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to David J. Collins, Executive Secretary, Public Service Commission, William Donald Schaefer Tower, 6 St. Paul Street, Baltimore, MD 21202-6806, or call 410-767-8067. Comments will be accepted through August 11, 2014. A public hearing has not been scheduled.

Subtitle 51 ELECTRICITY SUPPLIERS

20.51.01 General Provisions

Authority: Public Utilities Article, §§2-121 and 7-507, Annotated Code of Maryland

.02 Definitions.

- A. (text unchanged)
- B. Terms Defined.
 - (1) "Administrator" means the person appointed as administrator for a qualified offshore wind project under COMAR 20.61.06.09.
 - [(1)] (1-1)—(22) (text unchanged)

20.51.02 Administrative Provisions

Authority: Public Utilities Article, §§2-121 and 7-507, Annotated Code of Maryland

.02 Application Requirements.

- A. (text unchanged)
- B. The application shall contain at least the following information:
 - (1)—(9) (text unchanged)
 - (10) A statement confirming that upon the Commission granting a license to the electricity supplier under Regulation .09 of this chapter, the electricity supplier will notify each of the administrators appointed under COMAR 20.61.06.09 of its name, contact details and any other relevant administrative details that an administrator may require in order to efficiently invoice such electricity supplier as required by COMAR 20.61.06.11.
 - C.—D. (text unchanged)

.08 Financial Integrity.

- A.—J. (text unchanged)
- K. The Commission may in its discretion require that an electricity supplier that will have an OREC purchase obligation deliver to the Commission, no later than 30 days prior to the year in which the offshore wind energy RPS takes effect, a performance bond or other form of collateral support in such amounts, from such providers and in such form as shall be determined by the Commission to secure the payment obligations of the electricity supplier under COMAR 20.61.06.

20.51.03 Electricity Supplier License Requirements

Authority: Public Utilities Article, §§2-121 and 7-507, Annotated Code of Maryland

.05 Electricity Supplier License — Cessation of Business.

- A. A licensee shall provide 60 days prior written notice to the Commission and to the administrators appointed under COMAR 20.61.06.09 of an intention to cease providing services to all customers in:
 - (1)—(3) (text unchanged)
 - B. (text unchanged)

Subtitle 61 RENEWABLE ENERGY PORTFOLIO STANDARD PROGRAM

20.61.01 General

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

.03 Definitions.

- A. (text unchanged)
- B. Terms Defined.
 - (1) (text unchanged)
 - (1-1) "Administratively complete" means that the Commission has determined an application to contain the information described in §§D through N of COMAR 20.61.06.02.
 - (1-2) "Administrator" means the qualified financial institution appointed by a qualified offshore wind project to be the administrator of the escrow account, reserve account and administrator GATS account designated for that qualified offshore wind project as well as any account in substitution of these accounts, and shall include any replacement administrator appointed under §K or L of COMAR 20.61.06.09.

(1-3) “Administrator GATS account” means, with respect to a qualified offshore wind project, the account established by its administrator at GATS, into which a qualified offshore wind project shall transfer all of the ORECs invoiced by that project or into which PJM EIS shall transfer all ORECs created for that project pursuant to standing instructions given to PJM EIS pursuant to §G of COMAR 20.61.06.10.

[(1-1)](1-4) (text unchanged)

(1-5) “Application” means the information and materials describing a proposed offshore wind project submitted to the Commission as contemplated by Public Utilities Article, §7-704.1(a), Annotated Code of Maryland.

(1-6) “Application period” means the period of time, beginning and ending in accordance with §§(B)(3) and (B)(4) of COMAR 20.61.06.01, during which one or more OSW applicants may submit an application for approval of a proposed offshore wind project.

(1-7) “Approved OREC amount” means, with respect to a qualified offshore wind project, a fixed number of ORECs that the project may sell in any calendar year during the term of the OREC price schedule as approved by the Commission in its OREC order.

(1-8) “BOEM” means the Bureau of Ocean Energy Management.

(1-9) “Business day” means any day other than a Saturday, Sunday or any day on which the Commission or banks in the State are authorized by federal or state law to be closed.

[(1-2)](1-10)—(3) (text unchanged)

(3-1) “Electricity service attributes” means, for a qualified offshore wind project, all energy, capacity, and ancillary services associated with its creation of ORECs.

(4) (text unchanged)

(4-1) “Escrow account” means, with respect to each qualified offshore wind project, a financial account established at and by that project’s administrator for, among other purposes, receiving payments of OREC purchase payments from OREC purchasers and proceeds of sale of electricity service attributes, and from which transfers will be made to a qualified offshore wind project to pay for ORECs invoiced by that project under COMAR 20.61.06.10.

(4-2) “Estimated project COD” means, with respect to a qualified offshore wind project, the date on which project COD is projected to occur, as specified in the project’s application.

(4-3) “Executive team” means the officers identified in an OSW applicant’s by-laws or operating agreement and any other person authorized to speak for or act on behalf of the OSW applicant.

(4-4) “Expiration date” means the earlier of the date on which the Commission notifies the OSW applicant that its application has not been accepted and 181 days after the close of the application period, which expiration date may be extended by mutual consent of the Commission and the OSW applicant.

[(4-1)](4-5)—(5) (text unchanged)

(5-1) “GATS Account” means, with respect to a qualified offshore wind project, an account established pursuant to GATS into which renewable energy generation from that qualified offshore wind project will be reported, and based upon which PJM EIS will create ORECs for that qualified offshore wind project, including any replacement account from time to time that may be required by any change in the operating rules of PJM EIS.

(5-2) “Generally accepted accounting principles” means accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect in the United States as of the relevant date of determination.

(5-3) “Generation capacity resource” has the meaning stated in the Reliability Assurance Agreement among load serving entities in the region operated by PJM.

(6) (text unchanged)

(6-1) “Interconnection service agreement” means the agreement for interconnection for the project as a generation capacity resource providing for capacity interconnection rights between the project, PJM, and the applicable transmission owner, as may be amended from time to time.

(6-2) “International electrotechnical commission” means the international standards organization that prepares and publishes standards for electrical, electronic and related technologies.

(6-3) “International financial reporting standards” means the financial accounting standards developed by the International Accounting Standards Board that are in effect as of the relevant date of determination.

[(6-1)](6-4)—[(6-2)](6-5) (text unchanged)

(6-6) “Major cost category” means the major capital expenditures of a proposed offshore wind project incurred during development and construction phases, including but not limited to permitting, legal and consulting costs, site and meteorological assessment, ship or barge leases, wharfage fees, construction labor, foundations, support structures, wind turbines, capitalized interest, and owner’s costs.

(6-7) “Maryland Offshore Wind Business Development Fund” means the fund of the same name established under State Government Article, §9-20C-03, Annotated Code of Maryland.

(6-8) “Minimum threshold criteria” means the criteria listed in §A of COMAR 20.61.06.03.

(6-9) “Minority” means an individual who is a member of any of the groups listed in State Finance and Procurement Article, §14-301(j)(1)(i), Annotated Code of Maryland.

(6-10) “Minority Business Enterprise Program” means the program established under State Finance and Procurement Article, Title 14, Subtitle 3, Annotated Code of Maryland.

[(6-3)](6-11)—(7) (text unchanged)

(7-1) “North American Industry Classification System” or “NAICS” means the standard developed by the Office of Management and Budget and used by federal statistical agencies to classify businesses for the purposes of collecting, analyzing and publishing statistical data.

(7-2) “Offshore wind energy RPS” means the offshore wind energy component of the RPS established pursuant to §A of COMAR 20.61.06.07.

(7-3) “OREC” has the meaning stated in Public Utilities Article, §7-701, Annotated Code of Maryland.

(7-4) “OREC invoice” means a monthly invoice delivered by a qualified offshore wind project under COMAR 20.61.06.10 to its administrator setting forth (a) the number of ORECs created for that project by PJM EIS in the project’s GATS account for the second generation month immediately preceding the invoice date and in respect of which a PJM EIS statement setting forth the number of ORECs created as at the last day of the month immediately preceding the invoice date is available and (b) the dollar amount due for the ORECs under that invoice; provided that, an OREC invoice shall not include ORECs in respect of which the project shall have previously invoiced the administrator.

(7-5) “OREC order” means an order issued by the Commission pursuant to this chapter and Public Utilities Article §7-704.1(f) that, among other things, approves a proposed offshore wind energy project, its related OREC price schedule, the duration of the OREC price schedule and the approved OREC amount.

(7-6) “OREC price” means, with respect to a qualified offshore wind project and each calendar year during the term of its

OREC price schedule, the price for an OREC for each relevant calendar year set forth in its OREC price schedule approved by the Commission under the project's OREC order and, following any adjustment as contemplated by § C of COMAR 20.61.06.08, the final adjusted OREC price for each relevant calendar year referenced in a replacement OREC price schedule submitted to the Commission under that regulation.

(7-7) "OREC price schedule" means, with respect to a qualified offshore wind project, the price schedule for ORECs for:

(a) An initial term of up to 20 years commencing from estimated project COD; and

(b) An additional schedule of prices for ORECs for each of 5 years immediately following the end of the initial term to accommodate potential delays in project COD, as approved by the Commission under the project's OREC order and includes any replacement OREC price schedule submitted to the Commission pursuant to §C of COMAR 20.61.06.08.

(7-8) "OREC projected revenue" means, with respect to a qualified offshore wind project, that amount of annual OREC revenues in any given calendar year during the term of an OREC price schedule equal to the product of the OREC price for that year and the approved OREC amount for the same period.

(7-9) "OREC purchase obligation" means, the obligation of the OREC purchasers to purchase ORECs from one or more escrow accounts to satisfy the offshore wind energy component of the renewable energy portfolio standard established by the Commission under Public Utilities Article, §7-703(b), Annotated Code of Maryland.

(7-10) "OREC purchase payment" means, with respect to an OREC purchaser, the aggregate dollar amount paid by it in each calendar quarter (commencing with the calendar quarter beginning on April 1 of the initial year in which the offshore wind energy RPS takes effect), for deposit in one or more escrow accounts for the purchase of ORECs pursuant to the Commission's OREC order, OWEA, and this chapter.

(7-11) "OREC purchaser" means an electricity supplier that is obligated to purchase ORECs by Public Utilities Article, §7-703(d), Annotated Code of Maryland.

(7-12) "OSW applicant" means a person submitting an application for a proposed offshore wind project.

(7-13) "OWEA" means the Maryland Offshore Wind Energy Act of 2013, as amended from time to time.

(7-14) "Permitted investments" means one or more investment funds operating under an exemption under Rule 2a-7 of the Investment Company Act of 1940, as amended, the investments in which consist exclusively of direct, non-callable obligations (including "strips") of the United States of America, guaranteed by its full faith and credit, and interests in such other investment funds.

(8) (text unchanged)

(8-1) "PJM" means PJM Interconnection, L.L.C. or its successor.

(8-2) "PJM EIS" means PJM Environmental Information Services, Inc. or its successor.

(9) (text unchanged)

(9-1) "PJM revenues" means amounts payable to a qualified offshore wind project for its sale of electricity service attributes to markets administered by PJM.

(9-2) "Project" means a qualified offshore wind project.

(9-3) "Project commercial operation date" or "project COD" means, with respect to a qualified offshore wind project, the date on which the project satisfies the requirements for demonstrating commercial operation required by its Interconnection Service Agreement, as may be amended, modified or supplemented from time to time.

(9-4) "Project team" means the key individuals whom an OSW applicant hires or contracts with to lead the development, financing, permitting, engineering, procurement, construction, operations, maintenance, decommissioning and other significant functions for a proposed offshore wind project.

(9-5) "Proposed offshore wind project" or "proposed project" means an offshore wind project described in an application that is submitted for Commission approval as a qualified offshore wind project.

(9-6) "Proposed OREC amount" means, with respect to a proposed offshore wind project, a fixed annual number of renewable energy certificates that the proposed project proposes to sell as ORECs during the term of the proposed OREC price schedule.

(9-7) "Proposed OREC price schedule" means, with respect to a proposed offshore wind project, the price schedule described in §M of COMAR 20.61.06.02 setting a price or a series of calendar year prices for the electricity service attributes and the environmental attributes associated with the creation of ORECs.

(9-8) "Proposed qualified submerged renewable energy line" means a proposed transmission line, as described by Public Utilities Article, §7-208, Annotated Code of Maryland.

(9-9) "Public Information Act exemption request" or "PIA exemption request" means, with regard to a portion or portions of an application, a request by an OSW applicant to exempt certain information from a third-party request under State Government Article, Title 10, Subtitle 6, Annotated Code of Maryland.

(9-10) "Qualified financial institution" means a financial institution formed under the laws of the United States of America with an office in the State of Maryland, that satisfies all of the following criteria:

(a) It has, at the time of selection, a tangible net worth of no less than \$150,000,000;

(b) It has a reputable and established division that demonstrates significant experience in carrying out custodial, escrow or account administration services for customers;

(c) It is not an employee of any qualified offshore wind project, an affiliate of that project or an employee of any entity affiliated with any qualified offshore wind project;

(d) It is not an entity that holds any ownership share in any qualified offshore wind project; and

(e) It is not an entity that is providing financing (whether in the form of debt, equity or any combination or derivation thereof) to any qualified offshore wind project; provided that, if the Commission shall have, as contemplated by §D of COMAR 20.61.06.09, determined that factors other than those specified above are relevant in determining whether a proposed administrator qualifies as a qualified financial institution, these other factors and any of the above factors that the Commission considers applicable, shall be deemed to constitute the criteria for determining whether an administrator has ceased to be a qualified financial institution for the purposes of §§K and L of COMAR 20.61.06.09.

(9-11) "Qualified offshore wind project" has the meaning stated in Public Utilities Article, §7-701, Annotated Code of Maryland.

(9-12) "Reliability Assurance Agreement" means the PJM Interconnection, L.L.C. agreement approved by the Federal Energy Regulatory Commission.

(10)—(13) (text unchanged)

(13-1) "Reserve account" means, with respect to a qualified offshore wind project, the account established by an administrator into which funds from the escrow account of a project up to an aggregate amount equal to the six-month average of OREC projected revenue for that project for the relevant calendar year during the term of its OREC price schedule shall be deposited as contemplated by §G of COMAR 20.61.06.11.

(13-2) “Retail electric customer” has the meaning stated in COMAR 20.51.01.02.

(13-3) “Small business” has the meaning stated in State Finance and Procurement Article, §14-501, Annotated Code of Maryland.

(13-4) “Term” means, with respect to a qualified offshore wind project, the period covered by its OREC price schedule, not exceeding 20 years commencing from project COD, as approved by the Commission in the relevant OREC order; provided that, if project COD occurs later than five years immediately following the estimated project COD, the term of an OREC price schedule shall commence in year six of the schedule described in clause (a) of the definition of “OREC price schedule” and extend for the term approved by the Commission in the same OREC order.

(14)—(17) (text unchanged)

.05 Solar REC Purchases and Offshore Wind Energy REC Purchases.

A.—C. (text unchanged)

D. An electricity supplier must purchase ORECs in accordance with COMAR 20.61.06.

.06 Satisfaction of Renewable Energy Portfolio Standard.

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

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

(1) A summary of RECs associated with generation from any Tier 1 renewable source, excluding RECs associated with electricity derived from solar energy and RECs associated with electricity derived from offshore wind energy;

(2) (text unchanged)

(3) A summary of RECs associated with electricity derived from offshore wind energy;

[(3)](4)—[(4)](5) (text unchanged)

C.—D. (text unchanged)

E. [Industrial Process Load Supplier Sales]Supplier Sales to Industrial Process Load and Agricultural Land Owners.

(1) Supplier Sales to Industrial Process Load.

[(1)](a) In calculating the renewable energy portfolio standard that contains industrial process load, the North American Industrial Classification System identification code shall govern the metered load to which the compliance fee or offshore wind energy RPS, as applicable, may apply.

[(2)](b) To [apply]certify for designation of a sale as industrial process load, a supplier shall [use an industrial process load application form provided by the Commission.] submit to the Commission the following documents:

(i) A completed industrial process load application form available from the Commission; and

(ii) A certification from the supplier that it has confirmed the information described in §E(1)(c)(ii) of this regulation with its relevant electric company and that such information is accurate and complete.

[(3)](c) An industrial process load application form shall include:

[(a)](i) The name, location, and North American Industrial Classification System identification code of each customer or facility for which industrial process load status is requested;

[(b)](ii) [A list containing each] Each account and meter number associated with each customer or facility for which industrial process load status is requested; and

[(c)](iii) A [list containing a contact] Contact name, address, and telephone number for each account for which industrial process load status is requested.

[(4)](d) The designation of a sale as industrial process load shall be effective when [granted, unless otherwise specified by Commission order] filed.

[(5)](e) Unless a waiver is granted under §F of this regulation, a supplier sale from industrial process load for which a Tier 1 renewable source REC, including RECs associated with electricity derived from solar energy but excluding RECs associated with electricity derived from offshore wind energy, has not been delivered shall be assessed a compliance fee under Public Utilities Article, §7-705, Annotated Code of Maryland.

(2) Supplier Sales to Agricultural Land Owners.

(a) Suppliers serving a customer who is an owner of agricultural land and who files an Internal Revenue Service Form 1040, Schedule F, shall be exempted from the renewable energy portfolio standard that represents offshore wind energy for that customer’s sales exceeding 3,000 kilowatt-hours of electricity in a month.

(b) To certify for designation of a sale as an exempted sale to an owner of agricultural land, a supplier shall submit to the Commission the following documents:

(i) A completed agricultural land owner application form available from the Commission that is accompanied by a statement from each customer listed on the application form certifying that that it files Internal Revenue Form 1040, Schedule F, to report farm income and expenses; and

(ii) A certification from the supplier that it has confirmed the information described in §E(2)(c)(ii) of this regulation with its relevant electric company and that such information is accurate and complete.

(c) An agricultural land owner application form shall include a list of:

(i) The name and location of each customer for which exempted agricultural land owner status is requested;

(ii) Each account and meter number associated with each customer for which exempted agricultural land owner status is requested; and

(iii) Contact name, address, and telephone number for each account for which exempted agricultural land owner status is requested.

(d) The designation of a sale to an exempted owner of agricultural land shall be effective when filed.

(3) Suppliers shall maintain records of sales to exempted industrial process load and owners of agricultural land adequate for electric companies to calculate refunds under COMAR 20.61.06.14.

F.—G. (text unchanged)

20.61.04 Consumer Protection, Reporting, and Enforcement

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

.01 Consumer Protection.

A. (text unchanged)

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

(1)—(2) (text unchanged)

(3) [A] Except as provided under Public Utilities Article, §7-705(b)(1), a statement that a supplier may meet its RPS obligation by paying a compliance fee to the Fund under Public Utilities Article, §7-705(b), Annotated Code of Maryland.

- C. (text unchanged)
- D. Report Required.

(1) [On] *Except as provided in §D(3) of this regulation, on or before April 1 of each year, a supplier shall file with the Commission a report of any activity under §A of this regulation on a form provided by the Commission.*

(2) (text unchanged)

(3) *On or before April 30 of each year, a supplier shall file with the Commission a report of any activity under §A of this regulation that relates to retail sales of electricity marketed as having characteristics of offshore wind energy on a form provided by the Commission.*

.02 Annual Report Required.

A. [On] *Except as provided under §B(3) and (15) of this regulation, on or before April 1 of each year, each supplier shall file with the Commission an RPS report covering all retail electricity sales in Maryland during the preceding calendar year.*

B. The supplier RPS report required under §A of this regulation shall be on a form provided by the Commission and include the:

(1) (text unchanged)

(2) [Total]*Excluding exempted sales reported in §B(3) of this regulation, the total exempt electricity sales by category, and, if appropriate, the identity of the customer to which an exemption applies;*

(3) *On or before April 30 of each year, the total electricity sales exempted from the offshore wind energy RPS and the identity of the industrial process load and agricultural land owner customers to which the exemption applies;*

[(3)](4)—[(4)](5) (text unchanged)

[(5)](6) *Excluding Tier 1 solar RECs and ORECs, total number of Tier 1 renewable source RECs required to fulfill the supplier’s RPS obligation;*

[(6)](7)—(8) (text unchanged)

[(8)](9) *Excluding Tier 1 solar RECs and ORECs, the total number of Tier 1 renewable source RECs submitted by energy source as calculated under Public Utilities Article, §7-704, Annotated Code of Maryland;*

(10) *On or before April 30 of each year, the total number of Tier 1 ORECs required to fulfill the supplier’s offshore wind energy obligation and the number of Tier 1 ORECs purchased;*

[(9)](11)—[(10)](12) (text unchanged)

[(11)](13) *Excluding the Tier 1 solar and offshore wind energy renewable energy portfolio standard, the shortfall of RECs needed to meet the supplier’s Tier 1 renewable source renewable energy portfolio standard;*

[(12)](14) (text unchanged)

(15) *By April 30 of each year, the shortfall of RECs needed to meet the supplier’s Tier 1 offshore wind energy renewable energy portfolio standard;*

[(13)](16)—[(14)](17) (text unchanged)

[(15)](18) *If a shortfall in the number of Tier 1 renewable source [RECs] ORECs needed to meet the renewable energy portfolio standard is associated with sales of industrial process load under COMAR 20.61.01.05E, the calculation of a compliance fee related to the shortfall attributable to sales of industrial process load; and*

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

C. The reports *due on or before April 1 and April 30* shall be accompanied by at least the following:

(1)—(4) (text unchanged)

(5) *Excluding Tier 1 solar RECs and ORECs, the total price of all Tier 1 renewable source RECs retired during the reporting period;*

(6) (text unchanged)

(7) *The total price of all Tier 1 ORECs retired during the reporting period;*

[(7)](8)—[(8)](9) (text unchanged)

20.61.06 Offshore Wind

Authority: Public Utilities Article, §§2-121, 7-704.1, and 7-704.2, Annotated Code of Maryland

.01 Application Process.

A. *An OSW applicant shall comply with this regulation when submitting an application to the Commission for a proposed offshore wind project.*

B. *An application submitted pursuant to Public Utilities Article, §7-704.1(a)(1), Annotated Code of Maryland, shall be submitted to the Executive Secretary.*

(1) *Upon receipt of an application by the Executive Secretary prior to the opening of an application period, the Commission shall determine within 30 calendar days whether that application is administratively complete.*

(2) *If the Commission determines that the application received under §(B)(1) of this regulation is not administratively complete, the Commission shall promptly notify the OSW applicant of any deficiencies and allow the OSW applicant to submit missing items or information, or both. Upon receipt of missing items or information, or both, the Commission shall again have 30 calendar days to determine whether that application is administratively complete.*

(3) *Upon the first determination that an application is administratively complete, the Commission shall open an application period establishing a period of time during which other persons may submit applications. The Commission shall provide notice specifying the closing date and time of the application period, after which the Commission shall not accept applications or material changes to previously submitted applications and any other information the Commission determines appropriate.*

(4) *The closing date of the application period shall be 180 calendar days after the Commission issues the notice to the public described by §B(3) of this regulation that it is accepting applications. The Commission may extend this closing date by one or more additional periods of 30 calendar days.*

C. *The Commission shall determine within 30 calendar days whether an application submitted during the application period is administratively complete. If the Commission determines the application is not administratively complete, the Commission shall notify the OSW applicant within that 30-day period of any deficiencies. The OSW applicant shall have an opportunity to submit missing items or information, or both, but only if the OSW applicant’s submission occurs before the close of the application period.*

D. *Upon the close of the application period, the Commission shall conduct a multi-part review to evaluate and compare the proposed offshore wind projects that it has determined to be administratively complete.*

(1) *The Commission shall first determine whether a proposed offshore wind project described in an application meets the minimum threshold criteria.*

(a) *An application for a proposed offshore wind project that does not meet the minimum threshold criteria shall not be eligible for further review.*

(b) *The Commission shall publish a list of OSW applicants who have submitted applications that the Commission has determined meet the minimum threshold criteria.*

(2) *For each application describing a proposed offshore wind project that the Commission determines meets the minimum threshold criteria, the Commission shall conduct a qualitative evaluation, then a quantitative evaluation, as described by Regulation .03B of this chapter, to assess and compare proposed projects.*

E. The Commission may, at any time, issue questions to the OSW applicant on a confidential basis in order to facilitate its evaluation of the application. Information submitted by an OSW applicant shall become part of the application and responses containing confidential information shall be marked in accordance with Regulation .02C of this chapter. Once the application period has closed, any information submitted in response to a Commission-issued question may not change the proposed OREC price schedule, the proposed OREC amount, or materially change other information or materials included in the application.

F. The Commission shall conduct a proceeding to provide an opportunity for interested parties to comment, consistent with applicable confidentiality laws and regulation.

G. Unless extended by mutual consent of the Commission and the OSW applicant, the Commission shall approve, conditionally approve, or deny an application within 180 calendar days after the close of the relevant application period.

H. Prior to acceptance of applications, the Commission shall notify potential applicants of the Long-Term Composite Treasury Bond rate (or equivalent) that will be used as the nominal discount rate and the near-term average GDP Deflator (or equivalent) that will be used as the deflation rate to determine whether the OREC price in the applicant's proposed OREC price schedule exceeds \$190 per megawatt hour (levelized in 2012 dollars) and whether the projected net rate impacts for residential and nonresidential customers, as described by Public Utilities Article, §7-704.1(e)(1)(ii) and (iii), Annotated Code of Maryland, will be exceeded.

I. The Commission may provide for one or more additional application periods.

.02 Application Requirements.

A. An application shall contain at least the information and materials described in §§D through N of this regulation, but an OSW applicant may submit additional information or materials, or both. The Commission in its discretion shall determine whether the information and materials that an OSW applicant provides are sufficiently detailed to satisfy §§D through N of this regulation.

B. If an OSW applicant is unable to provide any of the information or materials described in §§D through N of this regulation at the time it submits an application, the application shall clearly identify information or materials, or both, that it is unable to provide and provide a clear plan that demonstrates how and when the OSW applicant will provide the information or materials, or both, that are unavailable before the close of the application period.

C. An OSW applicant shall submit PIA exemption requests by clearly identifying and marking the relevant portions of its application and providing justification for its PIA exemption request for each instance. An OSW applicant shall certify in its application that it will hold the Commission harmless if the Commission independently determines that one or more portions of an application subject to one or more PIA exemption requests must be disclosed under State Government Article, Title 10, Subtitle 6, Annotated Code of Maryland.

D. All graphs, charts, photographs, or other documents originally produced in color and included in the application shall be produced in color in the original and the copies. The OSW applicant shall comply with other submission requirements posted by the Commission.

E. An application shall include a signed and notarized statement by an officer of the OSW applicant attesting that:

(1) The officer has the authority to submit the application to the Commission;

(2) The application, including the proposed OREC price schedule and proposed OREC amount, shall remain binding until the expiration date;

(3) The information and materials contained in the application are accurate and correct; and

(4) If the application is selected, the OSW applicant will work diligently and engage in a continuous development and construction program to achieve the project COD for the qualified offshore wind project.

F. An application shall include the following information:

(1) An organizational chart that shows:

(a) Complete ownership structure of the proposed project (including all parents, subsidiaries, and other affiliates that have direct or indirect management or voting control over the proposed project); and

(b) Any lenders or entities funding the proposed project, including those entities funding on a contingent basis; and

(c) If different from the proposed project, the relationship between the OSW applicant and the proposed project.

(2) Legal name and type of business organization of each entity listed on the organizational chart described in §F(1)(a) of this regulation, including certificates of formation and certificates of good standing certificated by the relevant governmental authority for each entity and, if applicable, foreign qualification certificates or other evidence that the proposed project and the OSW applicant are qualified to do business in the State;

(3) Bylaws or operating agreement of each entity listed on the organizational chart described in §F(1)(a) of this regulation and relevant board resolution (or equivalent written consent) to submit an application;

(4) Name, title, address, telephone number, email address, and curriculum vitae of each member of the OSW applicant's executive team and project team that will be responsible for the proposed project, demonstrating capability and expertise in, at a minimum, project management, development, financing, permitting, engineering, procurement, construction, operations, maintenance, decommissioning and other significant functions for ocean-based energy projects, utility-scale wind projects, or large scale generation projects;

(5) For each entity that is, or has committed to, providing financing to the proposed project:

(a) The identity of the entity and a brief description of its business;

(b) Name, title, address, telephone number, and email address of the primary contact person;

(c) Most recent audited financial statements that use either generally accepted accounting principles or International Financial Reporting Standards; and

(d) Issuer or long-term senior unsecured debt ratings, or both, from at least one nationally recognized statistical ratings organization (if available);

(6) Name, title, address, telephone number, and email address of the primary contact at any entity with which the OSW applicant has a contract or similar agreement to perform permitting, engineering, procurement, construction, operations, maintenance, decommissioning or similar functions for the proposed project;

(7) Complete information about any current or prior business bankruptcies, defaults, disbarments, investigations, indictments, or any other actions against the OSW applicant and any member of the executive team, the project team, or key employee(s) of any company included in §F(1) of this regulation; and

(8) Complete information about work performed by one or more entities included in §F(1) or (6) of this regulation that is similar to the proposed offshore wind project, including ocean-based energy projects, utility-scale wind projects, or other large scale generation projects.

G. An application shall include the following information about the proposed offshore wind project:

(1) A general description of the proposed offshore wind project, including but not limited to site plan, location, number of turbines, nameplate capacity, area, typical distance to shore, typical water depths, general seabed description, main competing uses, and sensitive areas;

(2) General maps showing turbine layout, landfall and grid interconnection points, and construction layout site;

(3) A wind resource and energy yield assessment at planned hub height with supporting data in an industry-standard report with expected gross (at generator terminals) and net (at PJM billing meter) annual energy production, including a breakdown of energy losses as well as turbine technical availability (scheduled and forced outages), uncertainty estimates of the net annual energy production at confidence intervals (P5, P10, P50, P90, and P95), and hourly energy production profiles by month (12x24 matrices) for a typical year;

(4) Wind turbine technology with turbine manufacturer, model, performance history, track record in offshore wind applications, physical dimensions and weight, hub height, rotor diameter, and nameplate capacity, design standard, turbine certification status under applicable standards and guidelines such as those developed by the International Electrotechnical Commission, service life, and design life information;

(5) Foundation and support-structure descriptions that include explanations of why the foundation and support structures are appropriate for the site, as well as climatology information that includes wind, wave, and current data;

(6) A description of the electrical collection system and connection to the transmission grid that includes the location and description of any onshore and offshore substations, inter-array and export power cables, interconnection route, landfall and facilities (including rights of way), interconnection plans, status of the interconnection request submitted to PJM, schedule for completing the interconnection studies, and electrical one-line diagram of the facility up to the interconnection point;

(7) Site-control status and plan to acquire and ensure site control for the operating term, interconnection and right-of-way status (or plans), and status of discussions with BOEM and other relevant entities;

(8) A general description of balance of plant components that includes any meteorological mast, communication system, and supervisory control and data acquisition system;

(9) A procurement and construction plan that includes the following, with milestones:

(a) All steps from commencement of procurement and construction to testing and project COD of the proposed project;

(b) A contracting strategy and construction organizational chart;

(c) A description of laydown, storage, and assembly areas;

(d) The OSW applicant's plan to promote the prompt, efficient, and safe completion of the proposed project (particularly with regard to the construction and maintenance of the project in accordance with Public Utilities Article, §7-704.1(d)(1)(ix), Annotated Code of Maryland);

(e) Plans to comply with The Merchant Marine Act of 1920; and

(f) A framework for a construction period health and safety plan;

(10) An operations and maintenance plan with a schedule of principal operations and maintenance activities, locations of specific ports with operations and maintenance facilities, and estimated operations and maintenance labor divided between specialized out-of-state and in-state labor;

(11) A permitting and approvals plan with a detailed matrix listing all required federal, state, and local environmental and regulatory permits and approvals, and setting out the schedule for obtaining the permits and approvals. This should include plans to obtain a certificate of public convenience and necessity for a proposed qualified submerged renewable energy line and plans to conduct an environmental review in compliance with applicable statutes, such as the National Environmental Policy Act, and that include a description of the types of studies (physical, biological and socio-economic) to be performed. Plans should demonstrate compliance with the Endangered Species Act, Migratory Bird Treaty Act, and Marine Mammal Protection Act, applicable BOEM regulations and guidelines for surveying natural resources (including, but not limited to avian species, benthic habitats, fish, marine mammals, and sea turtles), local/state regulations, and the Coastal Zone Management Act, as applicable;

(12) A decommissioning plan that demonstrates the safe and environmentally responsible removal and disposal of the turbine structures, offshore electrical substation and other offshore facilities, and interconnection facilities, particularly those located in State waters and on State lands; a comprehensive estimate of facility and interconnection decommissioning costs; and assurance that adequate funding shall be available for complete decommissioning of the proposed project, including a detailed explanation of how adequate funding shall be assured.

H. An application shall include a project COD and a proposed timeline for the proposed offshore wind project's development and critical path schedule that includes milestones for site assessment, engineering, permitting, turbine certification, financing, procurement, manufacturing, construction, testing and commissioning commercial operation dates, and delivery term;

I. An application shall indicate whether the proposed project's nameplate capacity is larger than required to provide the aggregate proposed OREC amount for the term of the proposed OREC price schedule. If the proposed project's nameplate capacity exceeds the capacity required, and the OSW applicant submits a two-part OREC price as described by §M of this regulation, the application shall include a methodology for determining a reasonable allocation of the transmission upgrade costs to be included in the OREC price. The OSW applicant shall have the burden of demonstrating that its proposed allocation methodology is fair and in the interest of ratepayers.

J. An application shall include the following commercial information related to the proposed offshore wind project:

(1) OSW applicant's plan for engaging small businesses;

(2) Subject to Regulation .06 of this chapter, OSW applicant's plan for compliance with the Minority Business Enterprise Program for the construction, manufacturing, and maintenance phases of the proposed offshore wind project;

(3) OSW applicant's plan for the use of skilled labor, especially for the construction and manufacturing components of the project, including outreach, hiring, or referral systems, or all of these, that are affiliated with registered apprenticeship programs under Labor and Employment Article, Title 11, Subtitle 4, Annotated Code of Maryland;

(4) OSW applicant's plan for using an agreement designed to ensure the use of skilled labor and to promote the prompt, efficient, and safe completion of the project particularly with regard to the construction, manufacturing, and maintenance of the proposed offshore wind project; and

(5) OSW applicant's plan to provide for compensation to its employees and subcontractors consistent with wages outlined in State Finance and Procurement Article, Title 17, Subtitle 2, Annotated Code of Maryland.

K. An application shall include the following financial information related to the proposed offshore wind project:

- (1) Detailed financial analysis of the proposed project, including:
 - (a) A pro forma income statement, balance sheet and cash flow projection covering the development period, construction period and operating term during the term of the proposed OREC price schedule, with detailed revenues and expenses;
 - (b) Description and estimated benefits of any State or federal grants, rebates, tax credits, loan guarantees or other similar benefits received by the proposed project; and
 - (c) Estimated internal rate of return and return on equity;
- (2) Proposed offshore wind project balance sheet at project COD with all capital expenditures broken down by major cost category;
- (3) Proposed capital structure identifying equity investors, sources of debt, any other sources of capital, and written demonstration of equity and debt funding commitments, which include the following:
 - (a) For an OSW applicant that is seeking equity investors in a proposed offshore wind project:
 - (i) Documentation of the OSW applicant's serious, good-faith efforts to solicit and interview a reasonable number of minority investors, which shall include a demonstration of the OSW applicant's coordination with the Governor's Office of Minority Affairs; and
 - (ii) A confidential statement listing the names and addresses of all minority investors interviewed and whether or not any of those investors have purchased an equity share in the proposed offshore wind project; or
 - (b) For an OSW applicant that is not seeking equity investors in a proposed offshore wind project, a statement from that OSW applicant affirming that it is not seeking equity investors in the proposed offshore wind project;
- (4) Year-by-year spending projections of expenses and capital expenditures by five- or six-digit NAICS code extending through the term of the proposed OREC price schedule and divided into four categories:
 - (a) In-State labor;
 - (b) In-State non-labor;
 - (c) Out-of-State labor; and
 - (d) Out-of-State non-labor;
- (5) Detailed matrix, supported by documentation, demonstrating that the OSW applicant has applied for all current eligible State and federal grants, rebates, tax credits, loan guarantees, or other programs available to offset the cost of the proposed project or provide tax advantages;
- (6) Affirmative statement of the OSW applicant's commitment to use best efforts to apply for all eligible State and federal grants, rebates, tax credits, loan guarantees, and other similar benefits as those benefits become available and to agree to pass along to retail electric customers 80 percent of the value of any State or federal grants, rebates, tax credits, loan guarantees, or other similar benefits received by the proposed project and not included in the application;
- (7) Affirmative statement that the OSW applicant will execute a memorandum of understanding with the Commission that requires the OSW applicant to make serious, good-faith efforts to interview minority investors in any future attempt to raise venture capital or attract new investors to the qualified offshore wind project;
- (8) Affirmative statement of the OSW applicant's commitment to deposit \$6,000,000 into the Maryland Offshore Wind Business Development Fund, which shall consist of an initial deposit of \$2,000,000 within 60 days of the Commission's approval of a proposed offshore wind project, \$2,000,000 within 1 year after the initial deposit, and \$2,000,000 within 2 years after the initial deposit;
- (9) Affirmative statement by the OSW applicant that it will hold harmless the retail electric customers, OREC purchasers, and the

State for any cost overruns associated with the proposed offshore wind project; and

- (10) Affirmative statement that the OSW applicant will use commercially reasonable efforts to sell its electricity service attributes to the PJM markets.
- L. An application shall include a cost-benefit analysis that covers the following items and the assumptions and data that the OSW applicant used to generate each item:
- (1) An input-output analysis describing the in-state impact on income, employment, wages, and state and local taxes, with particular emphasis on effects on manufacturing employment in the State, as well as the complete set of data and assumptions that the OSW applicant used to generate the input-output analysis;
 - (2) An analysis describing expected employment impacts in the State (expressed as full-time equivalent positions), including expected type and duration of employment opportunities, the expected salary range of positions, and other effects resulting from, for example, in-state construction, operations, maintenance, and equipment purchases, and supported by detailed documentation, including any binding commitments;
 - (3) An analysis describing the in-state business impacts of the proposed offshore wind project;
 - (4) An analysis describing anticipated environmental and health impacts, including impacts on the affected marine environment based on publicly available information, related to construction, operation and decommissioning of the proposed offshore wind project, including direct emissions impacts created by the proposed offshore wind project related to carbon dioxide, oxides of nitrogen, sulfur dioxide, particulates and mercury emissions (in each case, expressed in terms of the number of tons of emissions abated per annum), as well as other relevant environmental and health impacts to the citizens of Maryland;
 - (5) An analysis describing any other impacts on residential, commercial, and industrial retail electric customers over the life of the proposed offshore wind project;
 - (6) An analysis describing the long-term effect of the proposed offshore wind project on wholesale energy, capacity, and ancillary services markets administered by PJM that includes analysis of contributions to regional system reliability, fuel diversity, competition, transmission congestion, and other power market benefits;
 - (7) An analysis describing any other benefits to the State created by the proposed offshore wind project, such as in-state construction, operations, maintenance, and equipment purchases; and
 - (8) Other relevant considerations that the OSW applicant elects to include.
- M. An application shall include a proposed OREC price schedule for the proposed offshore wind project's electricity service attributes that is subject to the following requirements:
- (1) The proposed OREC price schedule shall consist of either a:
 - (a) Two-part OREC price in which the first component is expressed as either a single firm price for each calendar year or a series of firm prices for each calendar year and the second component is expressed as a single firm price for each calendar year subject to a true-up based upon any change between the Commission's estimated cost of transmission upgrades and PJM's actual upgrade cost as specified in the executed Interconnection Service Agreement, for a total OREC price up to and not exceeding \$190 per megawatt hour (levelized in 2012 dollars) and subject to the projected net rate impact caps for residential and nonresidential customers, as described by Public Utilities Article, §7-704.1(e)(1)(ii) and (iii), Annotated Code of Maryland; or
 - (b) One-part OREC price, expressed as either a single firm price for each calendar year or a series of firm prices for each calendar year, that is not subject to true-up, up to and not exceeding

\$190 per megawatt hour (levelized in 2012 dollars) and subject to the projected net rate impact caps for residential and nonresidential customers, as described by Public Utilities Article, §7-704.1(e)(1)(ii) and (iii), Annotated Code of Maryland;

(2) The unit of OREC price on the proposed OREC price schedule must be on a dollars (\$) per delivered OREC (MWh) basis by calendar year; and

(3) All proposed OREC price schedules shall propose OREC prices for each calendar year for an initial term of up to 20 years commencing on the estimated project COD and an additional schedule of OREC prices for each of the five calendar years immediately following the end of the initial term to cover potential delays in project COD.

N. An application shall include a proposed OREC amount that is a quantity, expressed as a single annual number on a megawatt hour per calendar year basis and fixed for the proposed term of the project's proposed OREC price schedule, and that is accompanied by the expected generation confidence level associated with that proposed OREC amount.

O. An applicant may submit more than one application for any proposed project or more than one proposed OREC price schedule and related proposed OREC amount for the same application. If an applicant submits multiple proposed OREC price schedules and related proposed OREC amounts, each proposed OREC price schedule and related proposed OREC amount together with its related application will be treated as a separate application. All applications will be treated as mutually exclusive.

.03 Evaluation Criteria.

A. An application must demonstrate the proposed offshore wind project meets the following minimum threshold criteria, as specified:

(1) The proposed offshore wind project complies with Public Utilities Article, §7-701(k)(1) and (2), Annotated Code of Maryland;

(2) The term of the proposed OREC price schedule is not longer than 20 years, and commences no earlier than January 1, 2017;

(3) The OREC price on the proposed OREC price schedule do not exceed \$190 per megawatt hour in levelized 2012 dollars, as measured using a nominal discount rate equal to the long-term composite Treasury Bond rate (or equivalent) and a deflation rate equal to the near-term average GDP Deflator (or equivalent), notified by the Commission to potential OSW applicants;

(4) Demonstration that the proposed project, including the associated transmission-related interconnection facilities, will be constructed using commercially proven components and equipment available to the OSW applicant;

(5) Demonstration that the project COD is reasonable in light of the permitting, technical, construction, operational, and economic challenges generally faced by offshore wind project developers; and

(6) Evidence of site control or demonstration of a feasible plan to obtain site control.

B. For each application that meets the minimum threshold criteria, the Commission shall conduct independent qualitative and quantitative analyses that considers the criteria enumerated in Public Utilities Article, §7-704.1(d)(1)(i) through (xiii), Annotated Code of Maryland.

(1) The qualitative analysis shall use a ranking system to identify applications with characteristics that contribute to the likelihood of successful development and to the net economic, environmental, and health benefits to the State.

(a) The following factors shall be considered as part of the qualitative analysis:

(i) Qualifications of the OSW applicant's project team, including but not limited to experience in project development, environmental permitting, engineering and construction, operations, maintenance and financing;

(ii) Project characteristics, including but not limited to project design (for example, demonstration that turbine layout is consistent with best practices for optimal output and maintainability), turbine technology (for example, commercial availability, certification status, compatibility with project service life, warranties), foundation and support structure (for example, suitability for site conditions, design standards), converter station and interconnection (for example, appropriateness of equipment for site, turbine ratings, and number of turbines; reasonableness of interconnection and delivery points; interconnection designs consistent with best practices), and reasonableness of claimed net capacity and annual energy output;

(iii) Financial plan, including but not limited to completeness and reasonableness of the plan, financial strength of the developer, sources of debt and equity and firmness of commitments, plan for addressing cost overruns and other development risks, evidence of best efforts to identify and access State or federal grants, rebates, tax credits, loan guarantees or other similar benefits available to the proposed project and future commitments to seek out future benefits;

(iv) Demonstration of site control such as a BOEM lease or, alternatively, adequacy of plan for obtaining site control, as well as arrangements for interconnection right-of-way;

(v) Project COD and schedule, including but not limited to reasonableness of the proposed schedule (acknowledging, for example, weather delays), construction plan (reasonableness of plan and level of detail, for example, port, storage, lay-down and staging-areas, as well as evidence of consistency with procurement plan, supply chain descriptions, and contracting strategy), and testing and commissioning plan;

(vi) If applicable, the reasonableness of the proposed transmission upgrade cost allocation methodology, taking into account whether the proposed methodology fairly serves the interest of ratepayers;

(vii) Operations and maintenance plan, including but not limited to reasonableness of proposed management plan and mitigation strategies and evidence of unique requirements in the context of a large offshore wind facility (for example, port, maintenance vessel, staffing, spare parts supplies);

(viii) Decommissioning plan, including but not limited to quality and completeness of plan, and assurance of available funding to decommission the plant, interconnection facilities and associated equipment;

(ix) Transmission improvements, including but not limited to quality and completeness of analysis, and consideration of benefits created by associated transmission and distribution upgrades such as improved reliability or reduced congestion;

(x) OSW applicant's input-output analysis required by Public Utilities Article, §7-704.1(c)(3)(i), Annotated Code of Maryland, including completeness of descriptions and documentation, verifiability of model inputs and reasonableness of outputs, and extent to which the analysis demonstrates positive net economic benefits to the State;

(xi) OSW applicant's analysis of the net environmental and health impacts, including impacts on the affected marine environment based on publicly available information, to the State including impacts during construction, operation and decommissioning of the proposed project, including completeness of descriptions and documentation, verifiability of model inputs and reasonableness of outputs, and extent to which the analysis demonstrates positive net environmental and health benefits to the State;

(xii) Extent to which OSW applicant's proposed project will assist in meeting the renewable energy portfolio standard, considering the expected generation confidence level associated with the proposed OREC amount;

(xiii) Unique attributes that distinguish a proposed project from another;

(xiv) Adequacy of the OSW applicant's plan demonstrating engagement of small and minority businesses, commitment to the use of skilled labor, and labor compensation plan;

(xv) Evidence of serious, good-faith efforts to solicit participation of minority investors, should the proposed project have sought capital investment, and evidence of serious, good-faith commitment to solicit minority investors in future attempts to raise capital;

(xvi) OSW applicant's analysis of impacts on residential, commercial, and industrial retail electric customers, including consideration of whether the analysis properly reflects proposed OREC pricing and unique character of the applicant's pricing proposal; and

(xvii) OSW applicant's analysis of long-term changes to the wholesale electric market associated with the project, including consideration of the quality of analysis showing contributions to regional system reliability, fuel diversity, competition, transmission congestion, and other benefits.

(b) The qualitative analysis may result in the elimination from further consideration of an application that the Commission determines represents a significant risk of not achieving successful commercial operation or is not likely to provide net economic, environmental, and health benefits to the State.

(2) The quantitative analysis shall measure the impact of a proposed project and, as applicable, a combination of proposed projects, expressed in monetary terms.

(a) The quantitative analysis of the projected net rate impacts for an average Maryland retail electric customer based on an annual consumption of 12,000 kilowatt hours and nonresidential retail electric customers shall include consideration of the proposed OREC price schedule (including the proposed additional OREC prices for a further period of five years referenced in Regulation .02M(3) of this chapter) and proposed OREC amount, the value of energy, capacity, and ancillary services generated by the proposed project, the value of avoided Tier 1 REC costs, and any consequential impacts on wholesale market energy, capacity, ancillary service, and REC prices, to determine the following:

(i) Whether the projected net rate impact for applicable classes exceeds the limitations established in Public Utilities Article, §7-704.1(e)(1)(ii) and (iii), Annotated Code of Maryland; and

(ii) The forecasted net rate impact to ratepayers over the initial term of the proposed project;

(b) The quantitative analysis of the economic impacts on Maryland associated with the proposed project shall assess the projected impact of the proposed project on in-state income, employment, taxes, and local spending associated with the project lifecycle including construction, operations, maintenance, and equipment purchases.

(3) The independent analysis of the environmental and health benefits on Maryland associated with the proposed project, quantitatively expressed in tons of avoided air emissions and qualitatively expressed in terms of health impacts associated with avoided air emissions and impacts on the affected marine environment based on publicly available information.

C. Subject to §(B)(1)(b) of this regulation, the Commission shall rank proposed projects (and combinations of proposed projects, if applicable) based on the qualitative and quantitative evaluation described by §B of this regulation. The Commission shall not approve an application that does not meet the requirements of Public Utilities Article, §7-704.1(e)(1)(i) through (iv), Annotated Code of Maryland.

D. The Commission shall evaluate all applications received by it prior to the end of the application period and apply the same

evaluation criteria to each application without discrimination among the applications.

E. The Commission order approving an application shall be conditional upon completion of the following:

(1) The Commission and the OSW applicant execute a memorandum of understanding by which the OSW applicant agrees to make serious, good-faith efforts to interview minority investors in any future attempts to raise venture capital or attract new investors to the qualified offshore wind project;

(2) As described fully by Regulation .06B of this chapter, the OSW applicant and the Governor's Office of Minority Affairs, in consultation with the Office of the Attorney General, establish a clear plan for setting minority business enterprise participation goals and procedures for the proposed offshore wind project; and

(3) Any other conditions the Commission determines to be appropriate.

.04 Project Site Concerns.

The Commission shall verify that representatives of the United States Department of Defense and the maritime industry have had the opportunity, through the federal leasing process, to express concerns regarding project siting.

.05 Contribution to Maryland Offshore Wind Business Development Fund.

A. Within 60 days after the Commission approves the application of a proposed offshore wind project, the qualified offshore wind project shall deposit \$2,000,000 into the Maryland Offshore Wind Business Development Fund.

B. Within 1 year after the initial deposit under §A of this regulation, the qualified offshore wind project shall deposit an additional \$2,000,000 into the Maryland Offshore Wind Business Development Fund.

C. Within 2 years after the initial deposit under §A of this regulation, the qualified offshore wind project shall deposit an additional \$2,000,000 into the Maryland Offshore Wind Business Development Fund.

D. The qualified offshore wind project shall notify the Commission within 30 calendar days after each deposit due date whether timely and full payment has been made or not, and if not, an explanation for failure to make the payment.

E. Failure to make any of the payments required by §§A through C of this regulation shall be deemed a violation of the OREC order, entitling the Commission to take actions as it deems appropriate.

.06 Compliance with Minority Business Enterprise Program.

A. To the extent practicable and permitted by the United States Constitution, the qualified offshore wind project shall comply with the State's Minority Business Enterprise Program.

B. The Commission may not approve an application until the Governor's Office of Minority Affairs, in consultation with the Office of the Attorney General, and the OSW applicant have established a clear plan for setting reasonable and appropriate minority business enterprise participation goals and procedures for each phase of the qualified offshore wind project, as required by Public Utilities Article, §7-704.1(e)(3)(iii), Annotated Code of Maryland.

C. This regulation is effective through June 30, 2016.

.07 Offshore Wind Energy Component of Renewable Energy Portfolio Standard.

A. The Commission shall establish the offshore wind energy RPS under Public Utilities Article, §7-703(b), Annotated Code of Maryland, and that determination:

(1) Shall be based on projected annual creation of ORECs by qualified offshore wind projects; and

(2) Shall be made on a forward-looking basis at least three years in advance. If the Commission issues additional OREC orders, it shall at such time adjust the offshore wind energy RPS, on a forward looking basis at least three years in advance, taking into account the number of ORECs projected to be generated by all projects. In establishing the offshore wind energy RPS, the Commission shall include a surplus determined by it in its discretion, to accommodate reasonable forecasting errors in estimating overall electricity sales in the State.

B. Subject to §C of this regulation, the Commission, in its discretion, may adjust the offshore wind energy RPS in a given year to accommodate a shortfall of ORECs in one or more earlier years that is the result of the variation between the quantity of ORECs calculated from the offshore wind energy RPS and the quantity of ORECs approved by OREC orders for the same period.

C. Any positive adjustments, or negative adjustments arising as a result of the application of §B of this regulation, to the offshore wind energy RPS shall be on a forward-looking basis and shall be determined at least three years in advance of the calendar year in which that RPS requirement is to take effect.

.08 Establishing the OREC Purchase Obligation and Replacement OREC Price Schedule.

A. The Commission shall establish the OREC purchasers' obligation to purchase ORECs for each year that the offshore wind energy RPS is in effect on a forward-looking basis and at least 3 years in advance of the calendar year in which that OREC purchase obligation is to take effect to allow OREC purchasers to reflect the costs of ORECs in retail prices offered to its customers.

B. Each OREC purchaser shall meet its OREC purchase obligation by purchasing the necessary number of ORECs from one or more escrow accounts established under this chapter.

C. If, pursuant to Regulation .02M(1)(a) of this chapter, a project has provided a two-part OREC price for its proposed OREC price schedule, then as soon as possible following the execution of its Interconnection Service Agreement, and if the project determines that any change between the Commission's estimated cost of transmission upgrades and PJM's actual upgrade cost as specified in the executed Interconnection Service Agreement requires that the second component of the OREC price be adjusted upward or downward, the project shall submit to the Commission a replacement OREC price schedule that reflects the final OREC price for each calendar year of the OREC price schedule, as adjusted in compliance with the limitations set forth in Regulation .02M(1)(a) of this chapter, accompanied by an explanation of the requested adjustment, and this replacement OREC price schedule shall be deemed to be the OREC price schedule for the project for the term of its OREC order.

D. In assessing whether the adjusted OREC price schedule submitted by the project under §C(1) of this regulation complies with the limitations set forth in Regulation .02M(1)(a) of this chapter, the Commission shall use in its determination the same factors and economic or financial model (including any numerical inputs) used by it at the time it evaluated and approved the project's application other than the change in PJM's actual transmission upgrade cost described above.

.09 Appointment of Escrow Administrator.

A. A qualified offshore wind project shall appoint an administrator, selected by that project and acceptable to the Commission, to establish for that project an escrow account, a reserve account and other accounts required by this chapter.

B. In selecting its administrator, the relevant qualified offshore wind project shall seek bids from two or more qualified financial institutions for the scope of work required by this chapter and other scope of work as may be determined by the project; provided, however the project shall not be bound to select the institution that

provides the lowest bid but may adopt other criteria that it deems fit in making its selection.

C. No later than 360 days prior to the to the estimated project COD (or, if the Commission has been notified by the project pursuant to §B of COMAR 20.61.06.16 of one or more delays in the estimated project COD, 360 days prior to the new estimated project COD), a qualified offshore wind project shall propose an administrator to the Commission for approval. That proposal shall be accompanied by all necessary and relevant documents to evidence the qualification of that administrator, in compliance with the provisions of these regulations, and the ability of that administrator to carry out the duties and obligations set forth in these regulations, as well as information evidencing that the project sought bids from two or more qualified financial institutions and the reasons the project selected the entity that it is proposing to the Commission.

D. The Commission shall notify the qualified offshore wind project of its approval or rejection of the administrator proposed by the project within 60 days of the submission by the project and, in the case of a rejection, the Commission shall provide the reasons for the rejection. In the case of a rejection, the qualified offshore wind project shall select an alternative administrator for approval by the Commission within 30 days of that rejection or, if it is unable to do so within 30 days, cooperate with the Commission to appoint a mutually acceptable administrator no later than 90 days prior to April 1 of the year in which the offshore wind energy RPS takes effect. In determining the acceptability of an institution to be an administrator, the Commission, may, in its discretion consider other factors or qualifications that it deems relevant without requiring that all of the qualifications set forth in the definition of "qualified financial institution" be met.

E. Subject to the provisions of §§A, B, C, and D of this regulation, each project shall appoint an administrator no later than 90 days prior to April 1 of the year in which the offshore wind energy RPS takes effect.

F. If the Commission has issued OREC orders applicable to more than one qualified offshore wind project, each project (or its designee) shall propose its own administrator for Commission approval, which may be the same entity as that previously approved by the Commission for one or more other projects.

G. All written contractual arrangements entered into between an administrator, the relevant qualified offshore wind project and other relevant parties and the interpretation thereof shall be governed by laws of the State of Maryland and the forum for disputes shall be the courts of the State of Maryland or, if applicable, the United States District Court for the District of Maryland. The parties may agree to submit disputes to an arbitration tribunal mutually agreed among them and submit to arbitration rules and procedures as the parties deem appropriate, provided, that any arbitration must include the participation of the Commission.

H. The fees and expenses of its administrator shall be paid by the project and may, without duplication of amounts paid to the administrator in respect of fees and expenses, be deducted by the project's administrator from the amount payable to the project in respect of its OREC invoice in accordance with Regulation .11G of this chapter.

I. Each administrator and the relevant qualified offshore wind project may agree to other terms and conditions as are customarily applicable to escrow, account administration and custodial arrangements so long as those terms and conditions are not prohibited by the provisions of this chapter and OWEA. Within 30 days of its entering into definitive documents with its administrator, each qualified offshore wind project shall submit to the Commission copies of executed versions of those documents, together with a summary of their principal terms and conditions, including any provisions that are in addition to those required by this chapter.

J. The Commission shall have regulatory oversight over each administrator to ensure proper administration of the relevant escrow account, reserve account and administrator GATS account, including ensuring that invoices issued to the projects and to the OREC purchasers are accurate and properly issued and that payments made by OREC purchasers, payments made to qualified offshore wind projects and rebates paid to or on behalf of the State's retail electric customers are consistent with the terms of the Commission's OREC orders and the provisions of this chapter. Each qualified offshore wind project and its administrator shall keep proper books and records of all transactions associated with the execution and administration of the OREC order and related OREC price schedule that will be subject to inspection and audit by the Commission. No later than 90 days following the end of each calendar year, each qualified offshore wind project shall cause its administrator to submit a report to the Commission, in the form as shall be approved by the Commission, summarizing the transactions associated with its administration of the relevant escrow account, reserve account, administrator GATS account and related OREC price schedule, including details of all fees and expenses paid to that administrator for the same period. The Commission may seek further information in relation to or clarification of any item on the administrator's report as it deems prudent.

K. The Commission has the authority to notify and require that a qualified offshore wind project replace its administrator within 90 days of the Commission's request if the Commission determines that the administrator has ceased to be a qualified financial institution, has failed to carry out its duties and obligations in accordance with law and the provisions of this chapter, has engaged in gross negligence or willful misconduct in carrying out its duties or obligations or has been negligent in the management and use of funds entrusted to it. If the relevant qualified offshore wind project fails to replace its administrator within the period specified above, the Commission may remove the project's administrator and appoint a replacement administrator in its place. All costs and expenses incurred by the Commission in doing so shall be invoiced to, or made for the account of, the project and paid by the replacement administrator as a third-party expense, by deducting these amounts from monies that would otherwise be paid to the project in respect of its OREC invoice under Regulation .11G of this chapter.

L. A project may seek the approval of the Commission for removal and replacement of its administrator for any one or more of the reasons specified in §K of this regulation or for cause as specified in the contractual agreements entered into between the project and the administrator. In seeking the Commission's approval, the project shall submit to the Commission evidence that the administrator has ceased to be a qualified financial institution, evidence of any of its misconduct or other reasons for the removal of the administrator. The project shall submit to the Commission for approval a replacement administrator with evidence of such administrator's qualifications in compliance with the provisions of this chapter and the expected timeline for the replacement to take effect. If at the time of such proposed removal, the project shall have any outstanding debt facilities or shall have received equity investments from one or more unaffiliated entities, the project shall also submit to the Commission written confirmation from each of these entities (or their authorized representative or agent) that it has either approved the removal of the administrator and its replacement or waived its right to so approve. Any removal and replacement of an administrator under this section shall be at the sole cost and expense of the relevant project.

M. Upon a project acquiring actual knowledge that its administrator is no longer a qualified financial institution or has engaged in gross negligence or willful misconduct in carrying out its duties or obligations or has been negligent in the management and

use of funds entrusted to it, the project shall promptly notify the Commission in writing of the same and reference §K of this regulation.

.10 Qualified Offshore Wind Project Invoices; Payment and Transfer of ORECs.

A. Subject to the provisions of this regulation, a project may deliver an OREC invoice to its administrator no more frequently than on a monthly basis.

B. During the initial year in which the offshore wind energy RPS takes effect and so long as project COD shall have occurred with respect to a qualified offshore wind project, the project may deliver the first OREC invoice to its administrator no earlier than the first five business days of the second calendar month immediately following the end of the generation month in respect of which ORECs associated with that project are created by PJM EIS. Thereafter, each OREC invoice may be delivered by a project to its administrator within the first 5 business days of the beginning of each calendar month during the term of an OREC price schedule.

C. Each OREC invoice shall state the number of ORECs created by PJM EIS for that project for the applicable generation period covered by that invoice (but excluding any ORECs created during any generation periods previously included in OREC invoices submitted to the administrator) and shall be accompanied by a copy of a statement or statements from PJM EIS confirming that the ORECs referenced in the OREC invoice have been created for the project. The OREC invoice shall also state the dollar amount due to that project for the ORECs referenced in the OREC invoice. That dollar amount shall be equal to the product of the number of ORECs created by PJM EIS for that project during the relevant period and the applicable OREC price set forth in the project's OREC price schedule, less:

- (1) Any deductions the project is required to make in accordance with Regulation .13 of this chapter;
- (2) Any deductions on account of the administrator's fees and expenses as contemplated by Regulation .09H of this chapter; and
- (3) Any deductions contemplated by Regulation .09K or L of this chapter.

D. Each administrator shall be responsible for confirming the accuracy of the computations and number of ORECs created as set forth in the OREC invoices delivered to it by comparing that number of OREC set forth in the PJM EIS statements referred to above and the number set forth in the OREC invoices and shall, if it considers necessary, request further information from the project or PJM EIS, or both (but only if that information is customarily provided by PJM EIS at that time) in assisting it to make that determination.

E. Subject to Regulation .11G of this chapter, if the administrator determines under §D of this regulation that the OREC invoice submitted to it does not contain any error or inaccuracy, it shall approve and pay the OREC invoice within 10 business days of receipt of that invoice. If the administrator determines under §D of this regulation that the OREC invoice submitted to it does contain errors or inaccuracies, then it shall inform the project of the same and request that the project correct the error or inaccuracy prior to making payment under the OREC invoice.

F. Each qualified offshore wind project shall, for the term of its OREC price schedule, provide irrevocable instructions to PJM EIS to accept all instructions in connection with that project's GATS account from the administrator, until instructed otherwise by the administrator and the qualified offshore wind project.

G. Each qualified offshore wind project shall provide irrevocable standing instructions to PJM EIS to automatically deposit in the administrator GATS account all ORECs (or RECs associated with electricity derived from offshore wind energy) created for the project and the administrator shall, if required by PJM EIS, accept the

deposit of ORECs (or RECs, as relevant) in accordance with the rules of the PJM EIS until the end of the term of the project's OREC price schedule. The project shall not, while the standing instructions remain in effect, take any steps to cancel or modify the standing instructions other than informing PJM EIS of a change in the administrator in the event the administrator is replaced under Regulation .09K or L of this chapter. At the end of the term of the project's OREC price schedule, the administrator shall terminate the standing instructions and instruct PJM EIS to accept all future instructions regarding the RECs created for that project directly from the project (or another person as the project may designate).

H. Each administrator shall, no later than 15 days after the deposit of ORECs in respect of an OREC invoice to the administrator GATS account and payment of the relevant OREC invoice by the administrator, transfer the relevant number of those ORECs from the administrator GATS account to the GATS account of each OREC purchaser. The number of ORECs transferred by the administrator to the GATS account of each OREC purchaser will equal the aggregate dollar value of the OREC purchase payments made by that OREC purchaser for the relevant quarterly period divided by the aggregate dollar amount of all invoices sent to OREC purchasers by that administrator for the same period, multiplied by the number of ORECs created for the relevant project by PJM EIS for the same period and delivered to the administrator's GATS account; provided that, notwithstanding the above, the number of ORECs delivered to an OREC purchaser shall not exceed a number determined by dividing the OREC purchase payments made by that OREC purchaser for that quarter by the OREC price for that project for the relevant year.

.11 Invoicing of OREC Purchasers and Administrator's Responsibilities.

In addition to the duties of the administrator set forth elsewhere in this chapter, each administrator shall have the duties and obligations set forth in this regulation.

A. Each administrator shall establish and maintain a segregated escrow account, reserve account and GATS account for each qualified offshore wind project that appoints it to be the administrator.

B. The administrator shall send an invoice to each OREC purchaser on a quarterly basis. The first invoice shall be issued by the administrator within the first 5 business days of the calendar quarter commencing in April of the initial year in which the offshore wind energy RPS takes effect. Thereafter, each invoice shall be delivered by the administrator to each OREC purchaser within the first 5 business days of the beginning of each calendar quarter, during the term of an OREC price schedule. Each invoice will require an OREC purchaser to pay an amount that is equal to the product of:

(1) The OREC price for the relevant project for the relevant year within the term of its OREC price schedule, and

(2) The OREC purchaser's final electricity sales data in megawatt-hour terms computed as (A) the sum of (a) the final electricity sales data in megawatt-hour terms reflective of applicable adjustments and reconciliations conducted pursuant to the PJM settlement process for the sales period immediately preceding the invoice date corresponding to those adjustments and reconciliations plus (b) in the case of electricity suppliers that have retail electric customers that purchase "behind the meter" generation (as defined by PJM), the final electricity sales to those customers as measured by the electricity suppliers, minus (B) sales specifically excluded under Public Utilities Article, §7-703, Annotated Code of Maryland, and

(3) The offshore wind energy RPS, expressed as a percentage, determined by the Commission under §A of Regulation .07 of this chapter; and

(4) The fraction equal to the number of ORECs that the relevant project is authorized to sell in that year divided by the total number of ORECs authorized to be sold by the Commission for all projects in that year.

C. Within 2 business days of the reconciliations described in §B(2) of this regulation being conducted and made available by PJM, each OREC purchaser shall calculate and deliver to the administrator the final electricity sales data necessary to satisfy §B(2) of this regulation, together with a copy of the relevant PJM report evidencing the relevant electricity sales (other than in respect of the "behind the meter" sales to retail electric customers described in §B(2) of this regulation which shall be separately provided to the administrator by the relevant OREC purchaser) and its methodology for calculating its final electricity sales data that complies with §B(2) of this regulation.

D. Each OREC purchaser shall pay the invoice issued to it under §B of this regulation to the administrator for deposit into the escrow account within 10 business days of the date of that invoice.

E. Electricity Supplier Information—Updates to the Administrator's Records.

(1) No later than 15 days before the end of each calendar quarter during which the offshore wind energy RPS is in effect, each electric company shall provide to each administrator the name, address, email address and other related information of each electricity supplier in its territory and updates as applicable.

(2) Upon receipt of the contact information for the OREC purchasers from the electric companies, the administrator shall:

(a) Determine whether there are any new OREC purchasers since the end of the previous calendar quarter;

(b) Gather the information it requires to issue an OREC invoice under §B of this regulation; and

(c) Issue OREC invoices in accordance with §B of this regulation to any new OREC purchasers.

F. Each administrator shall provide to each electricity supplier its electronic funds transfer information, and otherwise coordinate with electricity suppliers (or their designees) to permit electronic transfers of OREC purchase payments. Each electric company shall provide electronic funds transfer information to the administrator to enable it (or its designee), to make electronic transfers of payments contemplated by §G(4) of this regulation.

G. On each date that the administrator is required to pay the qualified offshore wind project for the amounts invoiced under Regulation .10 of this chapter, the administrator shall withdraw the amounts from its escrow account and apply those amounts in accordance with §G(1) through (4) of this regulation (and in the following order of priority):

(1) Prior to making the transfers specified in §G(2), (3) and (4) of this regulation, apply all amounts on deposit in the escrow account to pay the project an amount up to the aggregate balance remaining unpaid under any previously issued OREC invoices that have been approved by the administrator under Regulation .10E of this chapter (less the administrator's pre-agreed periodic fees and documented reasonable third-party expenses (including any costs and expenses invoiced to the project by or on behalf of the Commission in connection with Regulation .09K of this chapter), any amounts required to be deducted pursuant to Regulation .13C and D of this chapter and any amounts required to be deducted pursuant to Regulation .16E of this chapter);

(2) After giving effect to §G(1) of this regulation, apply all amounts remaining on deposit in the escrow account to pay the project amounts due on that payment date under an OREC invoice issued by that project pursuant to Regulation .10 of this chapter;

(3) After giving effect to §G(1) and (2) of this regulation, transfer to the reserve account all amounts remaining in the escrow

account up to an aggregate amount equal to six months average OREC projected revenue for the concurrent calendar year; and

(4) Subject to §H of this regulation, and after giving effect to §G(1), (2) and (3) of this regulation, but no earlier than the 30th day of the immediately following calendar year, transfer all amounts remaining in that escrow account to the electric companies, in accordance with the relative market share of those companies (in megawatt hours), for subsequent allocation, in accordance with Regulation .14 of this chapter, to its retail electric customers (excluding sales to industrial process load and sales to agricultural land owners that an electricity supplier has certified to the Commission pursuant to §E of Regulation .06 of this chapter).

H. In the event of any shortfall in any of the payments required to be made on any payment date under each of §G(1), (2), and (3) of this regulation, that shortfall shall be paid on the next monthly payment date from funds subsequently deposited in the escrow account, in the order of priority set forth in §G of this regulation until the shortfall is eliminated, prior to applying any funds towards the payment set forth in §G(4) of this regulation.

I. Each project, together with its administrator, may apply to the Commission for a modification or variation to the above order of payment in the event that it is determined to be commercially required by investors in or financiers to the project but, subject to §H of this regulation, in no event shall that modification or variation result in the refund described in §G(4) of this regulation being made to or on behalf of retail electric customers any less frequently than annually.

J. Subject to the priority of payments set forth in §G of this regulation and any variations as may be agreed under §I of this regulation, after project COD has occurred and so long as the administrator has approved the OREC invoice under §E of Regulation .10 of this chapter, the administrator shall disburse payment in full to the relevant qualified offshore wind project for its OREC invoice issued under Regulation .10 of this chapter regardless of whether OREC purchasers have paid on-time or in-full. Funds held in the reserve account shall be available for that payment in the event that there are insufficient funds in the escrow account for that purpose.

K. Each administrator may invest or reinvest any or all monies in the reserve account in permitted investments.

L. Each administrator shall issue a late-payment notice to a delinquent OREC purchaser within 3 days past the payment due date. If payment is not received within ten days after the late-payment notice, that administrator shall refer the matter to the Commission, notifying the relevant qualified offshore wind project. All late payments shall incur a late-payment fee as required by §M of this regulation. All late-payment fees shall be paid to the administrator for deposit into the escrow account and applied in accordance with §G of this regulation.

M. Any late payment fee shall be computed from the date on which payment under an invoice delivered by an administrator to an OREC purchaser under Regulation .11B of this chapter is due until the date of payment at an average prime rate for each calendar quarter on all amounts due and unpaid. The applicable average prime rate for each calendar quarter shall be the arithmetic mean, to the nearest one-hundredth of one percent, of the prime rate values published in the Federal Reserve Bulletin, or in the Federal Reserve's "Selected Interest Rates" (Statistical Release H. 15) (or its replacement publication, if any), for the fourth, third, and second months preceding the first month of the calendar quarter. The late payment fee required to be paid under this regulation shall be compounded quarterly.

N. The administrator shall provide quarterly reports to the Commission of any delinquent OREC purchaser and the number of

days that payment(s) from any delinquent OREC purchaser have been or historically overdue.

O. Any ORECs not transferred pursuant to Regulation .10H of this chapter as a result of failure by one or more electricity suppliers to pay its invoice on its due date, shall be held in the administrator GATS account for transfer to the account of any OREC purchaser that makes payment in full beyond the date that payment is due in respect of any calendar quarter. Any ORECs for the applicable calendar quarter that have not been transferred after 18 months as a result of failure by one or more electricity suppliers to pay its invoice on its due date, shall be sold by the administrator as a Tier 1 renewable source with revenues for those sales deposited into the escrow account, unless otherwise instructed by the Commission.

.12 Payment of PJM Revenues and Trust for Benefit of Ratepayers.

A. Each qualified offshore wind project shall sell all of its electricity service attributes in the markets operated by PJM.

B. All proceeds from those sales that are associated with the ORECs that a project is authorized to sell under its OREC order (net of fees and charged imposed by PJM) shall be paid to the project's related escrow account to be applied in accordance with the order of priority set forth in Regulation .11G of this chapter, and any amounts remaining under Regulation .11G(4) of this chapter shall be held in trust by such project's administrator for the benefit of retail electric customers. The relevant project shall agree to this declaration of trust in the agreement that it enters into with its administrator with respect to payment of those funds.

C. Each qualified offshore wind project shall instruct PJM or the purchaser of the project's electricity service attributes, with copies of these instructions provided to the Commission, to deposit proceeds from the sale of that project's electricity service attributes associated with those ORECs during the term of the project's OREC price schedule, net of fees and charges imposed by PJM, to the escrow account.

D. The project shall not have any property interest in the escrow account, the administrator GATS account, the reserve account or the funds or RECs deposit therein, as relevant, except the right to receive payment from such accounts in accordance with the provisions of this chapter and the express property rights to the excess electricity service attributes, RECs derived the excess electricity service attributes and the proceeds from the sale thereof provided for in Regulation .15 of this chapter.

.13 Value to Ratepayers of State or Federal Funds and Benefits.

A. As described by Regulation .02K(6) of this chapter, the qualified offshore wind project shall pass along to ratepayers no less than 80 percent of the value of all state or federal grants, rebates, tax credits, loan guarantees and other similar benefits that the project receives that were not included at the time the project submits its application.

B. No later than 30 days following the end of each calendar year, each qualified offshore wind project shall provide to the administrator and the Commission a complete account of all benefits received from state or federal grants, rebates, tax credits, loan guarantees and other similar benefits not included in the project's application and received by the project during the preceding year.

C. The project shall deduct 80 percent of the value of the state or federal grants, rebates, tax credits, loan guarantees and other similar benefits received during the preceding year, as reported by the project pursuant to §B of this regulation, from the OREC invoice submitted to the administrator for the current calendar year under Regulation .10 of this chapter.

D. The value of the benefits required to be deducted under §C of this regulation shall be deducted from the first OREC invoice submitted to the administrator by the project for the current calendar year and, if the value of the benefits required to be deducted above

exceed the amount of the OREC invoice, any balance in the value of these benefits shall be deducted from the second OREC invoice and each OREC invoice thereafter until the full amount of the value of the benefits required to be deducted shall have been fully deducted from the OREC invoices delivered by the project to the administrator.

E. Each administrator shall specifically identify all of the following information in the annual report that it submits to the Commission under §J of Regulation .09 of this chapter:

(1) Total value of all state or federal grants, rebates, tax credits, loan guarantees and other similar benefits that each qualified offshore wind project reports that it has received during the previous calendar year; and

(2) Amount in dollars that the project deducted from OREC invoices submitted that represents 80 percent of the value of all state or federal grants, rebates, tax credits, loan guarantees and other similar benefits that each qualified offshore wind project received during the preceding calendar year, as reported by that project.

F. The project shall maintain books and records related to its receipt of state or federal grants, rebates, tax credits, loan guarantees and other similar benefits that were not included at the time of the project's application. The Commission shall have the right to inspect those books and records and, at its discretion, order adjustments to the project's OREC invoices as necessary to fulfill the requirement in §A of this regulation.

.14 Refunds Distributed by Electric Companies.

A. Each electric company shall submit a proposal for approval by the Commission describing the methodology that it proposes to use in calculating and refunding or crediting the amounts paid to it under §G(4) of Regulation .11 of this chapter to its retail electric customers.

B. Each electric company shall, within 90 days of receipt from the administrator, refund or credit the amounts paid to it under §G(4) of Regulation .11 of this chapter to its retail electric customers in accordance with the methodology that is approved by the Commission.

C. Each electric company may, from time to time, submit an alternative proposal to the Commission describing an alternative methodology for carrying out its obligations under §A of this regulation. If the alternative methodology is approved by the Commission, the electric company shall apply the alternative methodology in carrying out its obligations under §A of this regulation.

.15 Transfer and Expiration of Excess Electricity Service Attributes.

A. Legal title and beneficial ownership of an OREC shall vest in the project at the moment such OREC is created by PJM EIS and deposited in the project's GATS account.

B. If, after satisfying its obligations to deliver the number of ORECs that it is authorized to sell under its OREC order in any given calendar year, a project determines that the electricity service attributes generated by the project is in excess of that required for the delivery of ORECs in that calendar year, the excess electricity service attributes and any RECs associated with it shall, subject to §C of this regulation, remain the property of the project.

C. A project that has excess electricity service attributes shall notify the administrator of its intent to elect one of the following:

(1) Deposit the ORECs associated with the excess electricity service attributes in the administrator GATS account to be made available to the administrator for delivery to OREC purchasers in the following one or more calendar years in which the offshore wind energy RPS remains in effect; or

(2) Sell the RECs derived from the excess electricity service attributes as Tier 1 renewable sources that satisfy the RPS.

D. If a project notifies its administrator under §C of this regulation of its intent to deposit ORECs associated with excess electricity service attributes in the administrator GATS account for

delivery in future years, all revenues from the sale of electricity service attributes associated with those ORECs shall be deposited in the administrator's escrow account and be applied in accordance with the provisions of this chapter. The ORECs associated with excess electricity service attributes deposited in the administrator GATS account shall be transferred by the administrator to OREC purchasers to satisfy future OREC delivery obligations of the relevant project, prior to delivering new ORECs created for the project in future years.

E. If a project notifies its administrator under §C of this regulation of its intent to market and sell RECs derived from the excess electricity service attributes as Tier 1 renewable sources that satisfy the RPS, the project shall notify the administrator to transfer those RECs that have been deposited into the administrator GATS account to the GATS account of the project, the purchaser or purchasers identified by the project (or another account as the project may designate) and all proceeds of the sale shall be for the account of the project.

F. A project may sell all of the excess electricity service attributes that are not associated with the ORECs that it elects (or is deemed to elect) to deposit in the escrow account in any manner it deems appropriate and the proceeds from these sales shall be for the account of the project.

G. If a project does not give the required notice to its administrator under §C of this regulation within 30 days of the end of the relevant calendar year, the project shall be deemed to have elected to have those excess ORECs deposited in the administrator GATS account.

H. If at the end of the term of an OREC price schedule and no further extensions of the OREC price schedule are granted under Public Utilities Article, §7-704.2(d), Annotated Code of Maryland, there shall remain in the administrator GATS account any excess ORECs, those excess ORECs shall be retired and any revenues from the sale of its electricity service attributes shall be paid to the electric companies for distribution to its retail electric customers in accordance with Regulation .14 of this chapter.

I. If the Commission elects to extend the term of the OREC price schedule pursuant to the provisions of Public Utilities Article, §7-704.2(d), Annotated Code of Maryland, any excess ORECs remaining in the administrator GATS account shall be held in the account for future delivery to satisfy future delivery obligations of the project. These ORECs shall be delivered prior to delivery of any new ORECs created for the project during the extended term.

.16 Project Commencement of Operations.

A. Each project shall provide periodic updates to the Commission regarding the status of the development of project as required by COMAR 20.61.06.18, including and whether the project is on schedule to meet its estimated project COD as notified to the Commission in the project's application.

B. If, based on facts and circumstances available at that time, a project determines that it is not reasonably expected to be able to meet its original estimated project COD, the project shall inform the Commission of its determination and provide the Commission with a new estimate of the project COD.

C. If the project gives the Commission the notice described in §B of this regulation after the Commission has established the RPS standard and the OREC purchase obligation to take effect in the year that estimated project COD is projected to occur, the qualified offshore wind project must appoint its administrator prior to April 1 of the year in which the offshore wind energy RPS takes effect. The administrator shall be instructed to establish an escrow account but not a reserve account for the purpose of receiving OREC purchase payments and applying the payments received in accordance with the priority of payments below until the qualified offshore wind project

certifies (together with a certificate from an independent engineer confirming the same) to the administrator and the Commission that project COD has occurred:

(1) Prior to making the transfers specified in §C(2) of this regulation, withdraw from that escrow account, for the account of such administrator, its pre-agreed periodic fees and documented reasonable third-party expenses (including any costs and expenses invoiced to the administrator by or on behalf of the Commission in connection with Regulation .09K of this chapter); and

(2) After giving effect to §C(1) of this regulation, but no earlier than the 30th day of the immediately following calendar year, transfer all amounts remaining in the escrow account to the electric companies, in accordance with the relative market share of those companies (in megawatt hours), for subsequent allocation, in accordance with Regulation .14 of this chapter, to its retail electric customers (excluding retail electric customers specifically excluded pursuant to Public Utilities Article, §7-703, Annotated Code of Maryland).

D. If an administrator is appointed under §C of this regulation, then the administrator shall issue invoices to OREC purchasers in accordance with the procedure described in Regulation .05B of this chapter and in making the computations required under Regulation .05B of this chapter, the administrator shall use the OREC prices for the OREC price schedule described in clause (a) of the definition of "OREC price schedule."

E. Upon the occurrence of project COD, the project shall instruct the administrator to establish a reserve account and all monies deposited into the escrow account shall be applied in accordance with Regulation .11G(1)–(4) of this chapter (except to the extent modified pursuant to Regulation .11I of this chapter); provided however, the aggregate fees and expenses paid to the administrator under §C(1) of this regulation shall be deducted from the first OREC invoice submitted by the project to the administrator (and if necessary to cover any shortfall, each subsequent OREC invoice submitted by the project to the administrator until the shortfall is eliminated).

F. If the new estimated project COD is projected to occur later than 730 days after the original estimated project COD, the Commission shall adjust the offshore wind energy RPS and the OREC purchase obligation, on a forward looking basis at least three years in advance to take such delay into account but no such adjustment shall modify any previously determined offshore wind energy RPS or the OREC purchase obligation until the lapse of the 3-year period commencing on the date the previously determined obligations were to take effect.

G. If the new estimated project COD will not occur before the end of 5 years after the original estimated project COD or if BOEM terminates the offshore wind project's lease, the Commission may revoke the OREC order and any OREC price schedule previously issued by it to the project and adjust the offshore wind energy RPS and the OREC purchase obligation under §C of this regulation.

H. The Commission may withdraw this order if the project:

- (1) Is unable to obtain rights to a BOEM lease site;
- (2) Declares bankruptcy; or
- (3) Is unable to demonstrate to the Commission that it has diligently pursued and engaged in a continuous development and construction program to achieve project COD.

.17 Extension of OREC Price Schedule Beyond the Term.

A. Each qualified offshore wind project shall report all of the following information to the Commission within 2 years before the expiration of the term of an OREC price schedule:

(1) Anticipated PJM revenues for the project for the 5-year period immediately following expiration of the term of the OREC price schedule; and

(2) Anticipated project operating costs for the project for the 5-year period immediately following expiration of the term of the OREC price schedule.

B. Each qualified offshore wind project shall report all of the following information to the Commission within 2 years of expiration of an additional 5-year term extended under Public Utilities Article, §7-704.2(d), Annotated Code of Maryland:

(1) Anticipated PJM revenues for the project for the 5-year period immediately following expiration of the 5-year term extended under Public Utilities Article, §7-704.2(d), Annotated Code of Maryland; and

(2) Anticipated project operating costs for the project for the 5-year period immediately following expiration of the 5-year term extended under Public Utilities Article, §7-704.2(d), Annotated Code of Maryland.

.18 Reporting Requirements.

A. The qualified offshore wind project shall file annual reports with the Commission each year subsequent to issuance of the OREC order containing updated information required by Regulation .02H of this chapter, until the project achieves project COD.

B. Any material change to the qualified offshore wind project shall be reported to the Commission within 30 days of the date of that decision and the Commission shall decide, in its discretion, whether further action is necessary, including but not limited to:

- (1) The capacity of the project;
- (2) The turbine model;
- (3) The design of the foundation or support structure;
- (4) The project COD; and
- (5) The decommissioning plan.

C. The qualified offshore wind project shall supply the Commission with submissions made to BOEM and other state and federal agencies related to the development, permitting, engineering, construction and decommissioning of the project.

.19 End of Term.

A. Upon either the termination of the term of an OREC price schedule or if further extensions of 5-year terms are granted by the Commission pursuant to Public Utilities Article, §7-704.2(d), Annotated Code of Maryland, at the conclusion of the final term of such 5-year terms, the Commission may instruct the project to cause the administrator to distribute all funds remaining in the escrow account and reserve account to the electric companies for refund to their retail electric customers in accordance with Regulation .14, provided that the following shall have occurred:

(1) The administrator shall have paid to the project all amounts owing under any OREC invoice issued by the project to the administrator that does not contain any error or inaccuracy and terminated all standing instructions given to PJM or PJM EIS in favor of the administrator;

(2) The administrator shall have paid to the project all amounts that it is entitled to pursuant to Regulation .15 of this chapter and transferred to the project all RECs to which it is entitled under Regulation .15 of this chapter;

(3) Any excess ORECs held in the administrator GATS account shall be sold and proceeds thereof be paid to the electric companies for refund to their retail electric customers in accordance with Regulation .14 of this chapter;

(4) The administrator shall have complied with any other administrative duties and obligations in connection with the escrow account, reserve account, and the administrator GATS account as the Commission may require; and

(5) The administrator shall have submitted to the Commission a final report and full accounting of all the amounts paid to and from the escrow account and reserve account, all sale or retirement of excess ORECs from the administrator GATS account and application

of proceeds thereof and any other information as may be requested by the Commission.

B. Upon the distribution of funds remaining in the escrow account and reserve account in accordance with §A of this regulation, the escrow account and reserve account with respect to the project shall be closed.

.20 Severability.

If any part of the regulations in this chapter is found to be invalid by a court of competent jurisdiction or its application to any person or circumstances is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions of these regulations.

DAVID J. COLLINS
Executive Secretary
Public Service Commission

Title 21
STATE PROCUREMENT
REGULATIONS
Subtitle 11 SOCIOECONOMIC
POLICIES

21.11.14 American-Manufactured Goods and Services — Preference

Authority: State Finance and Procurement Article, §12-101, Annotated Code of Maryland; [Ch. 593, Acts of 2010; Chs. 314, Acts of 2011] *Chs. 437 and 438, Acts of 2013*

Notice of Proposed Action

[14-211-P]

The Board of Public Works proposes to adopt new Regulation .04 under **COMAR 21.11.14 American-Manufactured Goods and Services — Preference**. This action was considered at a public meeting held on April 30, 2014, notice of which was published pursuant to State Government Article, §10-506, Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to implement the procurement preference for American-manufactured goods.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Mary Jo Childs, Procurement Advisor, Board of Public Works, 80 Calvert St, Room 117, Baltimore, MD 21401, or call 410-260-7335, or email to maryjo.childs@maryland.gov, or fax to 410-974-5240. Comments will be accepted through August 11, 2014. A public hearing has not been scheduled.

.04 American-Manufactured Goods.

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

B. Terms Defined.

(1) "American-manufactured goods" means goods that are manufactured or assembled in the United States;

(2) "Emergency life safety and property safety goods" means any goods when provided for the installation in, as part of, or as an addition to a system designed to:

(a) Prevent, respond to, alert regarding, suppress, control, or extinguish an emergency or the cause of an emergency that threatens life or property; or

(b) Assist in evacuation in the event of an emergency that threatens life or property.

(3) "Emergency life safety and property safety goods" includes:

(a) Systems or items for or relating to:

(i) Fire alarms;

(ii) Fire sprinklers;

(iii) Fire suppression;

(iv) Fire extinguishing;

(v) Security;

(vi) Gas detection;

(vii) Intrusion detection;

(viii) Access control;

(ix) Video surveillance and recording;

(x) Mass notification;

(xi) Public address;

(xii) Emergency lighting;

(xiii) Patient wandering;

(xiv) Infant tagging; and

(xv) Nurse call;

(b) Information technologies and telecommunications products and technologies that are used for the purposes listed in §B(2) of this regulation.

(4) "Goods" means tangible or movable personal property other than money or investment securities.

(5) "Information technologies and telecommunications products and technologies" means electronic information processing hardware or software used to generate, acquire, store, transform, process, retrieve, utilize, make available, transmit, or manipulate information or hardware or software used in the transmission of information, images, pictures, voice, or data by radio, video, or other electronic or impulse means.

(6) "Public work" means a structure or work, including a bridge, building, ditch, road, alley, waterwork, or sewage disposal plant, that:

(a) Is constructed for public use or benefit; or

(b) Is paid for wholly or in part by public money.

(c) "Public work" does not include, unless let to a contract, a structure or work whose construction is performed by a public service company under order of the Public Service Commission or other public authority regardless of:

(i) Public supervision or direction; or

(ii) Payment wholly or in part from public money.

(7) "Reasonably available quantities" means at least 90 percent of the goods procured by the public body are available within the public body's delivery schedule.

(8) "Substantially less quality" means not in compliance with applicable safety and durability standards including warranty terms.

(9) "Unreasonable amount" means more than 5 percent over the lowest financial proposal or bid offering goods manufactured or assembled outside the United States.

C. Except as provided in §D of this regulation, a public body shall require a contractor or subcontractor to use or supply American-manufactured goods in the performance of a contract for:

- (1) Constructing or maintaining a public work; or
- (2) Buying or manufacturing machinery or equipment that is to be installed at a public work site.

D. A public body may contract for goods described in §C of this regulation that are manufactured or assembled outside the United States:

- (1) If the head of the public body determines that:
 - (a) The price of the American-manufactured goods exceeds by an unreasonable amount the price of similar manufactured goods that are not manufactured in the United States;
 - (b) The goods or similar goods are not manufactured or available for purchase in the United States in reasonably available quantities;
 - (c) The quality of the goods or similar goods manufactured in the United States is substantially less than the quality of comparably-priced, similar and available goods that are not manufactured in the United States; or
 - (d) The procurement of a manufactured good would be inconsistent with the public interest; or
- (2) To procure emergency life safety and property safety goods.

E. In each bid or proposal subject to the requirements of this regulation, a bidder or offeror shall certify to the public body:

- (1) Whether the offered goods are emergency life safety and property safety goods;
- (2) If the offered goods are not exempt from the requirements of this regulation, whether the offered goods are provided in the United States;
- (3) If a bid or proposal offers goods that are provided in the United States and outside the United States, which goods are provided in the United States.

SHEILA McDONALD
Executive Secretary

Title 31

MARYLAND INSURANCE ADMINISTRATION

Subtitle 03 INSURANCE PRODUCERS AND OTHER INSURANCE PROFESSIONALS

31.03.02 Insurance Producers — Continuing Education Requirements

Authority: Insurance Article, §§2-109 [and 10-101—10-132], 10-115, and 10-116, Annotated Code of Maryland

Notice of Proposed Action [14-187-P]

The Insurance Commissioner proposes to amend Regulations .01 — .04, .06 — .08, and .16, adopt new Regulation .09, amend and recodify existing Regulations .09 — .14 to be Regulations .10 — .15, and repeal existing Regulation .15.

Statement of Purpose

The purpose of this action is to amend and clarify certain requirements related to continuing education under COMAR 31.03.02.

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, MD 21202, or call 410-468-2450, or email to katrina.lawhorn@maryland.gov, or fax to 410-468-2020. Comments will be accepted through August 11, 2014. A public hearing has not been scheduled.

.01 Scope.

A. This chapter applies to an individual licensed resident or nonresident insurance [producers, resident and nonresident.] producer who seeks to renew a license under [the] Insurance Article, [except for those individuals], *Annotated Code of Maryland*, but does not apply to an individual holding the type of license described in Insurance Article, §10-116(b), *Annotated Code of Maryland*.

B. (text unchanged)

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (2) (text unchanged)

(3) “Correspondence course” means an approved self-study course that may be taken without classroom attendance and which includes an appropriate testing instrument that must be completed and submitted to the sponsor for grading.]

(3) “Course” means a presentation of information delivered in person, in print, electronically, or via teleconference, the successful completion of which is measured by verifiable attendance or by examination, or both.

(4) “Course completion date” means the date when a student has submitted all necessary information to the education provider and, when applicable, successfully met the course attendance requirements or passed the final examination, or both.

(5) “Course completion roster” means a listing of candidates who have completed a continuing education course, provided in a format determined by the Commissioner, which includes the following:

(a) The course name, the designated course number, and the course completion date;

(b) The provider’s identification number;

(c) The instructor’s license number; and

(d) For each student who completes the course:

(i) The student’s name;

(ii) The student’s national producer number or the student’s license number, or both; and

(iii) The number of hours of continuing education earned by the student.

[(4)] (6) (text unchanged)

[(5)] “Credit hour” means 50 minutes of classroom work, or its equivalent, in a course that has been approved by the Commissioner to receive continuing education credit.]

[(6)] (7) “Expiration date” means the [second anniversary of the date that a license was issued or renewed] *date the license expires as stated on the license*.

(8) “Hour of continuing education” means 50 minutes of work in a course that has been approved by the Commissioner to receive continuing education credit.

(9) “Instructor” means a subject matter expert, approved by the Commissioner, presenting course activities or information in a course approved by the Commissioner.

[(7)] (10)— [9] (12) (text unchanged)

(13) “Preneed insurance contract” has the meaning stated in COMAR 31.05.03.03B.

(14) “Provider” means an entity that has been approved by the Commissioner to offer continuing education courses to licensed insurance producers in the State.

[(10)] (15) “Renewal period” means the [24-month] period from the issuance or renewal of a license until the day before the expiration date of the license.

[(11)] (16) (text unchanged)

(17) “Self-study course” means a course that is not presented in a classroom, is not delivered in person, and does not require interaction with an instructor.

[(12)] “Sponsor” means an individual, firm, institution, partnership, corporation, or association offering or providing insurance continuing education programs.]

[(13)] (18) (text unchanged)

(19) “Teleconference” means the live exchange of information among several persons who are separately located but linked by audio or video, or both, that provides for opportunities for interactions between student and instructor.

(20) “Viatical settlement broker” has the meaning stated in Insurance Article, §8-601(k), Annotated Code of Maryland.

.03 General Continuing Education Requirements.

A. [In] Except as set forth in this regulation, in order to renew a license, a licensed insurance producer shall successfully complete in each renewal period [16] at least 24 [credit] hours of continuing education [if the individual has held a license for less than 25 consecutive years beginning with the renewal year of the licensed insurance producer and counting back to the year that the license was first obtained].

B. A licensed insurance producer who [has], as of October 1, 2008, has held a license for 25 or more consecutive years [beginning with the renewal year of the licensed insurance producer and counting back to the year that the license was first obtained] shall successfully complete 8 [credit] hours of continuing education in each renewal period in order to renew the license. [The licensed insurance producer shall submit with the renewal application an affidavit stating that for the past 25 consecutive years a license has been held, and the licensed insurance producer has been employed in the selling of insurance in Maryland.]

C. A licensed insurance producer shall obtain at least 3 hours of continuing education in Ethics.

[C.] D. A [Licensed] licensed insurance [producers] producer shall obtain hours of continuing education [credit hours] in the kind or subdivision of insurance for which they hold a license, as follows:

(1) [If] Except for the required hours of continuing education in Ethics, if the licensed insurance producer has only a license for property insurance, casualty insurance, or any of the subdivisions of property or casualty insurance, the licensed insurance producer shall obtain all necessary [credit] hours of continuing education in courses designated by the Commissioner as “Property/Casualty” or “PC”;

(2) [If] Except for the required hours of continuing education in Ethics, if the licensed insurance producer has only a license for life insurance, health insurance, or any of the subdivisions of life or health insurance, the licensed insurance producer shall obtain all necessary [credit] hours of continuing education in courses designated by the Commissioner as “Life/Health” or “LH”;

(3) If the licensed insurance producer has a license for [both] property or casualty, or any subdivision of property or casualty, and life or health, or any subdivision of life or health, then [a] the licensed insurance producer who must complete:

(a) [16] 24 [credit] hours of continuing education shall obtain a minimum of [4] 6 [credit] hours of continuing education in one or more courses designated “Property/Casualty” and a minimum of [4] 6 [credit] hours of continuing education in one or more courses designated “Life/Health”;

(b) 8 [credit] hours of continuing education shall obtain a minimum of 2 [credit] hours of continuing education in one or more courses designated “Property/Casualty” and a minimum of 2 [credit] hours of continuing education in one or more courses designated “Life/Health”[.];

(4) A licensed insurance producer who holds a title insurance producer license only shall successfully complete at least 16 hours of continuing education in each renewal period in order to renew the license; or

(5) A licensed insurance producer who also is a licensed funeral director or a licensed mortician and sells only life insurance policies or annuity contracts that fund preneed insurance contracts and is not a viatical settlement broker shall complete at least 16 hours of continuing education in each renewal period in order to renew the license.

E. Sales of Long-Term Care Insurance.

[D.] (1) A licensed insurance producer with authority to sell health insurance who also sells long-term care insurance shall obtain at least 2 [credit] hours of continuing education in a course designated “Long Term Care” or “LH-LTC” in order to renew the license. [These credit hours may be considered a part of the life/health credit hours required under §C(2) or (3) of this regulation.]

(2) These hours of continuing education may be considered a part of the required hours of continuing education under §A or B of this regulation.

[E.] A licensed insurance producer shall attend a course in its entirety or fulfill all requirements of a correspondence course in order to receive the number of continuing education credit hours that the Commissioner has assigned to the course.]

F. A licensed insurance producer who possesses a license to sell property and casualty insurance and who sells flood insurance shall obtain at least 2 hours of continuing education that directly relates to flood insurance.

[F.] G. [Credit] Hours of Continuing Education—Passing Scores.

(1) A licensed insurance producer who receives a passing score on a national examination before the expiration date of the licensed insurance producer’s license shall receive the number of hours of continuing education [credit hours] that the Commissioner has approved for the examination towards the [credit] hours of continuing education needed for the renewal.

(2) Passing scores received on or after the expiration date for the licensed insurance producer’s license shall result in [credit] hours of continuing education that may be used for the next renewal period.

(3) Hours of [Continuing] continuing education [credit hours] received for a passing score on a national examination are in addition to any hours of continuing education [credit hours] received for completing a course that is required in order to take the national examination and that has been approved by the Commissioner under this chapter.

[G.] A licensed insurance producer may not obtain more than one half of the required credit hours from approved correspondence courses.]

H. A course instructor shall earn 11/2 hours of continuing education [credit hours] for each approved hour of instruction of an approved course.

I. A licensed insurance producer or a course instructor may not earn [credit] hours of continuing education:

- (1) — (2) (text unchanged)

.04 Holders of Expired Licenses Who Seek Reinstatement.

A. The holder of an expired license who seeks reinstatement of the license under Insurance Article, §10-116.1, Annotated Code of Maryland, shall fulfill the continuing education requirements for the renewal period that concluded on the day before the immediately preceding expiration date of the licensed insurance producer’s license in order to qualify for reinstatement.

B. [If the licensed insurance producer did not have sufficient credit hours on the day before the immediately preceding expiration date of the insurance producer’s license to renew the license, then all credit hours earned on or after the expiration date shall be credited toward the continuing education credit hours needed to qualify for the renewal period that concluded on the day before the immediately preceding expiration date.] *A licensed insurance producer who does not have sufficient hours of continuing education on the day before the most recent expiration date of the license will have all hours of continuing education earned on or after the expiration date credited toward the requirement for the renewal period that concluded on the day before the license expired.*

.06 Licensed Insurance Producer Responsibilities.

A. A licensed insurance producer shall:

- (1) (text unchanged)
- (2) [Submit] *Upon request, submit* with the renewal application each certificate of course completion needed to fulfill the licensed insurance producer’s hours of continuing education [credit hours] for the renewal period.

B. (text unchanged)

.07 Approval of Courses.

A. [Continuing] *A continuing education [courses] course* shall be submitted to the Commissioner for approval. The Commissioner [shall] *may approve [only those courses that impart] a course only if the course imparts* substantive and procedural knowledge relating to the insurance field.

B. The Commissioner may not approve a [courses] *course* covering any of the following subject areas:

- (1) — (3) (text unchanged)

C. Except for [correspondence courses] *a self-study course*, [courses] *a course* submitted to the Commissioner for approval does not need to require [textbooks] *a textbook* or [examinations] *an examination* in order to receive approval.

D. The Commissioner shall assign to each approved course:

- (1) The number of [credit] hours of continuing education that an individual taking the course may receive for successful completion of the course;
- (2) A designated course number that is provided on all certificates of course completion, all correspondence relating to the course, and on all forms filed with the Commissioner relating to the course; [and]
- (3) A designation of “Property/Casualty”, “Life/Health”, [or] “Long Term Care”, or “Ethics”; and
- (4) *A course expiration date.*

.08 Submission of Courses for Approval.

A. A [sponsor] *provider* shall submit to the Commissioner:

- (1) — (6) (text unchanged)
- (7) If the Commissioner contracts with a vendor to review [and approve] continuing education courses, the fee charged by the vendor.

B. The [sponsor] *provider* shall submit a course approval package to the Commissioner [at least 30 days before the first date on which the course is to be taught.] as follows:

(1) *A course previously approved in another state or jurisdiction that has adopted the “NAIC Uniform Declaration Regarding Continuing Education Reciprocity Course Approval Guidelines” shall be submitted using the NAIC Uniform Continuing Education Reciprocity Course Filing Form at least 30 days before the first date on which the course is to be taught; or*

(2) *A course that has not been previously approved in a state that has adopted the “NAIC Uniform Declaration Regarding Continuing Education Reciprocity Course Approval Guidelines” shall be submitted at least 45 days before the first date on which the course is to be taught.*

C. The Commissioner shall notify the [sponsor] *provider* in writing of a course approval and the period of time of the approval, which shall be from the date of the approval until the [last day of the renewal period during which the course was approved] *second anniversary of the date the course was approved.*

D. A [sponsor] *provider* may offer only [approved courses] *a course approved by the Commissioner.*

.09 Submission of Courses for Renewal.

A. *At least 90 days prior to the expiration of a course’s approval, the Commissioner shall mail to the provider of the approved course a notice that states:*

- (1) *The course name, the course content code, the course number, and the date on which the course approval expires;*
- (2) *The date by which the Commissioner must receive the request to renew; and*
- (3) *The fee charged for reviewing continuing education courses submitted for renewal.*

B. *In order to renew a course, a provider must comply with the provisions of COMAR 31.03.02.08.*

[.09] .10 [Sponsors] Providers.

A. A [sponsor] *provider* shall:

- (1) Comply with this chapter for each of the [sponsor’s] *provider’s* approved courses;
- (2) [Know and use] *Use* in all communication with the Commissioner or the Commissioner’s designee the [sponsor] *provider* identification number assigned by the Commissioner;
- (3) Use *a* course [coordinators] *coordinator* who meets the qualifications specified in this chapter;
- (4) Use *an* approved [instructors] *instructor*; and
- (5) (text unchanged)

B. A *provider* [sponsor] who is an insurer authorized to do business in Maryland may not require *an* appointed insurance [producers] *producers* to obtain hours of continuing education [credit hours] by attending *an* approved [courses] *course* that the insurer is [sponsoring] *providing*.

C. [All sponsors] *Within 15 days of the completion of a course, the provider* shall report [information relating to] *a* course completion roster to the Commissioner or the Commissioner’s designee in an electronic format specified by the Commissioner. [The data elements required by the Commissioner include:

- (1) Sponsor identification number;
- (2) Designated course number;
- (3) License number and Social Security number for each licensed insurance producer who successfully completed the course;
- (4) Credit hours earned;
- (5) Course completion date; and
- (6) Instructor’s license number.]

[.10] .11 Course Coordinators.

A. The [sponsor] *provider* shall ensure that each approved continuing education course has at least one course coordinator who is responsible for:

(1) — (2) (text unchanged)

B. (text unchanged)

C. A course coordinator shall:

(1) (text unchanged)

(2) Notify the Commissioner of:

(a) (text unchanged)

(b) The date, time, and location of a course [offerings] *offering* and the name of the instructor not less than [10 business] 14 calendar days in advance of the date that the course offering is scheduled to begin; and

(c) (text unchanged);

(3) — (7) (text unchanged)

(8) [Provide] *Within 15 days of the student's completion of the course, provide each [students] student with a certificate of course completion[.] on a form approved by the Commissioner[.] within 30 days of the student's completion of the course[.]*

[.11] .12 Instructors.

A. The [sponsor] *provider* shall ensure that each [approved] continuing education course *approved by the Commissioner* is taught by an instructor who has been approved by the Commissioner as meeting the qualifications specified in this chapter.

B. The [sponsor] *provider* shall submit to the Commissioner a course instructor information and approval form for each instructor of an approved course.

C. — F. (text unchanged)

[.12] .13 Advertising of Approved Courses.

A. Except as provided in §D of this regulation, a [sponsor] *provider* may not advertise or distribute promotional materials unless the course has been approved by the Commissioner.

B. Advertisements and promotional materials may not be deceptive or misleading and shall, at a minimum, clearly identify the number of [credit] hours of *continuing education* for which a course has been approved and the fee for taking the course.

C. A [sponsor] *provider of an approved [courses] course* who advertises or promotes [courses] *a course* that [have] *has* not been approved or [courses] *a course* that [are] *is* not eligible for approval shall prominently state that no [credit] hours of *continuing education* can be earned by taking the course.

D. A [sponsor] *provider* may request, in writing, permission to advertise a course before approval is obtained from the Commissioner by submitting:

(1) — (2) (text unchanged)

E. The Commissioner shall [provide] *issue* the [sponsor with] *provider* a written response either granting or denying the [sponsor's] *provider's* request. The [sponsor] *provider* may not advertise the course until the Commissioner has [responded to] *granted* the request.

[.13] .14 Prohibited Practices.

The following practices by a [sponsor] *provider*, course coordinator, or instructor are prohibited:

A. — B. (text unchanged)

C. Requiring, as a condition of receiving a certificate of course completion, that students participate in other programs or services offered by the [sponsor] *provider*, course coordinator, or instructor.

[.14] .15 Powers of the Commissioner.

A. The Commissioner, *the Commissioner's designee*, [and] *or* the members of an advisory board may audit all course offerings with or

without notice to the [sponsor] *provider*, course coordinator, or instructor of the course.

B. The Commissioner may suspend or revoke the approval of a course for any of the following violations of this chapter:

(1) — (2) (text unchanged)

(3) Failure to use an approved instructor; [and]

(4) Failure to notify the Commissioner of the date, time, location, and instructor of a course offering in accordance with Regulation [10C(2)(b)] *11C(2)(b)* of this chapter[.]; *or*

(5) *Failure to report a course completion roster in accordance with Regulation .10C of this chapter.*

C. The Commissioner may suspend or revoke all approved courses of a particular [sponsor] *provider* for [violations] *a violation* of this chapter or refuse to approve [courses] *a course* submitted by a specific [sponsor] *provider* if the Commissioner determines that a past course [offerings] *offering* by that [sponsor were] *provider was* not in compliance with this chapter.

D. The Commissioner may suspend or revoke the [license or impose an administrative penalty on any instructor or course coordinator] *approval of any instructor, course coordinator, or course provider* who fails to comply with this chapter.

.16 Waiver of the Continuing Education Requirement.

[The continuing education requirements are waived for a licensed insurance producer who:]

A. *Subject to §B of this regulation, the continuing education requirements may be waived for a licensed insurance producer who:*

[A.] (1) — [B.] (2)(text unchanged)

B. *A waiver request shall be accompanied by supporting documentation.*

THERESE M. GOLDSMITH
Insurance Commissioner

**Subtitle 03 INSURANCE PRODUCERS
AND OTHER INSURANCE
PROFESSIONALS**

**31.03.04 Regulation Restricting Licensed
Insurance Producers to Placing Maryland
Risks for State Citizens with Authorized
Insurers**

Authority: Insurance Article, §§2-109, 4-201, and 4-203, Annotated Code of Maryland

Notice of Proposed Action

[14-190-P]

The Insurance Commissioner proposes to amend Regulation .01 under COMAR 31.03.04 **Regulation Restricting Licensed Insurance Producers to Placing Maryland Risks for State Citizens with Authorized Insurers.**

Statement of Purpose

The purpose of this action is to repeal an erroneous reference to insurance effectuated in accordance with Article 83A, §§5-1035 and 5-1037, Annotated Code of Maryland, and an obsolete reference to insurance effectuated in accordance with State Finance and Procurement Article, §§13-207, 13-208, 13-216, and 17-104, Annotated Code of Maryland. The provisions of State Finance and Procurement Article, §§13-207 and 17-104, Annotated Code of Maryland, that allowed contractors who bid on State procurement contracts to submit surety bonds issued by individual sureties to meet bid and performance bond requirements terminate at the end of

September 30, 2014, pursuant to Ch. 299, Acts of 2006, as amended by Ch. 266, Acts of 2008.

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 katrina.lawhorn@maryland.gov, or fax to 410-468-2020. Comments will be accepted through August 11, 2014. A public hearing has not been scheduled.

.01 Unfair Trade Practice.

A. This regulation does not apply to:

(1) — (3) (text unchanged)

(4) Insurance on property or operations of railroads engaged in interstate commerce; *and*

(5) Insurance effectuated in accordance with the Surplus-Line Insurance Law, Insurance Article, Title 3, Subtitle 3, Annotated Code of Maryland[; and].

[(6) Insurance effectuated in accordance with Article 83A, §§5-1035 and 5-1037, Annotated Code of Maryland, and State Finance and Procurement Article, §§13-207, 13-208, 13-216, and 17-104, Annotated Code of Maryland.]

B. (text unchanged)

THERESE M. GOLDSMITH
Insurance Commissioner

Special Documents

DEPARTMENT OF THE ENVIRONMENT

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."

DATES: February 1 through February 28, 2014.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238-0423, ext. 1306; 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):

1. Seneca Resources, Pad ID: Rich Valley Pad G, ABR-201402001, Shippen Township, Cameron County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: February 3, 2014.
2. Seneca Resources, Pad ID: Rich Valley Pad F, ABR-201402002, Shippen Township, Cameron County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: February 3, 2014.
3. Southwestern Energy Production Company, Pad ID: WY O5 DZIUBA BENJAMIN PAD, ABR-201402003, Eaton Township, Wyoming County, Pa.; Consumptive Use of Up to 4.999 mgd; Approval Date: February 7, 2014.
4. Cabot Oil & Gas Corporation, Pad ID: HullR P1, ABR-20090702.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: February 7, 2014.
5. Cabot Oil & Gas Corporation, Pad ID: Heitsman P1A, ABR-20090703.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: February 7, 2014.
6. Cabot Oil & Gas Corporation, Pad ID: Gesford P2, ABR-20090705.R1, Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: February 7, 2014.
7. Cabot Oil & Gas Corporation, Pad ID: HunsingerA P1, ABR-20090736.R1, Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: February 7, 2014.
8. Cabot Oil & Gas Corporation, Pad ID: BrooksJ P1, ABR-20090733.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: February 7, 2014.
9. Cabot Oil & Gas Corporation, Pad ID: Elk Lake School District P1, ABR-20090737.R1, Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: February 7, 2014.
10. Cabot Oil & Gas Corporation, Pad ID: ChudleighW P1, ABR-20090738.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: February 7, 2014.
11. Talisman Energy USA Inc., Pad ID: 07-038 Kropiewnicki J, ABR-201402004, Apolacon Township, Susquehanna County, Pa.; Consumptive Use of Up to 6.000 mgd; Approval Date: February 10, 2014.
12. Talisman Energy USA Inc., Pad ID: 07-088 York R, ABR-201402005, Little Meadows Borough and Apolacon Township, Susquehanna County, Pa.; Consumptive Use of Up to 6.000 mgd; Approval Date: February 10, 2014.
13. Range Resources – Appalachia, LLC, Pad ID: Cornwall 1H-5H, ABR-201402006, Lewis Township, Lycoming County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 10, 2014.
14. Southwestern Energy Production Company, Pad ID: WY O2 HARDING PAD, ABR-201402007, Tunkhannock Township, Wyoming County, Pa.; Consumptive Use of Up to 4.999 mgd; Approval Date: February 10, 2014.
15. Talisman Energy USA Inc., Pad ID: 07-089 Corey J, ABR-201402008, Choconut Township, Susquehanna County, Pa.; Consumptive Use of Up to 6.000 mgd; Approval Date: February 10, 2014.
16. Chief Oil & Gas LLC, Pad ID: Phelps Unit #1H, ABR-20090813.R1, Lathrop Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 10, 2014.
17. Range Resources – Appalachia, LLC, Pad ID: Grays Run 1H-5H, ABR-201402009, Jackson Township, Lycoming County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 14, 2014.
18. Southwestern Energy Production Company, Pad ID: RU-65-LEONARD-PAD, ABR-201402010, Jackson Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.999 mgd; Approval Date: February 14, 2014.
19. Talisman Energy USA Inc., Pad ID: 07-077 Caprio S, ABR-201402011, Apolacon Township, Susquehanna County, Pa.; Consumptive Use of Up to 6.000 mgd; Approval Date: February 14, 2014.
20. Anadarko E&P Onshore, LLC, Pad ID: COP Tr 259 #1001H, ABR-20090440.R1, Burnside Township, Centre County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 14, 2014.
21. Anadarko E&P Onshore, LLC, Pad ID: COP Tr 259 #1000H, ABR-20090513.R1, Burnside Township, Centre County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 14, 2014.
22. Anadarko E&P Onshore, LLC, Pad ID: Larry's Creek F&G 2H, ABR-20090411.R1, Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: February 18, 2014.

23. Anadarko E&P Onshore, LLC, Pad ID: Larry's Creek F&G 3H, ABR-20090416.R1, Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: February 18, 2014.
24. Anadarko E&P Onshore, LLC, Pad ID: WW Litke #1H, ABR-20090817.R1, Curtin Township, Centre County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 18, 2014.
25. Anadarko E&P Onshore, LLC, Pad ID: COP Tr 678 #1000H, ABR-20090820.R1, Noyes Township, Clinton County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 18, 2014.
26. Anadarko E&P Onshore, LLC, Pad ID: COP Tr 678 #1001H & #1002H, ABR-20090821.R1, Noyes Township, Clinton County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 18, 2014.
27. Anadarko E&P Onshore, LLC, Pad ID: Tx Gulf B #1H, ABR-20090822.R1, Beech Creek Township, Clinton County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 18, 2014.
28. Anadarko E&P Onshore, LLC, Pad ID: Tx Gulf B #2H & #3H, ABR-20090823.R1, Beech Creek Township, Clinton County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 18, 2014.
29. Cabot Oil & Gas Corporation, Pad ID: BrooksW P1, ABR-20090701.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: February 18, 2014.
30. Cabot Oil & Gas Corporation, Pad ID: MakoskyT P1, ABR-201402012, Brooklyn Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.250 mgd; Approval Date: February 24, 2014.
31. Cabot Oil & Gas Corporation, Pad ID: MillardK P1, ABR-201402013, Jessup Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.250 mgd; Approval Date: February 24, 2014.
32. Cabot Oil & Gas Corporation, Pad ID: Teel P7, ABR-20090704.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: February 24, 2014.
33. Cabot Oil & Gas Corporation, Pad ID: SmithR P2, ABR-20090707.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: February 24, 2014.
34. Cabot Oil & Gas Corporation, Pad ID: LarueC P2, ABR-20090706.R1, Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: February 24, 2014.
35. Cabot Oil & Gas Corporation, Pad ID: BrooksW P2, ABR-20090724.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: February 24, 2014.
36. Anadarko E&P Onshore, LLC, Pad ID: COP Tr 252 #1000H, ABR-20090444.R1, Grugan Township, Clinton County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 28, 2014.
37. Anadarko E&P Onshore, LLC, Pad ID: COP Tr 252 #1001H & #1002H, ABR-20090445.R1, Grugan Township, Clinton County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 28, 2014.
38. Chesapeake Appalachia, LLC, Pad ID: Hannan, ABR-20090520.R1, Troy Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: February 28, 2014.
39. Chesapeake Appalachia, LLC, Pad ID: Isbell, ABR-20090521.R1, Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: February 28, 2014.
40. Chesapeake Appalachia, LLC, Pad ID: Otten, ABR-20090526.R1, Asylum Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: February 28, 2014.
41. Chesapeake Appalachia, LLC, Pad ID: John Barrett, ABR-20090529.R1, Asylum Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: February 28, 2014.
42. Chesapeake Appalachia, LLC, Pad ID: James Barrett, ABR-20090530.R1, Asylum Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: February 28, 2014.
43. Chief Oil & Gas LLC, Pad ID: Polovitch Unit #1H, ABR-20090826.R1, Nicholson Township, Wyoming County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 28, 2014.

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

Dated: June 24, 2014.

STEPHANIE L. RICHARDSON
Secretary to the Commission

[14-14-28]

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."

DATES: March 1 through March 31, 2014.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238-0423, ext. 1306; 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):

1. Southwestern Energy Production Company, Pad ID: TI-03 Porter Dennis - Pad, ABR-201403001, Union Township, Tioga County, Pa.; Consumptive Use of Up to 4.999 mgd; Approval Date: March 6, 2014.
2. Cabot Oil & Gas Corporation, Pad ID: GrimsleyJ P1, ABR-20090805.R1, Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: March 11, 2014.
3. SWEPI LP, Pad ID: Tice 653, ABR-201403002, Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: March 11, 2014.
4. SWEPI LP, Pad ID: Shughart 534, ABR-201403003, Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: March 11, 2014.
5. SWEPI LP, Pad ID: Shughart 490, ABR-201403004, Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: March 11, 2014.
6. Chesapeake Appalachia, LLC, Pad ID: Ward, ABR-20090519.R1, West Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: March 18, 2014.
7. Pennsylvania General Energy Company, LLC, Pad ID: SGL 75 Pad F, ABR-201403005, McHenry Township, Lycoming County, Pa.; Consumptive Use of Up to 2.500 mgd; Approval Date: March 18, 2014.
8. Pennsylvania General Energy Company, LLC, Pad ID: SGL 75 Pad E, ABR-201403006, McHenry Township, Lycoming County, Pa.; Consumptive Use of Up to 2.500 mgd; Approval Date: March 18, 2014.
9. WPX Energy Appalachia, LLC, Pad ID: Carrar Pad Site, ABR-20090725.R1, Liberty Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.000 mgd; Approval Date: March 18, 2014.
10. Talisman Energy USA Inc., Pad ID: 07 090 Choconut Valley Farms, ABR-201403007, Choconut Township, Susquehanna County, Pa.; Consumptive Use of Up to 6.000 mgd; Approval Date: March 21, 2014.
11. Southwestern Energy Production Company, Pad ID: JOHN GOOD WEST LU9 PAD, ABR-201403008, Jackson Township, Lycoming County, Pa.; Consumptive Use of Up to 4.999 mgd; Approval Date: March 21, 2014.
12. Seneca Resources, Pad ID: Clermont Pad D, ABR-201403009, Jones Township, Elk County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: March 25, 2014.
13. Inflection Energy LLC, Pad ID: Hamilton Well Site, ABR-201403010, Upper Fairfield Township, Lycoming County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: March 25, 2014.
14. Chesapeake Appalachia, LLC, Pad ID: TA, ABR-201403011, Colley Township, Sullivan County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: March 31, 2014.
15. Chesapeake Appalachia, LLC, Pad ID: Garrison, ABR-201403012, Washington Township, Wyoming County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: March 31, 2014.
16. Cabot Oil & Gas Corporation, Pad ID: HawkJ P1, ABR-201403013, Auburn Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.275 mgd; Approval Date: March 31, 2014.
17. Cabot Oil & Gas Corporation, Pad ID: GrasavageE P1, ABR-201403014, Jessup Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.250 mgd; Approval Date: March 31, 2014.
18. Cabot Oil & Gas Corporation, Pad ID: SlocumS P1, ABR-201403015, Jackson Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.250 mgd; Approval Date: March 31, 2014.
19. Talisman Energy USA Inc., Pad ID: DCNR 587 Pad #17, ABR-20090932.R1, Ward Township, Tioga County, Pa.; Consumptive Use of Up to 3.000 mgd; Approval Date: March 31, 2014.
20. Talisman Energy USA Inc., Pad ID: DCNR 587 Pad #9, ABR-20091024.R1, Ward Township, Tioga County, Pa.; Consumptive Use of Up to 3.000 mgd; Approval Date: March 31, 2014.
21. Talisman Energy USA Inc., Pad ID: Knights 24, ABR-20091025.R1, Troy Township, Bradford County, Pa.; Consumptive Use of Up to 3.000 mgd; Approval Date: March 31, 2014.

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

Dated: June 24, 2014.

STEPHANIE L. RICHARDSON
Secretary to the Commission

[14-14-27]

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Rescinded for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

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

DATES: March 1 through April 30, 2014.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238-0423, ext. 1306; 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(e) and §806.22(f) for the time period specified above:

Rescinded ABR Issued March 1-31, 2014

1. Range Resources - Appalachia, LLC, Pad ID: Grays Run Club Unit #2H, ABR-20100455, Jackson Township, Lycoming County, Pa.; Rescind Date: March 10, 2014.
2. Chesapeake Appalachia, LLC, Pad ID: Arch, ABR-201106022, Sweden Township, Potter County, Pa.; Rescind Date: March 25, 2014.
3. Range Resources - Appalachia, LLC, Pad ID: Ogontz 3 Drilling Pad, ABR-20090606, Cummings Township, Lycoming County, Pa.; Rescind Date: April 18, 2014.
4. Range Resources - Appalachia, LLC, Pad ID: McWilliams 1, ABR-20090607, Cogan House Township, Lycoming County, Pa.; Rescind Date: April 18, 2014.
5. Range Resources - Appalachia, LLC, Pad ID: Gentner 3, ABR-20100153, Cummings Township, Lycoming County, Pa.; Rescind Date: April 18, 2014.
6. Range Resources - Appalachia, LLC, Pad ID: Dog Run Hunting Club Unit, ABR-20100456, Cummings Township, Lycoming County, Pa.; Rescind Date: April 18, 2014.
7. Range Resources - Appalachia, LLC, Pad ID: Harman, Lewis Unit #1H Drilling Pad, ABR-20100554, Moreland Township, Lycoming County, Pa.; Rescind Date: April 18, 2014.
8. Range Resources - Appalachia, LLC, Pad ID: Shohocken Hunt Club Unit #1H - #6H, ABR-20100646, Cummings Township, Lycoming County, Pa.; Rescind Date: April 18, 2014.
9. Range Resources - Appalachia, LLC, Pad ID: Ogontz Fishing Club Unit #12H-#17H, ABR-20100648, Cummings Township, Lycoming County, Pa.; Rescind Date: April 18, 2014.
10. Range Resources - Appalachia, LLC, Pad ID: Lone Walnut H.C. Unit #3H Drilling Pad, ABR-201007031, Cummings Township, Lycoming County, Pa.; Rescind Date: April 18, 2014.

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

Dated: June 24, 2014.

STEPHANIE L. RICHARDSON
Secretary to the Commission

[14-14-29]

SUSQUEHANNA RIVER BASIN COMMISSION

Actions Taken at June 5, 2014, Meeting

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: As part of its regular business meeting held on June 5, 2014, in Entriken, Pennsylvania, the Commission took the following actions: 1) approved or tabled the applications of certain water resources projects; 2) accepted settlements in lieu of penalty from Somerset Regional Water Resources, LLC; Susquehanna Gas Field Services LLC; and Tioga Downs Racetrack, LLC; and 3) took additional actions, as set forth in the Supplementary Information below.

DATES: June 5, 2014

ADDRESSES: Susquehanna River Basin Commission, 4423 N. Front Street, Harrisburg, PA 17110-1788.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238-0423, ext. 1306; fax: (717) 238-2436; e-mail: rcairo@srbc.net. Regular mail inquiries may be sent to the above address. See also Commission web site at www.srbc.net.

SUPPLEMENTARY INFORMATION: In addition to the actions taken on projects identified in the summary above and the listings below, the following items were also presented or acted upon at the business meeting: 1) an informational presentation from the U.S. Army Corps of Engineers supervisory park ranger Jude Harrington on the Raystown Lake project; 2) election of the member from New York State as Chair of the Commission and the member from the Commonwealth of Pennsylvania as the Vice Chair of the Commission for the period of July 1, 2014, to June 30, 2015; 3) adoption of the FY-2015/2016 Water Resources Program; 4) adoption of the American Eel Restoration Plan for the Susquehanna River Basin; 5) amendments to the Comprehensive Plan for the Water Resources of the Susquehanna River Basin; 6) adoption of revisions to the Commission's Information Technology Services Fee Schedule; 7) amendments to a Regulatory Program Fee Schedule, effective July 1, 2014; 8) adoption of a FY-2016 budget for the period July 1, 2015, to June 30, 2016; and 9) approval of two grants.

Compliance Matters:

The Commission approved settlements in lieu of civil penalty for the following projects:

1. Somerset Regional Water Resources, LLC (Salt Lick Creek), New Milford Township, Susquehanna County, Pa. - \$12,000.
2. Susquehanna Gas Field Services LLC (Meshoppen Creek), Meshoppen Borough, Wyoming County, Pa. - \$2,500.
3. Tioga Downs Racetrack, LLC, Town of Nichols, Tioga County, N.Y. - \$62,000

Project Applications Approved:

The Commission approved the following project applications:

1. Project Sponsor and Facility: DS Waters of America, Inc., Clay Township, Lancaster County, Pa. Groundwater withdrawal of up to 0.115 mgd (30-day average) from Well 6.
2. Project Sponsor and Facility: Healthy Properties, Inc. (Sugar Creek), North Towanda Township, Bradford County, Pa. Renewal and modification to increase surface water withdrawal by an additional 0.549 mgd (peak day), for a total of up to 0.999 mgd (peak day) (Docket No. 20100308).
3. Project Sponsor and Facility: LDG Innovation, LLC (Tioga River), Lawrenceville Borough, Tioga County, Pa. Renewal of surface water withdrawal of up to 0.750 mgd (peak day) (Docket No. 20100311).
4. Project Sponsor and Facility: Mountain Energy Services, Inc. (Tunkhannock Creek), Tunkhannock Township, Wyoming County, Pa. Renewal of surface water withdrawal of up to 1.498 mgd (peak day) (Docket No. 20100309).
5. Project Sponsor and Facility: Pennsylvania General Energy Company, L.L.C. (Pine Creek), Watson Township, Lycoming County, Pa. Renewal of surface water withdrawal of up to 0.918 mgd (peak day) (Docket No. 20100610).
6. Project Sponsor and Facility: Pro-Environmental, LLC (Martins Creek), Lathrop Township, Susquehanna County, Pa. Surface water withdrawal of up to 0.999 mgd (peak day).
7. Project Sponsor and Facility: Southwestern Energy Production Company (Susquehanna River), Great Bend Township,

- Susquehanna County, Pa. Surface water withdrawal of up to 3.000 mgd (peak day).
8. Project Sponsor and Facility: Sugar Hollow Water Services, LLC (Bowman Creek), Eaton Township, Wyoming County, Pa. Renewal of surface water withdrawal of up to 0.249 mgd (peak day) (Docket No. 20100310).
 9. Project Sponsor and Facility: Susquehanna Gas Field Services LLC, Meshoppen Borough, Wyoming County, Pa. Renewal of groundwater withdrawal of up to 0.216 mgd (30-day average) from Meshoppen Pizza Well (Docket No. 20100612).
 10. Project Sponsor and Facility: Susquehanna Gas Field Services LLC (Susquehanna River), Meshoppen Township, Wyoming County, Pa. Surface water withdrawal of up to 1.650 mgd (peak day).
 11. Project Sponsor and Facility: Talisman Energy USA Inc. (Fall Brook), Troy Township, Bradford County, Pa. Renewal and modification of surface water withdrawal of up to 0.176 mgd (peak day) (Docket No. 20100304).
 12. Project Sponsor and Facility: Talisman Energy USA Inc. (Unnamed Tributary to the North Branch Sugar Creek), Columbia Township, Bradford County, Pa. Renewal of surface water withdrawal of up to 0.926 mgd (peak day) (Docket No. 20100305).
3. Project Sponsor: Leola Sewer Authority. Project Facility: Upper Leacock Township, Lancaster County, Pa. Application for groundwater withdrawal of up to 0.075 mgd (30-day average) from Well 13 (Docket No. 19820601).
 4. Project Sponsor and Facility: Newport Borough Water Authority, Oliver Township, Perry County, Pa. Application for groundwater withdrawal of up to 0.162 mgd (30-day average) from Well 1.
 5. Project Sponsor: Pennsylvania Department of Environmental Protection – South-central Regional Office, City of Harrisburg, Dauphin County, Pa. Facility Location: Leacock Township, Lancaster County, Pa. Application for groundwater withdrawal of up to 0.576 mgd (30-day average) from Stoltzfus Well.
 6. Project Sponsor: Pennsylvania Department of Environmental Protection – South-central Regional Office, City of Harrisburg, Dauphin County, Pa. Facility Location: Leacock Township, Lancaster County, Pa. Application for groundwater withdrawal of up to 0.432 mgd (30-day average) from Township Well.

Project Application Approved Involving a Diversion:

Project Sponsor: EOG Resources, Inc. Project Facility: Blue Valley Abandoned Mine Drainage Treatment Plant, Horton Township, Elk County, Pa. Renewal of into-basin diversion from the Ohio River Basin of up to 0.322 mgd (peak day) (Docket No. 20100616).

Project Applications Tabled:

The Commission tabled action on the following project applications:

1. Project Sponsor and Facility: IBM Corporation, Village of Owego, Tioga County, N.Y. Application for groundwater withdrawal of up to 0.002 mgd (30-day average) from Well 415.
2. Project Sponsor and Facility: Jay Township Water Authority, Jay Township, Elk County, Pa. Application for groundwater

Project Application Withdrawn:

The following project application was withdrawn by the project sponsor:

Project Sponsor and Facility: Southwestern Energy Production Company (Martins Creek), Brooklyn and Harford Townships, Susquehanna County, Pa. Modification to low flow protection requirements of the surface water withdrawal approval (Docket No. 20110312).

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

Dated: June 20, 2014.

STEPHANIE L. RICHARDSON
Secretary to the Commission

[14-14-22]

DEPARTMENT OF STATE POLICE HANDGUN ROSTER BOARD

Proposed Additions to Handgun Roster and Notice of Right to Object or Petition

The following is a list of handguns that the Handgun Roster Board proposes to add to the official handgun roster. These handguns will be officially placed on the Handgun Roster if no timely objection is received or if all timely objections are dismissed.

Under the Public Safety Article, §5-405, Annotated Code of Maryland and COMAR 29.03.03.13 and .14, any person may object to the placement of any of those handguns on the Handgun Roster. Objections must be filed within 30 days after **July 11, 2014**. In addition, any person may petition for the placement of an additional handgun on the Handgun Roster. Forms for objections or petitions may be obtained from: Marlene Jenkins, Administrator, Handgun Roster Board, 1201 Reisterstown Road, Pikesville, Maryland 21208.

With regard to short-barrel rifles included on the Handgun Roster, please note that a semi-automatic rifle with an overall length of less than 29" is a "copycat weapon" and is not eligible for sale to the general public (unless the purchaser had a purchase order for, or a completed application to purchase, the firearm prior to October 1, 2013). See, Sections 4-301 through 4-303 of the Criminal Law Article, Annotated Code of Maryland.

SPECIAL DOCUMENTS

Overall length is measured between the extreme ends of the rifle along a line parallel to the center line of the bore. An attachment to the barrel, such as a muzzle brake or flash suppressor, should not be included in the measurement unless it is permanently affixed.

Manufacturer	Model Name	Model Number	Caliber
Aldo Uberti & Co.	New Model #3 Frontier		.45 LC
Arsenal (Bulgaria)	SLR-106U, SLR-106UR		5.56 X 45mm (.223)
Arsenal (Bulgaria)	SLR-104UR (SBR)		5.45X39
Atlantic Arms Mfg	AA89 (SBR)		9mm
Atlantic Arms Mfg	AA89K (SBR)		9mm
Auto Ordnance	Thompson Semi-Automatic Carbine	M1SB	45 ACP
Benelli	Nova, Super Nova (SBS)		12 gauge
Benelli	M4 (SBS)		12 Gauge
Benelli	M1 & M2 (SBS)		12 Gauge
Beretta (Umarex)	ARX 160		.22 LR
Black Rain Ordnance	Fallout 10 (SBR)		.308
Chiappa Firearms	Rhino	50DS	357 Magnum (Model Add)
Colt/Colt's Mfg. Co., Inc.	M4 (SBR)	LE6941	5.56 mm
Colt/Colt's Mfg. Co., Inc.	M4 (SBR)	LE6933	5.56 mm
Colt/Colt's Mfg. Co., Inc.	M4 (SBR)	LE6921	5.56 mm
Colt/Colt's Mfg. Co., Inc.	M4 (SBR)	LE6945 CQB	5.56 mm
Colt/Colt's Mfg. Co., Inc.	AR15A3 (SBR)		5.56 mm
Colt/Colt's Mfg. Co., Inc.	M4 (SBR)	LE6943	223/5.56 mm
Czech Small Arms (CSA)	VZ.58 Sporter		7.62 X 39
Daniel Defense, Inc.	M4 Carbine (SBR)		300 AAC BLK
Daniel Defense, Inc.	DDMK 18 (SBR)	MK 18	5.56 mm
FN Herstal	PS90 (SBR)		5.7 X 28mm
Glock	G42		.380 ACP
I. O., Inc.	Pioneer Arms Corp.	PPS43-C	9mm (Cal Add)
Kahr Arms	CT 40	CT4043	40 S&W
Kahr Arms	CW380	CW3833	.380 ACP (Cal Add)
Keystone Sporting Arms	Crickett		.22 LR, .22 WMR
Kriss, USA, Inc	Vector (SBR)	KSBRB0800101	.45 ACP
Lewis Machine & Tool Co (LMT)	Defender 2000 (SBR)	CQB10.5	5.56, 300 Blackout, 6.8 Remington, 204 Ruger
Mossberg	M590A1	51689	12 Gauge
Para USA, LLC	Pro Custom 18.9	96709	9mm
PTR Industries	PTR-PDW (SBR)		.308
Remington Arms Co.	870 Police Magnum (SBS)	25049	12 Gauge, 20 Gauge, 410 Gauge
Remington Arms Co.	1911 R-1 Enhanced	96364	9mm (Cal Add)
Rock River Arms Inc.	LAR-PPS (SBR)		.223/5.56
RPG Aero	RPG	9-40-45-223	9mm, .40 mm, .45 ACP, 223 Remington
Sig Sauer/Sigarms Inc.	P 516	P516G2-7B-PSB, P516G2-10B-PSB, P516G2-7B, P516G2-10B	5.56X45mm Nato
Sig Sauer/Sigarms Inc.	516 (SBR)		.223/5.56
Smith & Wesson	642 (Airweight)	642	.38 SP (Model Add)
Smith & Wesson	16-4		327 Fed Mag (Cal Add)
Sun Devil Mfg.	SBR		5.56
USFA/Zip Factory	Zip	1022	.22LR
Vector Arms	V94 (SBR)		9mm
Zastava Arms	Tokarev	M57	7.62 X 25 mm (Cal Add)

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: July 23, 2014, 10 a.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Pamela J. Edwards (410) 230-6262

[14-14-32]

DEPARTMENT OF ASSESSMENTS AND TAXATION/PROPERTY ASSESSMENT WORKGROUP

Subject: Public Meeting
Date and Time: July 28, 2014, 1 — 4 p.m.
Place: Maryland Dept. of Housing and Community Development, 100 Community Pl., Intergovernmental Conf. Rm., Crownsville, MD
Add'l. Info: Notice is hereby provided that all subsequent meetings of the Workgroup will be exclusively announced on the SDAT website, www.dat.state.md.us, under the heading "What's New". The public is welcome to attend all meetings. For any questions or concerns, you may email sdat.assessmentworkgroup@maryland.gov.
Contact: Robert Young, 410-767-1191

[14-14-39]

ATHLETIC COMMISSION

Subject: Public Hearing
Date and Time: July 23, 2014, 3 — 5 p.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Patrick Pannella (410) 230-6223

[14-14-34]

CHILDREN'S ENVIRONMENTAL HEALTH AND PROTECTION ADVISORY COUNCIL

Subject: Public Meeting
Date and Time: November 6, 2014, 9 — 11 a.m.
Place: Maryland Dept. of the Environment, 1800 Washington Blvd., Baltimore, MD
Contact: Rachel Hess-Mutinda (410) 767-2196

[14-14-20]

MARYLAND COLLECTION AGENCY LICENSING BOARD

Subject: Public Meeting
Date and Time: July 28, 2014, 10:30 a.m. — 12:30 p.m.
Place: Quality Inn, 17th St., Ocean City, MD
Contact: Kelly Mack (410) 230-6079

[14-14-19]

COMPTROLLER OF THE TREASURY/ADMINISTRATION AND FINANCE

Subject: Reduction of Bond Authorization Announcement
Add'l. Info: Pursuant to State Finance and Procurement Article, §8-128, Annotated Code of Maryland, which provides that if, within 2 years after the date of an authorization of State debt, no part of the project or program for which the enabling act authorized the State debt is under contract and the Board of Public Works has not committed money for any part of the project or program, the authorization terminates unless:

- (1) The enabling act provides otherwise;
- or
- (2) In an emergency, the Board unanimously grants a temporary exception for a period of 1 year.

Therefore, with Board of Public Works approval of item #17C, dated May 28, 2014, and #7, dated June 18, 2014, we submit for publication the following cancellation of bond authorizations in accordance with the above-referenced article:

MacDonald Knolls Center Loan of 2009: Ch. 485, Acts of 2009; \$100,000; authorized the funds for the repair, renovation, reconstruction, and capital equipping of the MacDonald Knolls Center, located in Silver Spring.

Small Creek and Estuary Restoration Program Loan of 2009: Ch. 485, Acts of 2009; \$50,334; authorized the funds for water quality clean-up activities in small creeks and estuaries.

Carroll County Agriculture Center Loan of 2010: Ch. 483, Acts of 2010, amended by Ch. 639, Acts of 2012; \$54,182.45; authorized the funds for the repair, renovation, capital equipping, and utility upgrades of the Carroll County

Agricultural Center, located in Westminster.

Swann Avenue Firehouse Loan of 2010: Ch. 483, Acts of 2013; \$75,000; authorized the funds for the repair, renovation, and capital equipping of the Swann Avenue Firehouse, located in Baltimore City.

Re Rentuma
 Fiscal Specialist
 Administration and Finance

Contact: Re Rentuma (410) 260-7909

[14-14-17]

BOARD OF MASTER ELECTRICIANS

Subject: Public Meeting
Date and Time: July 22, 2014, 10 a.m. — 12 p.m.
Place: 500 N. Calvert St., Baltimore, MD
Contact: Gae Herzberger (410) 230-6163

[14-14-30]

BOARD FOR PROFESSIONAL ENGINEERS

Subject: Public Meeting
Date and Time: July 21, 2014, 9 a.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Add'l. Info: The Board will hold a public hearing at 11 a.m. to hear comments from the public on the proposed amendments to COMAR 09.23.03.09 Signing and Sealing Regulations.
Contact: Pamela J. Edwards (410) 230-6262

[14-14-24]

BOARD OF FORESTERS

Subject: Public Meeting
Date and Time: July 21, 2014, 10 a.m. — 12 p.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Dennis Gring (410) 230-6224

[14-14-03]

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subject: Call for Physician and Pharmacist Nominations on DUR Board
Add'l. Info: The Maryland Department of Health and Mental Hygiene Drug Utilization Review (DUR) Board is currently recruiting for one pharmacist and

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four physicians to serve on the Maryland DUR Board beginning in March 2015.

The implementation of the Omnibus Budget Reconciliation Act of 1990 requires that the Maryland Department of Health and Mental Hygiene establish a DUR Board. The DUR Board is comprised of both physicians and pharmacists and has been in operation since November 1992. The activities of the DUR Board include:

- Overseeing retrospective and prospective DUR within the Maryland Medicaid Program.
- Approving DUR criteria and standards.
- Making recommendations concerning education and other types of interventions based on prospective and retrospective DUR findings.
- Preparing an annual report for submission to the Centers for Medicare and Medicaid (CMS) describing the nature and scope of the DUR program, summarizing educational/interventional strategies used, and estimating cost savings generated.
- Reviewing individual recipient profiles and make recommendations to restrict patients who might be abusing Medicaid prescription drugs.

The DUR Board has quarterly 3-hour meetings in the Baltimore area. Meetings are normally scheduled on a Thursday morning during the months of March, June, September, and December. Members serve terms of 3 years from the date of their appointment with the option to serve an additional 3-year term.

The membership of the Maryland DUR Board includes health care professionals who have recognized knowledge and expertise in at least one of the following areas:

- (1) The clinically appropriate prescribing of outpatient drugs.
- (2) The clinically appropriate dispensing and monitoring of outpatient drugs.
- (3) Drug use review, evaluation and intervention.
- (4) Medical quality assurance.

For an application packet, please contact Gina Homer at The Maryland Medicaid Pharmacy Program at 410-767-1749 or via email at Gina.Homer@Maryland.gov.

The application deadline is September 30, 2014.

Contact: Gina Homer (410) 767-1749
[14-14-15]

DEPARTMENT OF HEALTH AND MENTAL HYGIENE/BEHAVIORAL HEALTH ADMINISTRATION

Subject: Public Meeting
Date and Time: July 25, 2014, 1 — 3 p.m.; Additional Dates: June 13, July 1, July 25, August 15, September 5, September 26, and October 17, 2014
Place: Spring Grove Hospital Center, Dix Bldg., Basement Conf. Rm., Catonsville, MD
Add'l. Info: The Behavioral Health Integration Stakeholder Workgroup will hold seven meetings through October 17, 2014. Meeting notices will be posted at: <http://dhmh.maryland.gov/bhd/SitePages/Behavioral%20Health%20Integration%20Stakeholder%20Workgroup.aspx>.
Contact: Rachael Faulkner (410) 402-8402
[14-14-21]

HOME IMPROVEMENT COMMISSION

Subject: Public Meeting
Date and Time: August 7, 2014, 10 a.m. — 12 p.m.
Place: 500 N. Calvert St., 2nd Fl. Conf. Rm., Baltimore, MD
Contact: Steven Smitson (410) 230-6169
[14-14-01]

BOARD OF CERTIFIED INTERIOR DESIGNERS

Subject: Public Meeting
Date and Time: July 28, 2014, 2 p.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Pamela J. Edwards (410) 230-6262
[14-14-23]

FACILITIES ADVISORY BOARD-JUVENILE SERVICES

Subject: Public Meeting
Date and Time: August 19, 2014, 6 — 8 p.m.
Place: Western Maryland Children's Center, 18420 Roxbury Rd., Hagerstown, MD
Contact: Mark Bishop (301) 745-6071
[14-14-14]

MARYLAND HEALTH CARE COMMISSION

Subject: Public Meeting
Date and Time: July 17, 2014, 1 p.m.
Place: Maryland Health Care Commission, 4160 Patterson Ave., Conf. Rm. 100, Baltimore, MD
Contact: Valerie Wooding (410) 764-3460
[14-14-05]

MARYLAND HEALTH CARE COMMISSION

Subject: Public Meeting
Date and Time: July 21, 2014, 2 — 4 p.m.
Place: Maryland Health Care Commission, 4160 Patterson Ave., Conf. Rm. 100, Baltimore, MD
Add'l. Info: Telemedicine Task Force Financial and Business Model Advisory Group
Contact: Christine Karayinopulos (410) 764-3444
[14-14-10]

MARYLAND HEALTH CARE COMMISSION

Subject: Public Meeting
Date and Time: July 22, 2014, 1:30 — 3:30 p.m.
Place: MIEMSS, 653 West Pratt St., Rm. 212, Baltimore, MD
Add'l. Info: Telemedicine Clinical Advisory Group
Contact: Christine Karayinopulos (410) 764-3444
[14-14-11]

NATALIE M. LAPRADE MEDICAL MARIJUANA COMMISSION — MEETING LOCATION CHANGE

Subject: Public Meeting
Date and Time: July 22, 2014, 2 — 4 p.m.; Additional Dates: August 26, September 23, October 28, 2014, 2 — 4 p.m.
Place: Joint Committee Hearing Rm., 90 State Circle, Annapolis, MD
Add'l. Info: The Natalie M. LaPrade Medical Marijuana Commission meetings have been changed from 4160 Patterson Avenue, Baltimore, MD, to the Joint Committee Hearing Room, 90 State Circle, Annapolis, Maryland. Dates and times remain the same.
Contact: Sharon H. Bloom (410) 764-4680
[14-14-13]

BOARD OF PLUMBING

Subject: Public Meeting
Date and Time: August 21, 2014, 10 a.m. — 12:30 p.m.
Place: 500 N. Calvert St., Rm. 302, Baltimore, MD
Contact: Brenda Clark (410) 230-6164
[14-14-06]

**BOARD OF PODIATRIC MEDICAL
EXAMINERS**

Subject: Public Meeting
Date and Time: September 11, 2014, 1 p.m.
Place: 4201 Patterson Ave., Rm. 110, Baltimore, MD
Contact: Sheri Henderson (410) 764-4785
 [14-14-04]

BOARD OF PUBLIC ACCOUNTANCY

Subject: Public Meeting
Date and Time: August 5, 2014, 9 a.m. — 12 a.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Dennis L. Gring (410) 230-6224
 [14-14-02]

**STATE TREASURER'S
OFFICE/CAPITAL DEBT
AFFORDABILITY COMMITTEE**

Subject: Public Hearing
Date and Time: August 26, 2014, 2 p.m.
Place: Louis L. Goldstein Treasury Bldg., Assembly Rm. #114-116, Annapolis, MD
Add'l. Info: Legislative Review and the Size and Condition of Tax-Supported Debt
Contact: David Horton (410) 260-7428
 [14-14-12]

**BOARD OF WATERWORKS AND
WASTE SYSTEMS OPERATORS**

Subject: Public Meeting
Date and Time: August 21, 2014, 10 a.m. — 4 p.m.
Place: Patapsco WWTP, 3501 ASIATIC Ave., Baltimore, MD
Add'l. Info: A portion of this meeting may be held in closed session.
Contact: Pat Kratochvil (410) 537-3167
 [14-14-08]

BOARD OF WELL DRILLERS

Subject: Public Meeting
Date and Time: August 27, 2014, 9 a.m. — 4 p.m.
Place: MDE, 1800 Washington Blvd., Terra Conf. Rm., Baltimore, MD
Add'l. Info: A portion of this meeting may be held in closed session
Contact: Willie Everett (410) 537-3644
 [14-14-09]

**WORKERS' COMPENSATION
COMMISSION**

Subject: Public Meeting
Date and Time: August 14, 2014, 9 — 11 a.m.
Place: 10 E. Baltimore St., Baltimore, MD
Add'l. Info: Portions of this meeting may be held in a closed session.
Contact: Amy Lackington (410) 864-5300
 [14-14-07]

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Title 07	Human Resources	\$104	\$70	_____	_____
Title 08	Natural Resources	\$102	\$70	_____	_____
Title 09	Labor, Licensing and Regulation	\$116	\$75	_____	_____
Title 10	Health & Mental Hygiene (All Parts)**	\$350	\$230	_____	_____
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Title 16	Juvenile Service	\$32	\$20	_____	_____
Title 17	Budget and Management	\$38	\$25	_____	_____
Title 18	Assessments and Taxation	\$28	\$18	_____	_____
Title 19A	State Ethics Commission	\$33	\$20	_____	_____
Title 20	Public Service Commission	\$64	\$42	_____	_____
Title 21	State Procurement Regulations	\$65	\$42	_____	_____
Title 22	State Retirement and Pension System	\$33	\$18	_____	_____
Title 23	Board of Public Works	\$26	\$15	_____	_____
Title 24	Business and Economic Development	\$47	\$25	_____	_____
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Title 26	Environment (All parts) **	\$241	\$160	_____	_____
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|----------------------------------|---------------------------------|
| After March 30 <sup>th</sup>     | After June 30 <sup>th</sup>     |
| After June 30 <sup>th</sup>      | After December 31 <sup>st</sup> |
| After September 30 <sup>th</sup> |                                 |
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### Title 10

Department of Health and Mental Hygiene: Part & Subtitles

#### Part 1

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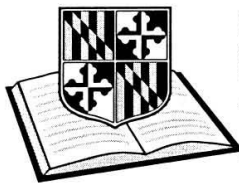
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