

Maryland Register

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Regulatory Review and
Evaluation
Regulations
Errata
General Notices

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before November 24, 2014, 5 p.m.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 November 24, 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

Individuals with disabilities who desire assistance in using the publications and services of the Division of State Documents are encouraged to call (410) 974-2486, or (800) 633-9657, or FAX to (410) 974-2546, or through Maryland Relay.

The Governor

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December 26**	December 5	December 15	December 11
January 9	December 22	December 30	December 29
January 23	January 5	January 14	January 12
February 6**	January 16	January 28	January 26
February 20	February 2	February 11	February 9
March 6**	February 13	February 25	February 23
March 20	March 2	March 11	March 9
April 3	March 16	March 25	March 23
April 17	March 30	April 8	April 6
May 1	April 13	April 22	April 20
May 15	April 27	May 6	May 4
May 29**	May 11	May 19	May 15
June 12**	May 21	June 3	June 1
June 26	June 8	June 17	June 15
July 10	June 22	July 1	June 29
July 24	July 6	July 15	July 13

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.

* 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.

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.

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 Section 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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 15.20.04.11 • 41:24 Md. R. 1435 (12-1-14)
 15.20.07.02 • 41:24 Md. R. 1432 (12-1-14)
 15.20.08.01,.03,.05—.12 • 41:24 Md. R. 1432 (12-1-14)
 15.20.11.01—.10 • 41:21 Md. R. 1280 (10-17-14)

17 DEPARTMENT OF BUDGET AND MANAGEMENT

17.04.07.02,.04,.06 • 41:23 Md. R. 1403 (11-14-14)
 17.04.13.03,.03-1,.04,.06 • 41:24 Md. R. 1439 (12-1-14)

18 DEPARTMENT OF ASSESSMENTS AND TAXATION

18.03.02.01 • 41:24 Md. R. 1442 (12-1-14)

19A STATE ETHICS COMMISSION

19A.01.03.11 • 41:22 Md. R. 1330 (10-31-14)
 19A.03.01.03,.04 • 41:22 Md. R. 1330 (10-31-14)
 19A.03.02 • 41:22 Md. R. 1330 (10-31-14)
 19A.03.03.01 • 41:22 Md. R. 1330 (10-31-14)
 19A.03.04.01—.04 • 41:22 Md. R. 1330 (10-31-14)
 19A.04.03.04 • 41:22 Md. R. 1332 (10-31-14)
 19A.05.03.02,.03 • 41:22 Md. R. 1332 (10-31-14)
 19A.05.04.01,.02 • 41:22 Md. R. 1332 (10-31-14)
 19A.07.01.03,.04 • 41:22 Md. R. 1333 (10-31-14)
 19A.07.01.18 • 41:22 Md. R. 1334 (10-31-14)

20 PUBLIC SERVICE COMMISSION

20.79.01.02 • 41:24 Md. R. 1443 (12-1-14)

21 STATE PROCUREMENT REGULATIONS

21.11.14.04 • 41:14 Md. R. 857 (7-11-14)

26 DEPARTMENT OF THE ENVIRONMENT

Subtitles 01—07 (Part 1)

26.03.13.04 • 41:22 Md. R. 1334 (10-31-14)
 26.04.04.01—.39 • 41:18 Md. R. 1037 (9-5-14) (ibr)
 26.04.05.01—.03 • 40:25 Md. R. 2105 (12-13-13)
 26.04.11.01—.16 • 41:25 Md. R. 1531 (12-12-14)

Subtitles 08—12 (Part 2)

26.11.19.26,.26-1 • 41:24 Md. R. 1443 (12-1-14)
 26.11.34.02 • 41:24 Md. R. 1447 (12-1-14) (ibr)
 26.11.38.01—.06 • 41:24 Md. R. 1449 (12-1-14)
 26.12.01.01 • 41:22 Md. R. 1336 (10-31-14) (ibr)
 26.12.02.03 • 41:22 Md. R. 1336 (10-31-14)

Subtitles 13—18 (Part 3)

26.14.02.02,.02-1,.02-2,.02-3,.02-4,
 .02-5 • 41:22 Md. R. 1337 (10-31-14) (ibr)

31 MARYLAND INSURANCE ADMINISTRATION

31.03.05.01—.15 • 41:3 Md. R. 256 (2-7-14)

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33 STATE BOARD OF ELECTIONS

- 33.13.10.01—.03 • 41:25 Md. R. 1544 (12-12-14)
- 33.13.17.01—.05 • 41:22 Md. R. 1340 (10-31-14)
- 33.14.02.06 • 41:16 Md. R. 955 (8-8-14)

34 DEPARTMENT OF PLANNING

- 34.04.07.01—.08 • 41:23 Md. R. 1404 (11-14-14)

**36 MARYLAND STATE LOTTERY AND GAMING
CONTROL AGENCY**

- 36.01.01.04 • 41:24 Md. R. 1454 (12-1-14)
- 36.03.03.07 • 41:24 Md. R. 1455 (12-1-14)
- 36.03.10.07—.09,.18,.20,.24,.26—.28,.30,.32,.34,.35,.38,.41—.43,
.49 • 41:25 Md. R. 1546 (12-12-14)
- 36.04.01.20 • 41:24 Md. R. 1455 (12-1-14)
- 36.05.02.16 • 41:24 Md. R. 1455 (12-1-14)
- 36.05.03.03,.05,.23 • 41:24 Md. R. 1457 (12-1-14)
- 36.05.05.06 • 41:20 Md. R. 1173 (10-3-14)
- 36.06.01.01—.03 • 41:12 Md. R. 723 (6-13-14)
- 36.06.02.01,.02 • 41:12 Md. R. 723 (6-13-14)
- 36.06.03.01—.09 • 41:12 Md. R. 723 (6-13-14)
- 36.06.04.01—.04 • 41:12 Md. R. 723 (6-13-14)
- 36.06.05.01—.06 • 41:12 Md. R. 723 (6-13-14)
- 36.06.06.01 • 41:12 Md. R. 723 (6-13-14)

The Governor

EXECUTIVE ORDER 01.01.2014.13

Commemoration of Cultural, Ethnic, and Religious Celebrations

WHEREAS, The contributions of the cultural and ethnic communities of the State of Maryland have been numerous and a valuable asset to the State;

WHEREAS, The State previously has recognized cultural, ethnic, and religious celebrations with gubernatorial proclamations in honor of the Marylanders for whom those celebrations hold special significance; and

WHEREAS, The Administration seeks to establish a formal mechanism to ensure the continued, annual commemoration of such celebrations. This Executive Order is not intended to capture all commemorations recognized by gubernatorial proclamation, but rather is limited to the recognition of celebrations holding particular cultural, ethnic, or religious significance.

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. There shall be a proclamation issued annually in commemoration of the following celebrations:

- (1) American Indian Heritage Month, as provided in Maryland Code, General Provisions Article, § 7-506;
- (2) Baisakhi;
- (3) Black History Month, as provided in Maryland Code, General Provisions Article, § 7-501;
- (4) Caribbean Heritage Month;
- (5) Diwali;
- (6) German-American Heritage Month, as provided in Maryland Code, General Provisions Article, § 7-505;
- (7) Hanukkah;
- (8) Iftar;
- (9) Irish-American Heritage Month, as provided in Maryland Code, General Provisions Article, § 7-502;
- (10) Hispanic Heritage Month, as provided in Maryland Code, General Provisions Article, § 7-504;
- (11) Korean American Day;
- (12) Lunar New Year, as provided in Maryland Code, General Provisions Article, § 7-401;
- (13) Passover Seder;
- (14) Women's History Month, as provided in Maryland Code, General Provisions Article, § 7-503; and
- (15) Any other religious or cultural celebration designated jointly in the future by the Secretary of State and the Governor's Office of Community Initiatives.

B. The Governor's Office of Community Initiatives shall coordinate the issuance of proclamations within the scope of this Executive Order.

(1) A citizen or community group seeking the commemoration of an ethnic, cultural, or religious celebration not specified in paragraph A. may submit a request to the Governor's Office of Community Initiatives for an additional proclamation.

(2) The Governor's Office of Community Initiatives in conjunction with the Office of the Secretary of State shall determine whether such proclamation will be issued.

(3) After a proclamation has been issued, a copy of the proclamation shall be maintained in the Governor's Office of Community Initiatives.

C. The proclamation shall be issued during the period or on the date on which the celebration is traditionally observed, either as provided in statute, or as determined by the Governor's Office of Community Initiatives.

D. The proclamation shall commend the celebration to all Maryland citizens.

Given Under My Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 29th Day of October, 2014.

MARTIN O'MALLEY
Governor

ATTEST:

JOHN P. MCDONOUGH
Secretary of State

[14-25-27]

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 11 DEPARTMENT OF TRANSPORTATION

Subtitle 01 Office of the Secretary

Notice of Opportunity for Comment

In accordance with the Regulatory Review and Evaluation Act, State Government Article, §§10-130 — 10-139, Annotated Code of Maryland, the Maryland Department of Transportation (MDOT) is currently reviewing and evaluating the following chapters:

- 11.01.01 Promulgation and Adoption of Regulations — REPEALED
- 11.01.02 Petition for the Adoption of Regulations
- 11.01.03 Petition for Declaratory Rulings
- 11.01.04 Open Meetings
- 11.01.05 Board of Review of the Department of Transportation
- 11.01.06 Transportation Planning Process — The Action Plan
- 11.01.07 Transportation Professional Services Selection Board — REPEALED
- 11.01.08 Implementation of The Maryland Environmental Policy Act
- 11.01.09 Contractor's Affirmative Action Plan Review/Approval and Compliance Monitoring Process — REPEALED
- 11.01.10 Maryland Minority Business Enterprise/Federal Disadvantaged Business Enterprise Program
- 11.01.11 Small Business Procurements, Construction Contracts — REPEALED
- 11.01.12 Implementation of the "Buy American Steel" Act — REPEALED
- 11.01.13 Release of Public Records
- 11.01.14 Procedure for Hearings in Contested Cases
- 11.01.15 Correction or Amendment of Personal Records
- 11.01.16 Rules of Procedure of the Board of Airport Zoning Appeals
- 11.01.17 Public-Private Partnership Program

The purpose of this review and evaluation is to determine whether existing regulations continue to accomplish the purposes for which they were adopted, clarify ambiguous or unclear language, and repeal obsolete or duplicative provisions. Pursuant to this work plan, MDOT will evaluate the need to retain, amend, or repeal the regulations based on whether the regulations:

- Continue to be necessary for public interest;
- Continue to be supported by statutory authority and judicial opinions;
- Are obsolete or otherwise appropriate for amendment or repeal;
- Continue to be effective in accomplishing the intended purposes of the regulations.

MDOT would like to provide interested parties with an opportunity to participate in the review and evaluation process by submitting comments on the regulations. The comments may address

any concerns about the regulations. If the comments include suggested changes to the regulations, please be as specific as possible and provide language for the suggested changes. Comments must be received by January 12, 2015.

Comments should be directed to Mr. Matthew Garbark, MDOT COMAR Coordinator, Maryland Department of Transportation, 7201 Corporate Center Drive, MS-340, Hanover, MD 21076 or by email to mgarbark@mdot.state.md.us or call 410-865-1096.

[14-25-11]

Subtitle 02 Transportation Service Human Resources System

Notice of Opportunity for Public Comment

In accordance with the Regulatory Review and Evaluation Act, State Government Article, §§10-130 — 10-139, Annotated Code of Maryland, the Maryland Department of Transportation (MDOT) is currently reviewing and evaluating the following chapters:

- 11.02.01 Applicability and Definitions
- 11.02.02 Hiring, Appointment, Promotion, and Resignation
- 11.02.03 Leave Benefits
- 11.02.04 Equal Employment Opportunity
- 11.02.05 Reinstatement
- 11.02.06 Medical Examinations and Evaluations
- 11.02.07 Layoff
- 11.02.08 Disciplinary Action
- 11.02.09 Grievances
- 11.02.10 Employee Performance Appraisal
- 11.02.11 Testing for Drugs and Alcohol
- 11.02.12 Pilot Programs, Research Projects, and Demonstration Projects
- 11.02.13 Family Medical Leave

The purpose of this review and evaluation is to determine whether existing regulations continue to accomplish the purposes for which they were adopted, clarify ambiguous or unclear language, and repeal obsolete or duplicative provisions. Pursuant to this work plan, MDOT will evaluate the need to retain, amend, or repeal the regulations based on whether the regulations:

- Continue to be necessary for public interest;
- Continue to be supported by statutory authority and judicial opinions;
- Are obsolete or otherwise appropriate for amendment or repeal;
- Continue to be effective in accomplishing the intended purposes of the regulations.

MDOT would like to provide interested parties with an opportunity to participate in the review and evaluation process by submitting comments on the regulations. The comments may address any concerns about the regulations. If the comments include suggested changes to the regulations, please be as specific as possible and provide language for the suggested changes. Comments must be received by January 12, 2015.

Comments should be directed to Mr. Nate Barker, MDOT Human Resources COMAR Coordinator, Maryland Department of

Transportation, 7201 Corporate Center Drive, MS-100, Hanover, MD 21076 or by email to nbarker@mdot.state.md.us or call 410-865-1209.

[14-25-12]

Subtitle 03 Maryland Aviation Administration

Notice of Opportunity for Public Comment

In accordance with the Regulatory Review and Evaluation Act, State Government Article, §§10-130 – 10-139, Annotated Code of Maryland, the Maryland Aviation Administration (MAA) is currently reviewing and evaluating the following chapters:

- 11.03.01 Baltimore/Washington International Thurgood Marshall Airport
- 11.03.02 Martin State Airport
- 11.03.03 Airport Noise Control Program
- 11.03.04 Aeronautical Regulations
- 11.03.05 Obstructions to Air Navigation
- 11.03.06 Airport Zoning Regulations
- 11.03.07 Maryland Air Terminal Assistance Program
- 11.03.08 Maryland Assistance to Private Airports (MAPA) Program
- 11.03.09 Issuance of Citations by Maryland Aviation Administration Personnel

The purpose of this review and evaluation is to determine whether existing regulations continue to accomplish the purposes for which they were adopted, clarify ambiguous or unclear language, and repeal obsolete or duplicative provisions. Pursuant to this work plan, MAA will evaluate the need to retain, amend, or repeal the regulations based on whether the regulations:

- Continue to be necessary for public interest;
- Continue to be supported by statutory authority and judicial opinions;
- Are obsolete or otherwise appropriate for amendment or repeal;
- Continue to be effective in accomplishing the intended purposes of the regulations.

MAA would like to provide interested parties with an opportunity to participate in the review and evaluation process by submitting comments on the regulations. The comments may address any concerns about the regulations. If the comments include suggested changes to the regulations, please be as specific as possible and provide language for the suggested changes. Comments must be received by January 12, 2015.

Comments should be directed to Ms. Jeanette Brewer, Regulations Coordinator, Maryland Aviation Administration, Third Floor, Terminal Building, BWI Airport, MD 21240 or email to jbrewer1@bwiairport.com or call 410-859-7734.

[14-25-13]

Final Action on Regulations

Symbol Key

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

Title 05 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Subtitle 02 BUILDING AND MATERIAL CODES

05.02.01 Model Performance Code

Authority: Public Safety Article, §§ 12-201 -12-204, Annotated Code of Maryland

Notice of Final Action

[14-286-F-I]

On November 19, 2014, the Acting Secretary of Housing and Community Development adopted amendments to Regulations **.02**, **.02-1**, **.03**, and **.04** under **COMAR 05.02.01 Model Performance Code**. This action, which was proposed for adoption in 41:20 Md. R. 1118—1119 (October 3, 2014), has been adopted as proposed.

Effective Date: January 1, 2015.

CLARENCE J. SNUGGS

Acting Secretary of Housing and Community Development

Subtitle 02 BUILDING AND MATERIAL CODES

05.02.07 Maryland Building Performance Standards

Authority: Public Safety Article §§12-501—12-508, Annotated Code of Maryland

Notice of Final Action

[14-287-F-I]

On November 19, 2014, the Acting Secretary of Housing and Community Development adopted amendments to Regulations **.04** and **.05** under **COMAR 05.02.07 Maryland Building Performance Standards**. This action, which was proposed for adoption in 41:20 Md. R. 1119—1120 (October 3, 2014), has been adopted as proposed.

Effective Date: January 1, 2015.

CLARENCE J. SNUGGS

Acting Secretary of Housing and Community Development

Subtitle 05 RENTAL HOUSING PROGRAMS

Notice of Final Action

[14-276-F]

On November 20, 2014, the Secretary of Housing and Community Development adopted:

(1) The repeal of existing Regulations **.01—****.32** under **COMAR 05.05.01 Multifamily Rental Financing Programs** and new Regulations **.01—****.34** under a new chapter, **COMAR 05.05.01 Rental Housing Program**;

(2) Amendments to Regulations **.02**, **.04**, **.06**, **.08**, **.11**, and **.14** and new Regulation **.17** under **COMAR 05.05.02 Multifamily Bond Program**;

(3) Amendments to Regulations **.02—****.08**, **.12—****.14**, **.16**, **.18**, and **.24** under **COMAR 05.05.05 Partnership Rental Housing Program**;

(4) The repeal of existing Regulations **.01—****.31** under **COMAR 05.05.07 Maryland Housing Rehabilitation Program — Multifamily Rehabilitation Program**; and

(5) The repeal of existing Regulations **.01—****.28** under **COMAR 05.05.08 Nonprofit Rehabilitation Program**.

This action, which was proposed for adoption in 41:20 Md. R. 1120—1134 (October 3, 2014), has been adopted as proposed.

Effective Date: December 22, 2014.

CLARENCE J. SNUGGS

Acting Secretary of Housing and Community Development

Subtitle 12 FEDERAL HOUSING PROGRAMS

05.12.01 Maryland HOME Program

Authority: Housing and Community Development Article, §§2-111(b) and 4-211(a)(8) and (10); State Finance and Procurement Article, §§5-7B-01—5-7B-10; Annotated Code of Maryland Executive Order 01.01.1998.04

Notice of Final Action

[14-293-F]

On November 20, 2014, the Acting Secretary of Housing and Community Development adopted amendments to Regulations **.02—****.07**, **.09—****.11**, **.14—****.16**, and **.18—****.22** under **COMAR 05.12.01 Maryland HOME Program**. This action, which was proposed for adoption in 41:20 Md. R. 1135—1141 (October 3, 2014), has been adopted as proposed.

Effective Date: December 22, 2014.

CLARENCE J. SNUGGS

Acting Secretary of Housing and Community Development

Subtitle 13 NEIGHBORHOOD BUSINESS DEVELOPMENT

05.13.01 Business Development Program

Authority: Housing and Community Development Article, §§2-201 and 2-111, Title 4, Subtitle 5, and Title 6, Subtitle 3, Annotated Code of Maryland

Notice of Final Action

[14-291-F]

On November 20, 2014, the Acting Secretary of Housing and Community Development adopted amendments to Regulations .03 and .05—.08, new Regulation .16, amendments to and the recodification of existing Regulation .16 to be Regulation .17, and the recodification of existing Regulations .17 and .18 to be Regulations .18 and .19 under **COMAR 05.13.01 Business Development Program**. This action, which was proposed for adoption in 41:20 Md. R. 1141—1143 (October 3, 2014), has been adopted as proposed.

Effective Date: December 22, 2014.

CLARENCE J. SNUGGS

Acting Secretary of Housing and Community Development

Title 07 DEPARTMENT OF HUMAN RESOURCES

Subtitle 03 FAMILY INVESTMENT ADMINISTRATION

07.03.07 Public Assistance to Adults

Authority: Human Services Article, §§5-205(a), 5-207(a), 5-403-5-407, and 5-409, Annotated Code of Maryland

Notice of Final Action

[14-262-F]

On November 17, 2014, the Secretary of Human Resources adopted amendments to Regulations .02, .03, .09, and .12 under **COMAR 07.03.07 Public Assistance to Adults**. This action, which was proposed for adoption in 41:18 Md. R. 1014—1016 (September 5, 2014), has been adopted as proposed.

Effective Date: December 22, 2014.

TED DALLAS

Secretary of Human Resources

Title 08 DEPARTMENT OF NATURAL RESOURCES

Subtitle 01 OFFICE OF THE SECRETARY

08.01.03 Off-Road Vehicles

Authority: Natural Resources Article, §§1-104 and 5-209, Annotated Code of Maryland

Notice of Final Action

[14-282-F]

On December 2, 2014, the Secretary of Natural Resources adopted amendments to Regulations .01—.07 and .10—.12 under **COMAR 08.01.03 Off-Road Vehicles**. This action, which was proposed for adoption in 41:20 Md. R. 1143-1147 (October 3, 2104), has been adopted as proposed. This action, which was proposed for adoption in 41:20 Md. R. 1143—1147 (October 3, 2014), has been adopted as proposed.

Effective Date: December 22, 2014.

JOSEPH P. GILL

Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.04 Oysters

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

Notice of Final Action

[14-292-F]

On December 2, 2014, the Secretary of Natural Resources adopted amendments to Regulation .03 under **COMAR 08.02.04 Oysters**. This action, which was proposed for adoption in 41:20 Md. R. 1147 (October 3, 2014), has been adopted as proposed.

Effective Date: December 22, 2014.

JOSEPH P. GILL

Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.11 Fishing in Nontidal Waters

Authority: Natural Resources Article, §§4-205, 4-221, 4-602, 4-603, and 4-616, Annotated Code of Maryland

Notice of Final Action

[14-302-F]

On December 2, 2014, the Secretary of Natural Resources adopted amendments to Regulations .01 and .04 and the repeal of Regulation .06 under **COMAR 08.02.11 Fishing in Nontidal Waters**. This action, which was proposed for adoption in 41:21 Md. R. 1264—1266 (October 17, 2014), has been adopted as proposed.

Effective Date: January 1, 2015.

JOSEPH P. GILL

Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.21 Yellow Perch

Authority: Natural Resources Article, §§4-215, 4-215.2 and 4-701, Annotated Code of Maryland

Notice of Final Action

[14-301-F]

On December 2, 2014, the Secretary of Natural Resources adopted amendments to Regulation .03 under **COMAR 08.02.21 Yellow Perch**. This action, which was proposed for adoption in 41:21 Md. R. 1266—1268 (October 17, 2014), has been adopted as proposed.

Effective Date: December 22, 2014.

JOSEPH P. GILL
Secretary of Natural Resources

Subtitle 03 WILDLIFE

08.03.04 Forest Wildlife

Authority: Natural Resources Article, §§10-408 and 415, Annotated Code of Maryland

Notice of Final Action

[14-305-F]

On December 2, 2014, the Secretary of Natural Resources adopted amendments to Regulation .02 under **COMAR 08.03.04 Forest Wildlife**. This action, which was proposed for adoption in 41:21 Md. R. 1268 (October 17, 2014), has been adopted as proposed.

Effective Date: December 22, 2014.

JOSEPH P. GILL
Secretary of Natural Resources

Subtitle 03 WILDLIFE

08.03.09 Wildlife Possession

Authority: Natural Resources Article, §10-408, Annotated Code of Maryland

Notice of Final Action

[14-308-F]

On December 2, 2014, the Secretary of Natural Resources adopted amendments to Regulation .11 under **COMAR 08.03.09 Wildlife Possession**. This action, which was proposed for adoption in 41:21 Md. R. 1268—1269 (October 17, 2014), has been adopted as proposed.

Effective Date: December 22, 2014.

JOSEPH P. GILL
Secretary of Natural Resources

Subtitle 18 BOATING — SPEED LIMITS AND OPERATION OF VESSELS

08.18.32 Pocomoke River

Authority: Natural Resources Article, §§8-703 and 8-704, Annotated Code of Maryland

Notice of Final Action

[14-310-F]

On December 2, 2014, the Secretary of Natural Resources adopted amendments to Regulations .01—.03 under **COMAR 08.18.32 Pocomoke River**. This action, which was proposed for adoption in 41:21 Md. R. 1269 (October 17, 2014), has been adopted as proposed.

Effective Date: December 22, 2014.

JOSEPH P. GILL
Secretary of Natural Resources

Subtitle 18 BOATING — SPEED LIMITS AND OPERATION OF VESSELS

08.18.34 Little Choptank River

Authority: Natural Resources Article, §§8-703 and 8-704, Annotated Code of Maryland

Notice of Final Action

[14-309-F]

On December 2, 2014, the Secretary of Natural Resources adopted amendments to Regulations .01 and .02 under **COMAR 08.18.34 Little Choptank River**. This action, which was proposed for adoption in 41:21 Md. R. 1269 — 1270 (October 17, 2014), has been adopted as proposed.

Effective Date: December 22, 2014.

JOSEPH P. GILL
Secretary of Natural Resources

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

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.02 Physicians' Services

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

Notice of Final Action

[14-290-F-I]

On December 1, 2014, the Secretary of Health and Mental Hygiene adopted amendments to Regulation .07 under **COMAR 10.09.02 Physicians' Services**. This action, which was proposed for

adoption in 41:20 Md. R. 1148 (October 3, 2014), has been adopted as proposed.

Effective Date: December 22, 2014.

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

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.49 Telemedicine Services

Authority: Health-General Article, §2-104(b), Annotated Code of Maryland;
Ch. 280, Acts of 2013

Notice of Final Action

[14-283-F]

On December 2, 2014, the Secretary of Health and Mental Hygiene adopted amendments to Regulations .01—.07, .11, and .12 under **COMAR 10.09.49 Telemedicine Services**. This action, which was proposed for adoption in 41:20 Md. R. 1148—1150 (October 3, 2014), has been adopted as proposed.

Effective Date: December 22, 2014.

JOSEPH P. GILL
Secretary of Natural Resources

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.59 Specialty Mental Health Services

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

Notice of Final Action

[14-288-F]

On December 2, 2014, the Secretary of Health and Mental Hygiene adopted the repeal in their entirety of existing Regulations .01—.11 and adopted new Regulations .01—.14 under **COMAR 10.09.59 Specialty Mental Health Services**. This action, which was proposed for adoption in 41:20 Md. R. 1150—1153 (October 3, 2014), has been adopted with the nonsubstantive changes shown below.

Effective Date: December 22, 2014.

Attorney General's Certification

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

Regulation .03C(2): Replaced the term “mental” with behavioral to reflect current terminology

Regulation .06: Adjusted placement of phrase “when these services are authorized by the ASO” to clarify authorization requirement does not apply to all laboratory services.

Regulation .07(D): Added with “Non-emergency” to clarify that emergency mental health services are not included in the payment limitations for IMD participants.

.03 General Conditions for Provider Participation.

In general, to participate in the Program, a provider shall:

A.—B. (proposed text unchanged)

C. *Maintain adequate documentation of each contact with a participant as part of the medical record, which, at a minimum, includes:*

(1) (proposed text unchanged)

(2) *The participant's primary [[mental]] behavioral health complaint or reason for the visit;*

(3)—(4) (proposed text unchanged)

.06 Covered Services.

The ASO shall reimburse the following specialty mental health services rendered to participants [[when these services are authorized by the ASO]]:

A. *Medically necessary specialty mental health services delivered by providers listed in Regulation .04 of this chapter when these services are authorized by the ASO;*

B. *Telemental health services as defined in COMAR 10.21.30 when these services are authorized by the ASO; and*

C. (proposed text unchanged)

.07 Limitations.

The Program does not cover the following:

A.—C. (proposed text unchanged)

D. *[[Specialty]] Non-emergency specialty mental health services for participants in an institution for mental disease as defined in 42 CFR §435.1009;*

E.—V. (proposed text unchanged)

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

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.70 Maryland Medicaid Managed Care Program: Non-Capitated Covered Services

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

Notice of Final Action

[14-289-F]

On December 2, 2014, the Secretary of Health and Mental Hygiene adopted the repeal of existing Regulations .01—.10 and adopted new Regulations .01—.03 under **COMAR 10.09.70 Maryland Medicaid Managed Care Program: Non-Capitated Covered Services**. This action, which was proposed for adoption in 41:20 Md. R. 1153—1158 (October 3, 2014), has been adopted with the nonsubstantive changes shown below.

Effective Date: December 22, 2014.

Attorney General's Certification

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

Regulation .02A(1) and G: Codes for partial hospitalization and buprenorphine services and medication (H0016, H0047, H2036, J8499) were added to the list of carved-out services to clarify these have been carved out of the MCO package. This has been the understanding of the Department, MCOs and stakeholders throughout the process and is now reflected in the regulations as the specific billing codes have been finalized.

Regulation .02A(3): The list of carved out lab services has been removed and replaced with an updated list to reflect the newly-released Current Procedural Terminology (BPT) 2015 codes. The services themselves remain unchanged; the new codes allow for a

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greater degree of specificity. Codes G0431 and G0434 were deleted because these are Medicare codes and not applicable to the population served.

Regulation .02C: “Mental” has been replaced with “behavioral” health to reflect updated terminology and clarify the carve-out includes both mental health and substance use disorder services.

.02 Behavioral Health Non-Capitated Covered Services.

A. An MCO may not be responsible for reimbursing for the following substance use disorder services, regardless of diagnosis:

(1) Services delivered by a community-based provider as described in COMAR 10.09.80 with the following procedure codes:

H0001— H0015	(proposed text unchanged)
H0016	<u>Alcohol and/or drug services; buprenorphine induction</u>
H0020	(proposed text unchanged)
H0047	<u>Alcohol and/or drug services; buprenorphine administration and/or service</u>
H2036	<u>Alcohol and/or drug services; partial hospitalization</u>
J8499	<u>Prescription drug, oral, non-chemotherapeutic; buprenorphine</u>

(2) (proposed text unchanged)

(3) Lab services with the following procedure codes:

[[80100	<u>Drug screening, multiple classes, chromatography, each procedure</u>
80101	<u>Drug screening, multiple classes, single drug class method, each drug class</u>
80102	<u>Drug confirmation, each procedure</u>
80103	<u>Tissue preparation for drug analysis</u>
80104	<u>Drug screening, multiple classes, other than chromatographic method, each procedure</u>
82055	<u>Alcohol (ethanol): any specimen except breath</u>
82145	<u>Amphetamine or methamphetamine</u>
G0431	<u>Drug screening, qualitative; multiple classes by high complexity test method, per patient encounter</u>
G0434	<u>Drug screen, other than chromatographic; any number of drug classes by CLIA waived test or moderate complexity test, per patient]]</u>
80300	<u>Drug screen, any number of drug classes from Drug Class List A; any number of non-TLC devices or procedures capable of being read by direct optical observation, per date of service</u>
80301	<u>Single drug class method, by instrumented test systems, per date of service</u>
80302	<u>Drug screen, presumptive, single drug class from Drug Class List B, by immunoassay or non-TLC chromatography without mass spectrometry, each procedure</u>
80303	<u>Drug screen, any number of drug classes, presumptive, single or multiple drug class method; thin layer chromatography procedure, per date of services</u>
80304	<u>Drug screen; not otherwise specified presumptive procedure, each procedure</u>
80320	<u>Alcohols</u>
80321	<u>Alcohol biomarkers; 1 or 2</u>
80322	<u>Alcohol biomarkers; 3 or more</u>
80324	<u>Amphetamines; 1 or 2</u>
80325	<u>Amphetamines; 3 or 4</u>

80326	<u>Amphetamines; 5 or more</u>
80348	<u>Buprenorphine</u>
80358	<u>Methadone</u>

B. (proposed text unchanged)

C. An MCO shall be responsible for reimbursing for behavioral health services delivered by the participant’s primary care provider.

D.—F. (proposed text unchanged)

G. Table of mental health diagnoses:

295.00— 298.9	(proposed text unchanged)
299.9	<u>Unspecified pervasive development disorder</u>
300.00— 333.99	(proposed text unchanged)
648.40	<u>Mental disorders of mother complicating pregnancy childbirth of the puerperium unspecified as to the episode of care</u>
648.41	<u>Mental disorders of mother with delivery</u>
648.42	<u>Mental disorders of mother with delivery with postpartum complication</u>
648.43	<u>Antepartum mental disorders of mother</u>
648.44	<u>Postpartum mental disorder of mother</u>

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

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.80 Community-Based Substance Use Disorder Services

Authority: Health-General Article, §§2-104(b), 15-103(a)(1), and 15-105(b), Annotated Code of Maryland

Notice of Final Action

[14-295-F]

On December 2, 2014, the Secretary of Health and Mental Hygiene adopted amendments to Regulation .01, new Regulations .02, .04, and .07, amendments to and the recodification of existing Regulations .02, .03, .04, .05, and .07 to be Regulations .03, .05, .06, .08, and .10, respectively, and the recodification of existing Regulations .06, .08, and .09 to be Regulations .09, .11, and .12, respectively, under **COMAR 10.09.80 Community-Based Substance Use Disorder Services**. This action, which was proposed for adoption in 41:20 Md. R. 1158—1162 (October 3, 2014), has been adopted with the nonsubstantive changes shown below.

Effective Date: December 22, 2014.

Attorney General’s Certification

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

Regulation .01B(2): Removed “Patient Placement” because this is not part of the definition of ASAM.

Regulation .01B(11): Replaced definition with “...has the meaning stated in COMAR 10.09.36.01” because the reference to COMAR is the definition.

Regulation .01B(14): Removed “...means the Maryland Medical Assistance Program” and replaced with “...has the meaning stated in

COMAR 10.09.36.01.” because the reference to COMAR is the definition.

Regulation .01B(15): Replaced “recipient’s” with “ participant’s” in accordance with updated language.

Regulation .02B(2): Added “U.S.” to clarify the requirement.

Regulation .04D(1): Removed “.” to update the format.

Regulation .05: Removed “The Program covers the following:” because language is redundant.

Regulation .05A(2)(c): Removed “;” and replaced with a “.” to update the format for consistency.

Regulation .05B(2)(c)(i): Replaced “guidelines such as the American Society of Addiction Medicine Patient Placement” with “ASAM” and removed “, or other guidelines approved by the Program.” Replaced language for consistency with ASAM criteria definition.

Regulation .05B(5): Added a “,” after “plan” and replaced “;” with a “.” to clarify and update the format for consistency.

Regulation .05C(2)(a): Added “Be completed and signed by the participant’s substance use disorder counselor and the participant within 5 working days of the comprehensive assessment;” to clarify the requirement.

Regulation .05C(2)(b): Added “Be updated every 30 days;” to clarify the requirement.

Regulation .05C(2)(c): Updated lettering of “At a minimum meet eligibility criteria, using guidelines such as the American Society of Addiction Medicine Patient Placement ASAM Criteria for Level II.1, or other guidelines approved by the Program,” replaced “guidelines such as the American Society of Addiction Medicine Patient Placement” with “ASAM,” and removed “, or other guidelines approved by the Program.” Updated for consistency with current language, only ASAM is used.

Regulation .05C(2)(d): Updated lettering of “Have a physical and emotional status that allows them to function in their usual environment” for consistency.

Regulation .05C(2)(e): Updated lettering of “Include:” for consistency.

Regulation .05C(2)(e)(i): Replaced “guidelines such as the American Society of Addiction Medicine Patient Placement” with “ASAM” and removed “, or other guidelines approved by the Program.” Replaced language for consistency with ASAM criteria definition.

Regulation .05C(3): Removed “although will typically last 3 or more hours” to clarify the requirement.

Regulation .05C(5): Removed “;” and replaced with a “.” to clarify and update the format for consistency.

Regulation .05D(2)(c)(i): Replaced “guidelines such as the American Society of Addiction Medicine Patient Placement” with “ASAM” and removed “, or other guidelines approved by the Program.” Replaced language for consistency with ASAM criteria definition.

Regulation .05C(4): Added a “,” after “plan” and replaced “; and” with a “.” to update the format.

Regulation .05E(3)(d): Removed “and” to clarify the requirement.

Regulation .05E(4): Replaced “.” with “; and” to update the format.

Regulation .05E(5): Added “A discharge plan, which includes written recommendations to assist the participant with continued recovery efforts, as well as appropriate referral services.” Clarification of the requirement which is consistent with current process.

Regulation .05F: Added regulation for Buprenorphine Induction service. This service is currently carved out of the MCO benefit package and has been incorporated into the proposed regulations to outline the provider requirements needed to deliver this service.

Regulation .05G: Added regulation for Buprenorphine Maintenance service. This service is currently carved out of the MCO benefit package and has been incorporated into the proposed regulations to outline the provider requirements needed to deliver this service.

Regulation .05H: Added regulation for Ambulatory Detoxification service. This service is currently carved out of the MCO benefit package and has been incorporated into the proposed regulations to outline the provider requirements needed to deliver this service.

Regulation .06A(1): Replaced “.04” with “.05” because the reference incorrectly cited regulation .04, this has been updated to the Covered Services regulation .05.

Regulation .06A(6): Removed “and” to clarify and update the format for consistency.

Regulation .06A(7): Removed “.” And added “; and” to clarify and update the format for consistency.

Regulation .06A(8): Add “Buprenorphine Induction and Buprenorphine Maintenance Therapy services delivered by a participant’s Primary Care Physician which is the responsibility of the Managed Care Organization.” Added limitations for Buprenorphine Induction and Buprenorphine Maintenance Therapy services to ensure provider requirements align with current practice.

Regulation .06B(2): Replaced “the patient was discharged from treatment with that provider for more than 30 days” with “...there is a break in treatment over 30 calendar days;” to clarify the requirement.

Regulation .06B(6): Replaced “treatment” with “Level II.5 Partial Hospitalization, Buprenorphine Induction, or Buprenorphine Maintenance Therapy service.” Added limitations for Buprenorphine Induction and Buprenorphine Maintenance Therapy services to ensure provider requirements align with current practice.

Regulation .06B(8): Replaced “Level I group counseling session, Level I individual counseling” with “Level I group or individual counseling session” and removed “Community-based” to clarify the requirement and removed unnecessary language.

Regulation .06B(9): Replaced “program” with “service as described in COMAR 10.09.02.01” and replaced “program” with “service” to clarify the requirement.

Regulation .06B(10): Added “Buprenorphine Induction during the same week as a Level I group or individual counseling session, Level II.1 Intensive Outpatient treatment, Level II.5 Partial Hospitalization or Opioid Maintenance Therapy.” Added limitation for Buprenorphine Induction service to ensure provider requirements align with current practice.

Regulation .06B(11): “Buprenorphine Maintenance Therapy during the same week as a Level I group or individual counseling session, Level II.1 Intensive Outpatient treatment, Level II.5 Partial Hospitalization or Opioid Maintenance Therapy.” Added limitation for Buprenorphine Maintenance Therapy services to ensure provider requirements align with current practice.

Regulation .06B(12): Added “Ambulatory detoxification during the same week as a Opioid Maintenance Therapy, Buprenorphine Induction, or Buprenorphine Maintenance.” Added limitations for Ambulatory detoxification service to ensure provider requirements align with current practice.

Regulation .06B(13): Updated numbering of “Community-based substance use disorder services on the same day that a participant received similar services as a hospital inpatient or outpatient” for consistency.

Regulation .06B(14): Updated numbering of “Services rendered but not appropriately documented” for consistency.

Regulation .06B(15): Updated numbering of “Services rendered by mail, telephone, or otherwise not one-to-one, in person” for consistency.

Regulation .06B(16): Updated numbering of “Completion of forms or reports” for consistency.

Regulation .06B(17): Updated numbering of “Broken or missed appointments; and” for consistency.

Regulation .06B(18): Updated numbering of “Travel to and from site of service” for consistency.

Regulation .07A: Replaced “.04” with “.05” and add “the” before “ASO.” Reference incorrectly cited regulation .04, this has been updated to the Covered Services regulation .05. Additionally, “the” was added to correct a grammatical error.

Regulation .07C: Added “by the Department or it’s designee” to ensure alignment with current practice.

Regulation .08A: Replaced “for” with governing to clarify the requirement.

Regulation .08D(5): Removed “and” in order to delete unnecessary language.

Regulation .08D(6): Replaced “.” with “;” to update the format for consistency.

Regulation .08D(7): Added “Buprenorphine Induction —\$200 per participant per week,” to ensure provider requirements align with current practice.

Regulation .08D(8): Added “Buprenorphine Maintenance Therapy — \$75 per participant per week; and” to ensure provider requirements align with current practice.

Regulation .08D(9): Added “Ambulatory Detoxification— \$70 per diem” to ensure provider requirements align with current practice.

Regulation .08E: Added “for an individual,” added “in Level II.1,” and removed “, but more frequently be composed of 3-hour sessions” to clarify requirement and removed unnecessary language.

Regulation .08F: Added “for an individual” and added “in Level II.5” to clarify requirement.

Regulation .08G: Replaced “patient” with “participant” in accordance with updated language.

Regulation .08H: Added “In order to bill for buprenorphine induction treatment for an individual in an opioid maintenance therapy program as described in §D(7) of this regulation, participating opioid maintenance therapy programs shall bill for this service in the first week of treatment per participant.” Added payment procedure for Buprenorphine Induction service to ensure provider requirements align with current practice.

Regulation .08I: Added “In order to bill for buprenorphine maintenance therapy for an individual in an opioid maintenance therapy program as described in §D(8) of this regulation, participating opioid maintenance therapy programs shall bill for this service per participant per week.” Added payment procedure for Buprenorphine Maintenance Therapy service to ensure provider requirements align with current practice.

Regulation .08J: Added” In order to bill for ambulatory detoxification treatment as described in §D(9) of this regulation, per diem, providers shall bill a maximum of 3 per diems per week, with an additional 2 days as necessary.” Added payment procedure for Ambulatory Detoxification service to ensure provider requirements align with current practice.

Regulation .08K: Updated lettering and removed “.07” to align with current practice and updated format for consistency.

Regulation .08L: Updated lettering for “The Department shall authorize supplemental payment on Medicare claims only if” for consistency.

Regulation .08M: Updated lettering for “The Department shall make payment on Medicare claims subject to the following provisions” for consistency.

Regulation.10B: Replaced language with “The Department shall give to the provider reasonable written notice of the Department’s intention to impose sanctions. In the notice, the Department shall...” in order to delete unnecessary language.

Regulation.10C: Redundant language removed, language already referenced in COMAR 10.09.36.08.

Regulation.10D: Redundant language removed, language already referenced in COMAR 10.09.36.08.

.01 Definitions.

A. (proposed text unchanged)

B. Terms Defined.

(1) (proposed text unchanged)

(2) “American Society of Addiction Medicine (ASAM)

[[Patient Placement]] Criteria” means an instrument designed to indicate patient placement guidelines for admission, continued stay, and discharge.

(3)—(10) (proposed text unchanged)

(11) “Medically necessary” [[means the service or benefit is:

(a) Directly related to diagnostic, preventive, curative, palliative, rehabilitative, or ameliorative treatment of an illness, injury, disability, or health condition;

(b) Consistent with current accepted standards of good medical practice;

(c) The most cost efficient service that can be provided without sacrificing effectiveness or access to care; and

(d) Not primarily for the convenience of the consumer, family, or provider.]] *has the meaning stated in COMAR 10.09.36.01.*

(12)—(13) (proposed text unchanged)

(14) “Program” [[means the Maryland Medical Assistance Program]] *has the meaning stated in COMAR 10.09.36.01.*

(15) “Progress note” means an objective documentation of the [[recipient’s]] *participant’s* progress in relation to specific treatment goals and objectives.

(16)—(18) (proposed text unchanged)

.02 License Requirements.

A. (proposed text unchanged)

B. An opioid maintenance therapy provider shall:

(1) (proposed text unchanged)

(2) Maintain approval by the U.S. Drug Enforcement Administration.

.04 Eligibility and Referral.

A.—C. (proposed text unchanged)

D. Substance Use Disorder Services.

(1) Substance use disorder services are services for which the participants’ diagnosis and treatment provider meet the criteria specified in COMAR 10.09.70 and this chapter[[.]].

(2) (proposed text unchanged)

.05 Covered Services.

[[The Program covers the following:]]

A. Comprehensive substance use disorder assessment[[, which]] at a minimum shall:

(1) (proposed text unchanged)

(2) Include:

(a) — (b) (proposed text unchanged)

(c) Recommendation for the appropriate level of substance use disorder treatment [[[]],[[]] [[.]]

B. Level I group and individual substance use disorder counseling [[that]] shall include:

(1) (proposed text unchanged)

(2) A written individualized treatment plan, with the participation of the participant based on the comprehensive assessment that shall:

(a) — (b) (proposed text unchanged)

(c) Include:

(i) An assessment of the participant’s eligibility, using [[guidelines such as the American Society of Addiction Medicine Patient Placement]] ASAM Criteria for Level I [[, or other guidelines approved by the Program]];

(ii)—(viii) (proposed text unchanged)

(3)—(4) (proposed text unchanged)

(5) A discharge plan, which includes written recommendations to assist the participant with continued recovery efforts, as well as appropriate referral services[[:]];

C. Level II.1 intensive outpatient services [[that]] shall include:

(1) (proposed text unchanged)

(2) A written individualized treatment plan, with the participation of the participant based on the comprehensive assessment that shall:

(a) Be completed and signed by the participant's substance use disorder counselor and the participant within 5 working days of the comprehensive assessment;

(b) Be updated every 30 days;

[[a)]] (c) At a minimum meet eligibility criteria, using [[guidelines such as the American Society of Addiction Medicine Patient Placement]] ASAM Criteria for Level II.1[[, or other guidelines approved by the Program]]; and

[[b)]] (d) (proposed text unchanged)

[[c)]] (e) Include:

(i) An assessment of the participant's eligibility, using [[guidelines such as the American Society of Addiction Medicine Patient Placement]] ASAM Criteria for Level II.1[[, or other guidelines approved by the Program]];:

(ii)—(viii) (proposed text unchanged)

(3) Service that last at least 2 hours in order to be billed [[although will typically last 3 or more hours]];:

(4) (proposed text unchanged)

(5) A discharge plan, which includes written recommendations to assist the participant with continued recovery efforts, as well as appropriate referral services[[[] . [[]]] [[:]];:

D. Level II.5 partial hospitalization services [[that]] shall include:

(1) (proposed text unchanged)

(2) A written individualized treatment plan, with the participation of the participant based on the comprehensive assessment that shall:

(a)—(b) (proposed text unchanged)

(c) Include:

(i) An assessment of the participant's eligibility, using [[guidelines such as the American Society of Addiction Medicine Patient Placement]] ASAM Criteria for Level II.1[[, or other guidelines approved by the Program]];:

(ii)—(viii) (proposed text unchanged)

(3) (proposed text unchanged)

(4) A discharge plan, which includes written recommendations to assist the participant with continued recovery efforts, as well as appropriate referral services[[:] and];:

E. Opioid maintenance therapy service [[that]] shall include:

(1)—(2) (proposed text unchanged)

(3) The following services:

(a) Pharmacological interventions, including methadone dosing, full and partial opiate agonist treatment medications to provide treatment, support, and recovery to opioid-addicted participants;

(b)—(c) (proposed text unchanged)

(d) Ordering and administering non-narcotic [[drug]] drugs; [[and]]

(4) Arrangement for transportation of medication to inpatient treatment programs under the conditions outlined in COMAR 10.47.02.11[[:]]; and

(5) A discharge plan, which includes written recommendations to assist the participant with continued recovery efforts, as well as appropriate referral services.

F. Buprenorphine induction service shall include:

(1) A comprehensive substance use disorder assessment as described in §A of this regulation;

(2) An individualized treatment plan as described in COMAR 10.47.01.04 that shall:

(a) Include an individualized treatment plan updated every 180 days; and

(b) Be signed by the substance use disorder counselor and participant after completion of continuous treatment;

(3) The following services:

(a) Pharmacological interventions, including buprenorphine dosing, full and partial opiate agonist treatment medications to provide treatment, support, and recovery to opioid-addicted participants;

(b) Substance use disorder and related counseling as recommended in the individualized treatment plan;

(c) Medical services, including, but not limited to, those required to be provided by the Program in accordance with COMAR 10.47.02.11; and

(d) Ordering and administering non-narcotic drugs; and

(4) A discharge plan, which includes written recommendations to assist the participant with continued recovery efforts, as well as appropriate referral services.

G. Buprenorphine Maintenance Therapy service shall include:

(1) An individualized treatment plan as described in COMAR 10.47.01.04 that shall:

(a) Be completed and signed by the participant's substance use disorder counselor and the participant within 7 working days of the comprehensive assessment;

(b) Be updated every 90 days for the first year of treatment; and

(c) Include an individualized treatment plan updated every 180 days and signed by the substance use disorder counselor and participant after completion of continuous treatment;

(2) The following services:

(a) Pharmacological interventions, including buprenorphine dosing, full and partial opiate agonist treatment medications to provide treatment, support, and recovery to opioid-addicted participants;

(b) Substance use disorder and related counseling as recommended in the individualized treatment plan;

(c) Medical services, including, but not limited to, those required to be provided by the Program in accordance with COMAR 10.47.02.11; and

(d) Ordering and administering non-narcotic drugs; and

(3) A discharge plan, which includes written recommendations to assist the participant with continued recovery efforts, as well as appropriate referral services.

H. Ambulatory Detoxification service shall include:

(1) A Comprehensive substance use disorder assessment as described in §A of this regulation;

(2) An individualized treatment plan as described in COMAR 10.47.01.04 that shall include:

(a) An assessment of the participant's eligibility, using ASAM Criteria for Level I, Level II.1, or Level II.5;

(b) The participant's individual needs;

(c) Long-range and short-range treatment plan goals;

(d) Target dates for completion of treatment plan goals;

(e) Criteria for successful completion of treatment;

(f) Referrals to ancillary services, if needed; and

(g) Referral to recovery support services, if needed;

(3) The following services:

(a) Administration and monitoring of medication, including administration and monitoring of psychotropic medication by qualified staff, as necessary;

(b) Managing withdrawal symptoms;

(c) Motivating the individual to participate in an appropriate treatment program for alcohol or other drug dependence; and

(d) Monitoring of vital signs;

(4) A participant progress note added to the participant's record after each session; and

(5) A discharge plan, which includes written recommendations to assist the participant with continued recovery efforts, as well as appropriate referral services.

.06 Limitations.

A. The Program under this chapter does not cover the following:

(1) Community-based substance use disorder services not specified in Regulation [[.04]] .05 of this chapter;

(2)—(5) (proposed text unchanged)

(6) Services beyond the provider's scope of practice; [[and]]

(7) Services that are separately billed but included as part of another service[[.]]; and

(8) Buprenorphine Induction and Buprenorphine Maintenance Therapy services delivered by a participant's primary care provider which are the responsibility of the Managed Care Organization.

B. Providers may not be reimbursed by the Program for:

(1) (proposed text unchanged)

(2) More than one comprehensive substance use disorder assessment for a participant per provider per 12-month period unless [[the patient was discharged from treatment with that provider for more than 30 days]] there is a break in treatment over 30 calendar days;

(3) — (5) (proposed text unchanged)

(6) Level I group or individual counseling during the same week as a Level II.1 Intensive Outpatient treatment, Level II.5 Partial Hospitalization, Buprenorphine Induction, or Buprenorphine Maintenance Therapy service unless the participant has been discharged from or admitted to a new level of care:

(7) (proposed text unchanged)

(8) Opioid Maintenance Therapy during the same week as a [[Level I group counseling session, Level I individual counseling]] Level I group or individual counseling session, Level II.1 Intensive Outpatient treatment or Level II.5 [[Community-based]] Partial Hospitalization;

(9) Psychiatric day treatment [[program]] service as described in COMAR 10.09.02.01 or an intensive outpatient mental health [[program]] service on the same day as a Level II.1 Intensive Outpatient program or Level II.5 [[Community-based]] Partial Hospitalization program;

(10) Buprenorphine Induction during the same week as a Level I group or individual counseling session, Level II.1 Intensive Outpatient treatment, Level II.5 Partial Hospitalization or Opioid Maintenance Therapy;

(11) Buprenorphine Maintenance Therapy during the same week as a Level I group or individual counseling session, Level II.1 Intensive Outpatient treatment, Level II.5 Partial Hospitalization or Opioid Maintenance Therapy;

(12) Ambulatory detoxification during the same week as a Opioid Maintenance Therapy, Buprenorphine Induction, or Buprenorphine Maintenance;

[[(10)]] (13) — [[(15)]] (18) (proposed text unchanged)

C.—D. (proposed text unchanged)

.07 Authorization Requirements.

A. For services outlined in Regulation [[.04]] .05 of this chapter, the community-based substance use disorder program shall notify the ASO and obtain authorization to provide substance use disorder services from the ASO.

B. (proposed text unchanged)

C. No payment shall be rendered for services that have not been authorized by the Department or its designee.

.08 Payment Procedures.

A. General policies [[for]] governing payment procedures that are applicable to all providers are set forth in COMAR 10.09.36.04.

B—C. (proposed text unchanged)

D. Rates for the services outlined in this regulation shall be as follows:

(1)—(4) (proposed text unchanged)

(5) Level II.5 Partial Hospitalization — \$130 per diem; [[and]]

(6) Opioid Maintenance Therapy — \$80 per participant per week[[.]];

(7) Buprenorphine Induction — \$200 per participant per week;

(8) Buprenorphine Maintenance Therapy — \$75 per participant per week; and

(9) Ambulatory Detoxification — \$70 per diem.

E. In order to bill for an individual [[for]] in Level II.1 intensive outpatient treatment as described in §D(4) of this regulation, the per diem session shall include a minimum of 2 hours~~[[, but more frequently be composed of 3-hour sessions]]~~. A maximum of 4 per diems may be billed per week.

F. In order to bill for an individual [[for]] in Level II.5 partial hospitalization, the per diem session shall include a minimum of 2 hours. Providers may bill a maximum of 7 per diems per week.

G. The Department shall pay participating opioid maintenance therapy programs as described in §D(6) of this regulation, per [[patient]] participant, per week provided the participant has received at least one face-to-face documented treatment service in the week for which the Program is billed.

H. In order to bill for buprenorphine induction treatment for an individual in an opioid maintenance therapy program as described in §D(7) of this regulation, participating opioid maintenance therapy programs shall bill for this service in the first week of treatment per participant.

I. In order to bill for buprenorphine maintenance therapy for an individual in an opioid maintenance therapy program as described in §D(8) of this regulation, participating opioid maintenance therapy programs shall bill for this service per participant per week.

J. In order to bill for ambulatory detoxification treatment as described in §D(9) of this regulation, per diem, providers shall bill a maximum of 3 per diems per week, with an additional 2 days as necessary.

[[H.]] K. Services not authorized consistent with COMAR [[.10.09.80.07C]] 10.09.80.

[[I.]] L—[[J.]] M. (proposed text unchanged)

.10 Cause for Suspension or Removal and Imposition of Sanctions.

A. (proposed text unchanged)

[[B. If the Department determines that a provider, any agent or employee of the provider, or any person with an ownership interest in the provider has failed to comply with applicable federal or State laws or regulations, the Department may initiate one or more of the following actions against the responsible party:

(1) Suspension from the Program;

(2) Withholding of payment by the Program;

(3) Removal from the Program; or

(4) Disqualification from future participation in the Program, either as a provider or as a person providing services for which Program payment will be claimed.

C. If the Secretary of Health and Human Services suspends or removes a provider from participation in Medicare, the Department shall take similar action.

D. A provider who voluntarily withdraws from the Program or is removed or suspended from the Program according to this regulation

shall notify participants that it no longer honors medical assistance cards before it renders additional services.]]

[[E.]] B. (proposed text unchanged)

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

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.91 Hospital Presumptive Eligibility

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

Notice of Final Action

[14-296-F]

On December 2, 2014, the Secretary of Health and Mental Hygiene adopted new Regulations .01—.09 under a new chapter, **COMAR 10.09.91 Hospital Presumptive Eligibility**. This action, which was proposed for adoption in 41:20 Md. R. 1162—1164 (October 3, 2014), has been adopted as proposed.

Effective Date: December 22, 2014.

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

Subtitle 32 BOARD OF PHYSICIANS

10.32.06 Licensure of Polysomnographic Technologists

Authority: Health Occupations Article, §§14-205, 14-5C-10, 14-5C-14, and 14-5C-15, Annotated Code of Maryland

Notice of Final Action

[14-298-F]

On November 20, 2014, the Secretary of Health and Mental Hygiene adopted amendments to Regulations .04 and .07 under **COMAR 10.32.06 Licensure of Polysomnographic Technologists**. This action, which was proposed for adoption in 41:20 Md. R. 1164—1166 (October 3, 2014), has been adopted as proposed.

Effective Date: December 22, 2014.

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

Subtitle 32 BOARD OF PHYSICIANS

10.32.10 Licensure of Radiation Therapists, Radiographers, Nuclear Medicine Technologists, and Radiologist Assistants

Authority: Health Occupations Article, §§14-5B-01, 14-5B-03, and 14-5B-09, Annotated Code of Maryland

Notice of Final Action

[14-297-F]

On November 20, 2014, the Secretary of Health and Mental Hygiene adopted the repeal of existing Regulation .04 and new Regulations .04, .05, .05-1, and .05-2 under **COMAR 10.32.10 Licensure of Radiation Therapists, Radiographers, Nuclear Medicine Technologists, and Radiologist Assistants**. This action,

which was proposed for adoption in 41:20 Md. R. 1166—1168 (October 3, 2014), has been adopted as proposed.

Effective Date: December 22, 2014.

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

Subtitle 61 HEALTH ENTERPRISE ZONE INITIATIVE

10.61.01 Health Enterprise Zone Tax Credits

Authority: Health-General Article, Title 20, Subtitle 14; Tax-General Article, §10-731, Annotated Code of Maryland

Notice of Final Action

[14-257-F]

On December 1, 2014, the Secretary of Health and Mental Hygiene adopted amendments to Regulations .03 and .05 and adopted new Regulation .06 under **COMAR 10.61.01 Health Enterprise Zone Tax Credits**. This action, which was proposed for adoption in 41:18 Md. R. 1023—1024 (September 5, 2014), has been adopted as proposed.

Effective Date: December 22, 2014.

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

Title 11 DEPARTMENT OF TRANSPORTATION

Subtitle 03 MARYLAND AVIATION ADMINISTRATION

11.03.01 Baltimore/Washington International Thurgood Marshall Airport

Authority: Transportation Article, §§5-202, 5-204, 5-208, 5-805, 5-806, and 5-819, Annotated Code of Maryland

Notice of Final Action

[14-299-F]

On November 19, 2014, the Executive Director of the Maryland Aviation Administration adopted amendments to Regulations .01-1 and .12 under **COMAR 11.03.01 Baltimore/Washington International Thurgood Marshall Airport**. This action, which was proposed for adoption in 41:20 Md. R. 1168 (October 3, 2014), has been adopted as proposed.

Effective Date: December 22, 2014.

PAUL J. WIEDEFELD
Executive Director
Maryland Aviation Administration

Title 13A STATE BOARD OF EDUCATION

Subtitle 01 STATE SCHOOL ADMINISTRATION

13A.01.02 State Superintendent of Schools

Authority: Education Article, §§2-205(g), 2-303, 2-305, 5-301, 7-103, and 7-409, Annotated Code of Maryland

Notice of Final Action

[14-285-F]

On November 19, 2014, the State Superintendent of Schools adopted new Regulation .06 under **COMAR 13A.01.02 State Superintendent of Schools**. This action, which was proposed for adoption in 41:20 Md. R. 1172—1173 (October 3, 2014), has been adopted as proposed.

Effective Date: December 22, 2014.

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

Title 24 DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT

Subtitle 05 ECONOMIC DEVELOPMENT

24.05.26 Arts and Entertainment Districts

Authority: Economic Development Article, §§4-107—4-707, Annotated Code of Maryland

Notice of Final Action

[14-281-F]

On November 18, 2014, the Secretary of Business and Economic Development adopted amendments to Regulation .03 under **COMAR 24.05.26 Arts and Entertainment Districts**. This action, which was proposed for adoption in 41:20 Md. R. 1173 (October 3, 2014), has been adopted as proposed.

Effective Date: December 22, 2014.

DOMINICK MURRAY
Secretary of Business and Economic Development

Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 08 WATER POLLUTION

Notice of Final Action

[14-123-F]

On December 1, 2014, the Secretary of the Environment adopted amendments to:

(1) Regulation .09 under **COMAR 26.08.02 Water Quality**; and

(2) Regulation .01 under **COMAR 26.08.04 Permits**.

This action, which was proposed for adoption in 41:10 Md. R. 575—577 (May 16, 2014), has been adopted with the nonsubstantive changes shown below.

Effective Date: December 22, 2014.

Attorney General's Certification

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

COMAR 26.08.02.09.A(5)(e): This change restates the provision set forth at COMAR 26.08.02.09.A(5)(a) noting that the Department may deny the permit exemption during the 45 day review period.

26.08.02 Water Quality

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

.09 Water Quality Standards.

A. Discharge Approval Required.

(1) — (4) (proposed text unchanged)

(5) *The land application of food processing wastewater is exempt from the requirement to obtain a State discharge permit if the wastewater meets the Maryland Department of Agriculture (MDA) State Chemist Office requirements for registration as a soil conditioner, subject to the following conditions and exceptions:*

(a)—(d) (proposed text unchanged)

(e) *The Department may deny the permit exemption during the 45 day period or at any time choose to revoke a permit exemption provided under this section.*

B.—D. (proposed text unchanged)

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

Subtitle 17 WATER MANAGEMENT

26.17.06 Water Appropriation or Use

Authority: Environment Article, §§5-101, 5-204, and 5-501—5-516, Annotated Code of Maryland

Notice of Final Action

[13-339-F-I]

On December 1, 2014, the Secretary of the Environment adopted amendments to Regulation .01, new Regulation .04, amendments to and the recodification of existing Regulations .04 and .05 to Regulations .05 and .06, and the recodification of existing Regulations .06—.08 to be Regulations .07—.09 under **COMAR**

26.17.06 Water Appropriation or Use. This action, which was proposed for adoption in 40:22 Md. R. 1887—1890 (November 1, 2013), and repropoed in 41:19 Md. R. 1092—1094 (September 19, 2014), has been adopted as repropoed.

Effective Date: December 22, 2014.

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

Title 27

CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS

Notice of Final Action

[14-307-F]

On December 3, 2014, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays adopted:

- (1) Amendments to Regulation **.01** under **COMAR 27.01.01 General Provisions**;
- (2) Amendments to Regulation **.01** under **COMAR 27.02.01 General Provisions**; and
- (3) The repeal of existing Regulations **.01—.03** and adoption of new Regulations **.01—.03-3** under **COMAR 27.02.05 State Agency Actions Resulting in Development on State-Owned Land**.

This action, which was proposed for adoption in 41:21 Md. R. 1286—1290 (October 17, 2014), has been adopted as proposed.

Effective Date: December 22, 2014.

MARGARET G. McHALE
Chair
Critical Area Commission for the
Chesapeake and Atlantic Coastal Bays

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 03 COMPTROLLER OF THE TREASURY

Subtitle 06 SALES AND USE TAX

03.06.01 Sales and Use Tax

Authority: Tax-General Article, §§2-102, 2-103, 11-226, Annotated Code of Maryland.

Notice of Proposed Action

[13-431-R]

The Comptroller of the Treasury proposes to adopt new Regulation .44 under **COMAR 03.06.01 Sales and Use Tax**. Because substantive changes have been made to the original proposal as published in 40:26 Md. R. 2167—2168 (December 27, 2013), the action is being reproposed at this time.

Statement of Purpose

The purpose of this action is to provide guidance on sales of certain energy efficient equipment that qualifies for exemption from the sales and use tax during a specified weekend each year, to specify the annual exemption period, and to specify requirements for exemption.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Debora Gorman, Regulations Coordinator, Comptroller of the Treasury, 301 W. Preston St., Room #203, Baltimore, MD 21201, or call 410-767-1557, or email to dgorman@comp.state.md.us, or fax to 410-767-1310. Comments will be accepted through January 12, 2015. A public hearing has not been scheduled.

Ed. Note: Pursuant to State Government Article, §10-113, Annotated Code of Maryland, if a promulgating agency substantively alters the text of regulations that have been previously proposed in the Maryland Register, the altered text must be published in the Maryland Register as though it were initially proposed. The text of regulations appearing immediately below has been altered substantively from the initially proposed text.

Symbols: Roman type indicates existing text of regulations. *Italic* type indicates initially proposed new text. ***Arial Bold Italic*** type indicates new text that substantively alters the text as initially proposed. [Single brackets] indicate existing text proposed for repeal. [[[Triple brackets]]] indicate text proposed for deletion which substantively alters the originally proposed text.

.44 Tax-Free Weekend for Certain Energy Efficient Equipment.

A. Definitions.

(1) (originally proposed text unchanged)

(2) *Terms Defined.*

(a) (originally proposed text unchanged)

(b) “Energy Star product” means an air conditioner, clothes washer, clothes dryer, furnace, heat pump, standard size refrigerator, compact fluorescent light bulb, dehumidifier, boiler, or programmable thermostat that has been designated as meeting or exceeding the applicable Energy Star efficiency requirements developed by the U.S. Environmental Protection Agency and the United States Department of Energy and is authorized to carry the Energy Star label. **For the period July 1, 2014 through June 30, 2017, “Energy Star product” also means a light-emitting diode (LED) light bulb that meets or exceeds the same Energy Star efficiency criteria.**

(c)—(d) (originally proposed text unchanged)

B. (originally proposed text unchanged)

PETER FRANCHOT
Comptroller of the Treasury

Title 07 DEPARTMENT OF HUMAN RESOURCES

Subtitle 01 OFFICE OF THE SECRETARY

07.01.06 Citizens Review Board for Children

Authority: Family Law Article, §§5-535 – 5-547, Annotated Code of Maryland; Social Security Act, Title IV B and E; 42 U.S.C §[422] and 675

Notice of Proposed Action

[14-372-P]

The Secretary of Human Resources proposes to amend Regulations .02—.06 under COMAR 07.01.06 Citizens Review Board for Children.

Statement of Purpose

The purpose of this action is to amend the existing regulations to comply with the current criteria for reviewing cases of children who are in out-of-home placements in Maryland.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Andrea Shuck, Regulations Coordinator, Department of Human Resources, 311 West Saratoga Street, Room 249, Baltimore, MD 21201, or call 410-767-2149, or email to andrea.shuck@maryland.gov, or fax to 410-333-0637. Comments will be accepted through January 12, 2015. A public hearing has not been scheduled.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(4) (text unchanged)

(5) “Client Information System/[Foster Care and Adoption Child Tracking System]Maryland Children’s Electronic Social Services Information Exchange(CIS/[FACTS]CHESSIE)” means a component of the Department’s Client Information System.

(6)—(22) (text unchanged)

(23) “Residential treatment” means continuous 24-hour care and supportive services for a minor child placed in a facility that provides formal programs of basic care, social work, and health care services [as defined in COMAR 01.04.04].

(24)—(27) (text unchanged)

(28) “Termination of parental rights (TPR)” means the court has:

(a) Legally terminated the [parent’s] *parents’* rights and responsibilities for the child; and

(b) (text unchanged)

(29) Time-Limited Family Reunification Services.

(a) (text unchanged)

(b) “Time-Limited family reunification services” include the following services mandated by 42 U.S.C. §629a:

(i)—(iv) (text unchanged)

(v) Services designed to provide temporary child care [include respite care to families in crises]; and

(vi) (text unchanged)

(30) “Waiver of reunification services” means an order by the court waiving the requirements that reasonable efforts be made to reunite the child with the child’s parent or guardian as specified in Courts Judicial Proceedings Article, [§3-812.1] §3-812, Annotated Code of Maryland.

.03 State Board Responsibilities.

A. The State Board shall:

(1)—(3) (text unchanged)

(4) [Provide] *Review policies pertinent to training* [to] *of the local boards*;

(5) Review [and coordinate] *policies pertinent to the activities of the local boards*;

(6) [Write] *Review* and distribute the annual report;

(7) Make recommendations to the General Assembly, the Department, the Administration, and other relevant [body] *entities* concerning:

(a)—(b) (text unchanged)

(8) (text unchanged)

B. (text unchanged)

.04 Local Board Responsibilities.

A. The local board shall develop and adhere to local plans for citizen reviews which shall:

(1) Be developed through discussions with the local director and other partners as are mutually agreed upon by the local [boards] *board* and local department;

(2)—(3) (text unchanged)

B. [Schedule of Citizen Reviews.

(1) The local board shall schedule and conduct timely citizen reviews for children in out-of-home placements *as follows*:

[a] At least once:

(i) During the first 12 months after a child enters out-of-home placement;

(ii) Between the 15th and 24th month in out-of-home placement; and

(iii) Within the 25th to 30th months in out-of-home placement; and

(b) Every 6 months after the 30th month, when:

(i) A child is in permanent care;

(ii) The court has ceased the review; and

(iii) The local plan specifies that the review occurs.

(2) After the 30th month, when a child is not in permanent care, the local board shall have discretion to review the child’s case at least every 6 months.]

(1) *A full review shall be conducted at the request of a court, local department, local board or interested party;*

(2) *A follow-up review shall be conducted:*

(a) *During follow-up case reviews held during the last 3 months of the current fiscal year; and*

(b) *For a case in which the local board identifies barriers to adequate progress;*

- (3) *A targeted review shall be conducted:*
- (a) *For reunification cases, under the following circumstances:*
 - (i) *If a permanency plan has been established, for children 10 years of age or older that have been in care 12 months or longer; and*
 - (ii) *If a permanency plan was recently changed, for children 10 years of age or older;*
 - (b) *For adoption cases, under the following circumstances:*
 - (i) *If an existing adoption plan is in place, for children in care for over 12 months; and*
 - (ii) *In all cases where an adoption plan has been changed; and*
 - (c) *For Another Planned Permanency Living Arrangement (APPLA) cases:*
 - (i) *If an existing APPLA plan is in place, for children in care for 12 months or longer who are 16 years of age and younger;*
 - (ii) *For youth aging out of care between 17 and 20 years of age; and*
 - (iii) *If an APPLA plan has been newly established, for children in care for 12 months or longer; and*

- [(3)] (4) (text unchanged)
- C. The local board shall review cases from the entire out-of-home population according to the local plan which:
- (1) (text unchanged)
 - (2) Shall provide citizen reviews for [100 percent of the] children in foster care, group care, and residential treatment centers;
 - (3) [May provide for a citizen review of a sample of at least 10 percent of the unpaid kinship care population; and
 - (4)] Shall review siblings together [, notwithstanding the:] *when feasible.*
- [(a)] Time frames of §B of this regulation, and
 - [(b)] Provisions on reviews of kinship care in §C(3) of this regulation.]
- D.—G. (text unchanged)
- H. The local board shall advocate for removal of conditions or practices that are barriers to permanent placements, safety, and *the* well-being of children in out-of-home care.

.05 Procedures for Conducting the Citizen Review of Out-of-Home Placement.

- A.—B. (text unchanged)
- C. Regarding a waiver of reunification services, the local board shall:
 - (1) (text unchanged)
 - (2) Find whether the requirements of Courts and Judicial Proceedings Article, [§3-812.1] §3-812, Annotated Code of Maryland, and exceptions, apply; and
 - (3) (text unchanged)
- D.—I. (text unchanged)

.06 Responsibilities of the Local Department.

- The local department shall:
- A. Promptly and accurately enter all required data into CIS/[FACTS]CHESSIE;
 - B. Submit the names and addresses of interested individuals to CRBC at least [3 weeks] 20 working days before the review;
 - C. [Notify the local board’s staff assistant,]Submit a current court order and report to CRBC at least 20 working days before the scheduled review, of any interagency or intercounty involvement;
 - D. Submit a current signed service agreement to CRBC [the child’s case plan] at least [1 week] 20 working days before the local review board meeting;
 - E.—I. (text unchanged)
 - J. Provide appropriate space for the review meeting; and

K. (text unchanged)

TED DALLAS
Secretary of Human Resources

**Subtitle 02 SOCIAL SERVICES
ADMINISTRATION**

07.02.11 Out-of-Home Placement Program

Authority: Courts and Judicial Proceedings Article, §3-801, 3-802, 3-815, 3-816.1, 3-817, 3-819.1, 3-819.2, 3-820, and 3-823; Education Article, §7-101(b) and 15-106.1; Family Law Article, §5-501, 5-504, 5-524—5-534, 5-701, and 5-709; Human Services Article, §9-101 et seq. and Annotated Code of Maryland (Agency Note: Federal Regulatory Reference: 42 U.S.C. §§620 et seq., 670 et seq.; 45 CFR §205.10; 45 CFR §303.72; 45 CFR 1355—1357)

Notice of Proposed Action
[14-361-P]

The Secretary of the Department of Human Resources proposes to amend Regulation .12 under **COMAR 07.02.11 Out-of-Home Placement Program**.

Statement of Purpose

The purpose of this action is to revise COMAR 07.02.11.12, in order to recognize the rights that youth “awaiting foster care placement” have as set forth in the McKinney-Vento Act of 1987 and defined in COMAR 13A.05.09.02. In addition the revision will strengthen the language to require the local department of social services to seek input during the “best interest determination process” from persons who are able to contribute relevant information regarding the educational needs of the child.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Andrea Shuck, Regulations Coordinator, Department of Human Resources, 301 W. Saratoga Street, Room 265, Baltimore, MD 21201, or call 410-767-2149, or email to andrea.shuck@maryland.gov, or fax to 410-333-0637. Comments will be accepted through January 12, 2015. A public hearing has not been scheduled.

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

- A. (text unchanged)
- B. School Stability
 - (1) With respect to a child who is the custody of, committed to, or otherwise placed by the local department of social services in out-of-home placement, the local department shall determine whether it is in the child’s best interests to continue the child’s education at the school the child last attended prior to the most recent change in placement, *except for “a child awaiting foster care placement” as set forth in the McKinney-Vento Act of 1987 and defined in COMAR 13A.05.09.02.*
 - (2) (text unchanged)
 - (3) The local department of social services [may] shall make efforts to seek input from the child’s attorney, parent, parent

surrogate, legal guardian and other persons who are able to contribute relevant information to the best interests determination made under this section, *unless doing so will create undue delay in placement.*

(4) — (6) (text unchanged)

C. — L. (text unchanged)

TED DALLAS
Secretary of Human Resources

Subtitle 03 FAMILY INVESTMENT ADMINISTRATION

07.03.03 Family Investment Program

Authority: Human Services Article, §5-207 and Title 5, Subtitle 3, Annotated Code of Maryland; Ch. 469, Acts of 2009; *Public Law 112-96*

Notice of Proposed Action

[14-360-P]

The Secretary of Human Resources proposes to amend Regulation **.16** under **COMAR 07.03.03 Family Investment Program**.

Statement of Purpose

This regulation, in compliance with the federal Middle Class Tax Relief and Job Creation Act of 2012, prohibits Temporary Cash Assistance (TCA) recipients from using electronic benefit transfer (EBT) cards at any establishments whose primary purpose is gambling, adult entertainment, or the sale of liquor, wine, and beer. In addition, the regulation requires TCA recipients to sign a form developed by the Family Investment Administration acknowledging this prohibition and agreeing to abide by specified conditions.

Comparison to Federal Standards

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

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Andrea Shuck, Regulations Coordinator, Department of Human Resources, 311 W. Saratoga St., Room 265, Baltimore, MD 21201, or call 410-767-2149, or email to andrea.shuck@maryland.gov, or fax to 410-333-0637. Comments will be accepted through January 12, 2015. A public hearing has not been scheduled.

.16 Method of Payment.

A. — B. (text unchanged)

C. *In accordance with federal law, TCA recipients may not access their TCA benefits through their EBT cards or use their EBT cards at an automated teller machine (ATM) or point of sale (POS) machine in any establishment whose primary purpose is:*

(1) *Gambling, including, but not limited to, a casino, a business containing slot machines, race tracks, or off-track betting businesses;*

(2) *Adult entertainment in which individuals disrobe for an audience, including, but not limited to, strip clubs, adult clubs, or online pornography; or*

(3) *The sale of liquor, wine, and beer, including, but not limited to, liquor stores, bars, or package good stores.*

D. *Applicants and recipients must sign a form developed by the Family Investment Administration indicating that they understand the prohibition in §C of this regulation and agree to abide by the conditions of this regulation, including the following:*

(1) *A recipient who violates the requirements of this regulation the first time shall receive a warning that the recipient's access to TCA benefits on the EBT card is in danger of being revoked;*

(2) *A recipient in violation a second time shall have the access to TCA benefits on the EBT card revoked for a minimum of 1 year;*

(3) *A recipient in violation a third time shall have the access to TCA benefits on the EBT card revoked permanently;*

(4) *Recipients whose access to TCA benefits on the EBT cards has been revoked shall be required to provide checking or savings account information to the Family Investment Administration or EBT staff for direct deposit of their assistance benefits;*

(5) *TCA recipients not able to provide checking or savings account information shall be issued a paper check;*

(6) *Cash benefits on direct deposit may not be replaced if lost or stolen;*

(7) *Paper checks mailed to customers may be replaced one time when the customer reports the check was not received or it was stolen, within 30 days of issuance; and*

(8) *A recipient who is requesting a replacement TCA paper check because of theft shall provide a police report of the theft.*

[C.] E. — [J.] L. (text unchanged)

TED DALLAS
Secretary of Human Resources

Title 08 DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.01 General

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

Notice of Proposed Action

[14-382-P]

The Secretary of Natural Resources proposes to amend Regulation **.05** under **COMAR 08.02.01 General**.

Statement of Purpose

The purpose of this action is to modify the number of commercial fishing license authorization targets. The proposed action makes modifications to the authorization targets to reflect the number of tidal fish license conversions and the number of licenses the Department purchased from license holders up to April 1, 2014. It does not include changes or conversions made in the 2014—2015 license year. Prior to September 1, 2012, a licensee could convert (upgrade) multiple authorizations to an unlimited tidal fish license (UTFL). The law changed and upgrades are no longer allowed; however the law now allows the conversion (downgrade) of a UTFL into its individual component authorizations. Downgrading a UTFL decreases the UTFL target and increases the target of each license type that is included in a UTFL (resident fishing guide (FGR), unlimited finfish harvester (FIN), crab harvester 300 pot (CB3), clam harvester (CLM), oyster harvester (OYH), oyster dredge boat (ODB), and conch turtle lobster (CTL)). The number and type of authorizations involved in an upgrade to a UTFL, a downgrade of a

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UTFL, and those purchased by the Department provide the basis for changes to the license authorization target levels.

During the 2011/2012 license renewal period, there were 24 upgrades to a UTFL. The authorizations relinquished in order to upgrade to the UTFL consisted of 4 FGR, 16 finfish hook and line (HLI), 8 FIN, 24 limited crab harvester (LCC), 1 CB3 and 21 OYH.

During the 2012/2013 license renewal period, there were 37 upgrades to a UTFL. The authorizations relinquished in order to upgrade to the UTFL consisted of 8 FGR, 22 HLI, 10 FIN, 35 LCC (34 LCC and 1 male only LCC), 2 CB3, 3 CLM and 31 OYH. Also, during the 2012/2013 license renewal period, 4 individuals downgraded their UTFL which decreased the UTFL target and increased the targets for the license types included in the UTFL.

During the 2013/2014 license renewal period, 6 individuals downgraded their UTFL. Applicants could choose which license components of the UTFL they wanted to retain. In summary, the UTFL number is decreased by 6 and the number for FIN, CLM, OYH, ODB, and CTL is increased by 6 each, FGR increased by 5, FGN increased by 1, CB3 increased by 3, and LCC increased by 2.

The license buyback program occurred during 2010, 2011 and 2012. During that period the Department purchased a total of 683 LCC, 11 CB3, 5 CB6, 9 CB9 and 97 UTFL authorizations from license holders. Most of the buybacks have been accounted for in previous regulation packages. The proposed action increases the LCC target by 5 because the previous regulation proposals were incorrect due to being proposed prior to final calculations. Previous regulation proposals only account for 82 of the UTFL and 9 of the CB3 buybacks. The proposed action decreases the UTFL target by 15 and the CB3 by 2 in order to capture all of the authorizations that were purchased.

The target for the crab harvester 600 pot (CB6) and crab harvester 900 pot (CB9) was set on September 1, 1998 based on the number of authorizations at that time. Based on that criterion, the target for CB6 was 225 and the target for CB9 was 404. That number was not previously included in the regulation. During the license buyback period, 5 CB6 and 12 CB9 authorizations were bought back by the Department. The proposed action includes the revised number for those authorizations in the table so that all authorization targets are in one location.

The proposed action creates a category for LCC licenses that have been designated as male only (LCCM). This license type was created by regulation in 2010. At the time, there were a total of 489 LCCs designated as male only licenses. The target has been adjusted by subtracting license buybacks (27) and upgrades (1) and is proposed in this regulation.

The proposed action shows the target number for each authorization available after all of the additions and subtractions. The targets are correct as of April 1, 2014. References to the apprenticeship program have been removed in this action since the apprenticeship program was removed from the Natural Resources Code in 2012. The Tidal Fisheries Advisory Commission was consulted regarding these changes at their July 2014 meeting.

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 License Target 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@maryland.gov, or fax to 410-260-8310. Comments will be accepted through January 12, 2015. A public hearing has not been scheduled.

.05 Targets for the Number of Tidal Fish License Authorizations and Apprenticeship Permits.

A. The targets for the number of tidal fish license authorizations issued by the Department are the number of authorizations issued between September 1, 1998, and March 31, 1999, including adjustments made annually according to specifications listed in §B of this regulation, listed by the following categories:

Abbreviation	Authorization	Number
FGR	Fishing Guide Resident	[474] 471
FGN	Fishing Guide Nonresident	[56] 57
HLI	Finfish—Hook and Line	[282] 244
FIN	Unlimited Finfish Harvester	[261] 253
LCC	Limited Crab Harvester	[3,082] 2,598
LCCM	Limited Crab Harvester—Male Only	461
CB3	Crab Harvester—300 Pots	[249] 252
CB6	Crab Harvester—600 Pots	220
CB9	Crab Harvester—900 Pots	392
CLM	Clam Harvester	[14] 21
OYH	Oyster Harvester	[728] 686
ODB	Oyster Dredge Boat	[3] 13
CTL	Conch, Turtles, and Lobster Harvester	[10] 20
TFL	Unlimited Tidal Fish	[2,074] 2,110

B. The targets for the number of tidal fish licenses may be modified based on:

(1)—(4) (text unchanged)

(5) The number of license conversions made in accordance with Natural Resources Article, [§4-701(k)] §4-701(m), Annotated Code of Maryland; and

(6) (text unchanged)

C. Except for authorizations relinquished for conversions made in accordance with Natural Resources Article, §4-701, Annotated Code of Maryland, authorizations that are revoked or voluntarily relinquished to the Department may be reallocated to individuals [who have completed the criteria for the tidal fish license apprenticeship program] on the commercial license waiting list maintained by the Department.

[D.] — [I.] (proposed for repeal)

JOSEPH P. GILL
Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

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

Authority: Natural Resources Article, §§4-220 and 4-701, Annotated Code of Maryland

Notice of Proposed Action
[14-357-P]

The Secretary of Natural Resources proposes to amend Regulations .03, .05, .07, and .08 under **COMAR 08.02.13 Fishing Licenses — Point Assignment, License Revocation and Suspension Schedule and Criteria, and Hearing Procedure**.

Statement of Purpose

The purpose of this action is to make annual changes to the commercial, recreational, and charter penalty schedules. These changes were made after consultation with the Sport Fisheries Advisory Commission (SFAC) and Tidal Fisheries Advisory Commission (TFAC) joint Penalty Workgroup and Department staff. The changes are intended to improve the current penalty system and provide adequate deterrence to prevent illegal activities.

For the commercial penalty schedule, this action removes a duplicated entry regarding clam dredging violations, adds violations of striped bass check-in requirements in Tier I, and reduces the number of nuisance or prohibited species required to trigger a Tier VI violation from ten to five.

For the recreational penalty schedule, this action adds 30-day suspensions for the use of crab pots without turtle reduction devices and failure to register recreational crab pots. This action adds 90-day suspensions for violations of crabbing trotline length, sale and possession of river herring (2—4 fish), possession of striped bass between midnight and 5am, and the use of illegal gear in both nontidal and tidal waters, excluding projectile gears. Also in the 90-day suspension category, the action reduces the number of undersized fish or number of fish over the daily creel limit for most fish species in tidal waters from 4—10 fish to 4—6 fish. The action adds 180-day suspensions for the possession or sale of river herring (5—10 fish), 7—10 fish over the daily creel limit or undersized fish for most tidal species, and targeting striped bass in a closed area. Also in the 180-day suspension category, the action corrects authority citations for nontidal violations and removes duplicative nontidal violations. Finally, the action adds 365-day suspensions for any Lacey Act violation, fishing or crabbing on a suspended or revoked license, harvesting oysters on closed areas, reserved areas, or sanctuaries, possession or sale of river herring (11 or more fish), and projectile gear violations in both nontidal and tidal waters, in addition to reducing the number of nuisance or prohibited species that will incur a violation from 10 to 5.

For the charter penalty schedule, this action adds possession or sale of river herring to Tiers I (1 fish), II (2 fish), and III (3 or more fish). In Tier IV, this action adds violation of crabbing trotline length, possession of striped bass between midnight and 5am, and all gear violations in tidal and nontidal waters, excluding projectile gears. In Tier V, this action adds targeting striped bass in a closed area. In Tier VI, this action adds Lacey Act misdemeanors, failure to obtain a crabbing charter decal, and projectile gear violations in both tidal and nontidal waters, in addition to reducing the number of nuisance and prohibited species that will incur a violation from 10 to 5. The action also creates Tier VII, which would apply 35 points to a license holder, making them eligible for revocation, for Lacey Act felonies.

This action also makes grammatical, spelling, and citation corrections.

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 an economic impact, although the extent of that impact is indeterminable.

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	(-)	Indeterminable
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

D. The proposed action may have a negative impact on licensees who are suspended or revoked based on committing one of the listed offenses. However, it is not possible to determine the number of individuals who may violate the listed laws, nor is it possible to determine to what extent the suspension or revocation would economically impact the individual or individuals.

Economic Impact on Small Businesses

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

The proposed regulation may have a meaningful economic impact on small businesses which violate the law and are therefore suspended or revoked from their commercial fishing activities. It is not possible to predict how many businesses will violate the law and therefore receive suspensions or revocations, or to what extent such suspension or revocation would economically impact those 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 Penalty 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@maryland.gov, or fax to 410-260-8310. Comments will be accepted through January 12, 2015. A public hearing has not been scheduled.

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.03 Point Assignment Schedule.

A. — B. (text unchanged)

C. Tier I. The following violations are Tier I violations. A person who receives a conviction for a Tier I violation receives 5 points.

	Statute or Regulation	Description
1—15	(text unchanged)	
[16	4-1037(1)	Using a Hydraulic Clam Dredge to Catch Soft Shell Clams Within 150 Feet of a Natural Oyster Bar or Leased Oyster Area]
[17] 16—[24] 23		
[25	4-1007, COMAR 08.02.02.12B, COMAR 08.02.07.03C	Harvesting clams within 150 feet of a (a) natural oyster bar, (b) leased area, (c) public shellfish fishery area, or (d) sanctuary]
[26] 24—[46] 44	(text unchanged)	
45	COMAR 08.02.15.05D	Violating Requirements Pertaining to Striped Bass Check-In
[47] 46—[69] 68	(text unchanged)	

D. Tier II. The following violations are Tier II violations. A person who receives a conviction for a Tier II violation receives 10 points.

	Statute or Regulation	Description
1—7	(text unchanged)	
8	4-1037(1), COMAR 08.02.02.12B, COMAR 08.02.07.03C	Harvesting clams within 150 feet of a: (a) Natural oyster bar; (b) Leased area; (c) Public shellfish fishery area; or (d) Oyster sanctuary
9—26	(text unchanged)	

E. Tier III. The following violations are Tier III violations. A person who receives a conviction for a Tier III violation receives 15 points.

	Statute or Regulation	Description
1—11	(text unchanged)	
12	4-1037(1), COMAR 08.02.02.12B, COMAR 08.02.07.03C	Using a Hydraulic Clam Dredge to Catch Soft Shell Clams on a: [Natural Oyster Bar or a Leased Oyster Area] (a) Natural oyster bar; (b) Leased area; (c) Public shellfish fishery area; or (d) Oyster sanctuary
13—29	(text unchanged)	

F—G. (text unchanged)

H. Tier VI. The following violations are Tier VI violations. A person who receives a conviction for a Tier VI violation receives 30 points.

	Statute or Regulation	Description
1—10	(text unchanged)	
11	4-205.1, COMAR 08.02.19	Possession of Nuisance or Prohibited Species — [10] 5 or more

I. Tier VII. The following violations are Tier VII violations. A person who receives a conviction for a Tier [VI] VII violation receives 35 points.

1—2	(text unchanged)	
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J. (text unchanged)

.05 Recreational Fishing Suspension and Revocation.

A.—C. (text unchanged)

D. A person who receives one of the following violations may be suspended for up to 30 days.

	Statute or Regulation	Description
(1)—(2)	(text unchanged)	
(3)	COMAR 08.02.03.07B	Use of Crab Pot Without Turtle Reduction Device
(4)	COMAR 08.02.03.07D	Failure to Register Crab Pots
[(3)] (5)	(text unchanged)	

E. A person who receives one of the following violations may be suspended for up to 90 days.

	Statute or Regulation	Description
(1)	COMAR 08.02.03.03	Violation of Trotline Length Restrictions
[(1)] (2)—[(7)] (8)	(text unchanged)	
(9)	COMAR 08.02.05.09	Possession or sale of River Herring: 2—4 fish

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[(8)] (10)	COMAR 08.02.05.10A	Size Limits — Bluefish: 4—[10] 6 fish
[(9)] (11)	COMAR 08.02.05.10B	Daily Catch Limits — Bluefish: 4—[10] 6 fish over daily catch limit
[(10)] (12)	[COMAR 08.02.05.12A(1)] COMAR 08.02.05.12A	Size Limits — Summer Flounder: 2—4 fish
[(11)] (13)	[COMAR 08.02.05.12A(2)] COMAR 08.02.05.12A	Daily Catch Limits — Summer Flounder: 2—4 fish over daily catch limit
[(12)] (14)	COMAR 08.02.05.13A(1) [(2)]	Size Limits — [Weakfish and] Spotted [Seatrout] Sea Trout: 4—[10] 6 fish
[(13)] (15)	COMAR 08.02.05.13B	Daily Catch Limits — [Weakfish or] Spotted Sea Trout: 4—[10] 6 fish over daily catch limit
(16)	COMAR 08.02.05.13A(2)	Size Limits — Weakfish: 4—6 fish
(17)	COMAR 08.02.05.13B	Daily Catch Limits — Weakfish: 4—6 fish over daily catch limit
[(14)] (18)	COMAR 08.02.05.14A	Size Limits — Spanish Mackerel: 4—[10] 6 fish
[(15)] (19)	COMAR 08.02.05.14B	Daily Catch Limits — Spanish Mackerel: 4—[10] 6 fish over daily catch limit
[(16)] (20)— [(19)] (23)	(text unchanged)	
[(20)] (24)	COMAR 08.02.05.18A(1)	Size Limits — Croaker: 4—[10] 6 fish
[(21)] (25)	COMAR 08.02.05.18B	Daily Catch Limit — Croaker: 4—[10] 6 fish over daily catch limit
[(22)] (26)	4-734, 4-735, COMAR 08.02.05.19A	Size Limits — Black Bass (Largemouth and Smallmouth): 4—[10] 6 fish
[(23)] (27)	COMAR 08.02.05.19B	Daily Catch Limit — Black Bass (Largemouth and Smallmouth): 4—[10] 6 fish over daily catch limit
[(24)] (28)	COMAR 08.02.05.20A(1)	Size Limits — Tautog: 4—[10] 6 fish
[(25)] (29)	(text unchanged)	
[(26)] (30)	COMAR 08.02.05.20C	Possession Limit — Tautog: 4—[10] 6 fish over daily catch limit
[(27)] (31)	[COMAR 08.02.05.21A(1)] COMAR 08.02.05.21A	Size Limits — Black Sea Bass: 4—[10] 6 fish
[(28)] (32)	[COMAR 08.02.05.21A(2)] COMAR 08.02.05.21A	Catch Limits — Black Sea Bass: 4—[10] 6 fish over daily catch limit
[(29)] (33)	COMAR 08.02.05.22A(1)	Size Limits — Scup — Recreational: 4—[10] 6 fish
[(30)] (34)	COMAR 08.02.05.22C(3)	Catch Limit — Scup: 4—[10] 6 fish over limit
[(31)] (35)	COMAR 08.02.05.28A(1)	Size Limits — Walleye: 4—[10] 6 fish
[(32)] (36)	COMAR 08.02.05.28C(2)	Catch Limits — Walleye: 4—[10] 6 fish over daily catch limit
[(33)] (37)— [(42)] (46)	(text unchanged)	
(47)	COMAR 08.02.15.12B	Possession of Striped Bass Between Midnight and 5 a.m.
[(43)] (48)— [(44)] (49)	(text unchanged)	
[(45)] (50)	COMAR 08.02.21.02B	Size Limits — Yellow Perch: 4—[10] 6 fish
[(46)] (51)	(text unchanged)	
[(47)] (52)	COMAR 08.02.21.02C	Daily Catch Limit— Yellow Perch: 4—[10] 6 fish over daily catch limit
(53)	COMAR 08.02.25.02A—E and G	Use of Illegal Gear in Nontidal Waters
(54)	COMAR 08.02.25.03 A—E and G	Use of Illegal Gear in Tidal Waters

F. A person who receives one of the following violations may be suspended for up to 180 days.

	Statute or Regulation	Description
(1)—(6)	(text unchanged)	
(7)	COMAR 08.02.05	Season Violations — Finfish — Tidal Waters: 6—9 Fish
(8)	COMAR 08.02.05.05	Possession or sale of American Shad: 5—10 fish
(9)	COMAR 08.02.05.06	Possession or sale of Hickory Shad: 5—10 fish
(10)	COMAR 08.02.05.09	Possession or sale of River Herring: 5—10 fish
(11)	COMAR 08.02.05.10A	Size Limits — Bluefish: 7—10 fish
(12)	COMAR 08.02.05.10B	Daily Catch Limits — Bluefish: 7—10 fish over daily catch limit
(13)	COMAR 08.02.05.12A	Size Limits — Summer Flounder: 5—10 fish
(14)	COMAR 08.02.05.12A	Daily Catch Limits — Summer Flounder: 5—10 fish over daily catch limit
(15)	COMAR 08.02.05.13A(1)	Size Limits — Spotted Sea Trout: 7—10 fish
(16)	COMAR 08.02.05.13B	Daily Catch Limits — Spotted Sea Trout: 7—10 fish over daily catch limit
(17)	COMAR 08.02.05.13A(2)	Size Limits — Weakfish: 7—10 fish
(18)	COMAR 08.02.05.13B	Daily Catch Limits — Weakfish: 7—10 fish over daily catch limit

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(19)	COMAR 08.02.05.14A	Size Limits — Spanish Mackerel: 7—10 fish
(20)	COMAR 08.02.05.14B	Daily Catch Limits — Spanish Mackerel: 7—10 fish over daily catch limit
(21)	COMAR 08.02.05.18A(1)	Size Limits — Croaker: 7—10 fish
(22)	COMAR 08.02.05.18B	Daily Catch Limit — Croaker: 7—10 fish over daily catch limit
(23)	COMAR 08.02.05.19A	Size Limits — Black Bass (Largemouth and Smallmouth): 7—10 fish
(24)	COMAR 08.02.05.19B	Daily Catch Limit — Black Bass (Largemouth and Smallmouth): 7—10 fish over daily catch limit
(25)	COMAR 08.02.05.20A(1)	Size Limits — Tautog: 7—10 fish
(26)	COMAR 08.02.05.20A(2)	Possessing Tautog in December: 5—10 fish
(27)	COMAR 08.02.05.20C	Possession Limit — Tautog: 7—10 fish over daily catch limit
(28)	COMAR 08.02.05.21A	Size Limits — Black Sea Bass: 7—10 fish
(29)	COMAR 08.02.05.21A	Catch Limits — Black Sea Bass: 7—10 fish over daily catch limit
(30)	COMAR 08.02.05.22A(1)	Size Limits — Scup — Recreational: 7—10 fish
(31)	COMAR 08.02.05.22C(3)	Catch Limit — Scup: 7—10 fish over limit
(32)	COMAR 08.02.05.28A(1)	Size Limits — Walleye: 7—10 fish
(33)	COMAR 08.02.05.28C(2)	Catch Limits — Walleye: 7—10 fish over daily catch limit
[(7)] (34)— [(10)] (37)	(text unchanged)	
[(11)] (38)	COMAR [08.02.11.03A(2)(a)(i)] 08.02.11.01C	Possession of Trout While Fishing in a Catch and Return Area
[(12)] (39)	COMAR [08.02.11.03F] 08.02.11.01G	Keeping/Possessing Trout in Delayed Harvest Areas During Prohibited Times
[(13)] (40)	COMAR [08.02.11.03K] 08.02.11.03B	Possession of Bass in Catch-and-Return Bass Areas
[(14)] (41)	COMAR [08.02.11.03L] 08.02.11.01H	Creel Limit Violations in Zero Creel Limit for Brook Trout Fishing Areas
[(15)]	COMAR 08.02.11.04C(1)(d) and (e)	Taking/Possessing Bass During Closed Season
(16)	COMAR 08.02.11.04C(2)(a)(i)	Exceeding Trout Creel Limits in Put and Take Areas
(17)	COMAR 08.02.11.04C(2)(a)(ii)	Exceeding Trout Creel Limits in Other Areas]
[(18)] (42)	COMAR [08.02.11.04C(1)(a)—(n)] 08.02.11.04A(1)	Season Violations — Nontidal Waters
[(19)] (43)	COMAR [08.02.11.04C(2)(a)—(t)] 08.02.11.04A(2)	Exceeding Daily Catch or Possession Limits — Nontidal
(44)	COMAR 08.02.15.03D	Targeting Striped Bass in Closed Area
[(20)] (45)—[(31)] (56)	(text unchanged)	
[(32)]	COMAR 08.02.05	Season Violations — Finfish — Tidal Waters: 6—9 Fish
(33)	COMAR 08.02.05.05	Possession or sale of American Shad: 5—10 fish
(34)	COMAR 08.02.05.06	Possession or sale of Hickory Shad: 5—10 fish
(35)	COMAR 08.02.05.12A(1)	Size Limits — Summer Flounder: 5—10 fish
(36)	COMAR 08.02.05.12A(2)	Daily Catch Limits — Summer Flounder: 5—10 fish over daily catch limit
(37)	COMAR 08.02.05.20A(2)	Possessing Tautog in December: 5—10 fish]

G. A person who receives one of the following violations may be suspended for up to 365 days.

	Statute or Regulation	Description
(1)—(2)	(text unchanged)	
(3)	4-205.1, COMAR 08.02.19	Possession of a Nuisance or Prohibited Species — [10] 5 or More
(4)—(5)	(text unchanged)	
(6)	4-220, COMAR 08.02.13.05A	Fishing or Crabbing While Suspended or Revoked
[(6)] (7)—[(12)] (13)	(text unchanged)	
(14)	4-1009.1, 4-1014, 4-1014.1, 4-1014.2, 4-1014.3, 4-1105, COMAR 08.02.04.13, COMAR 08.02.04.14, COMAR 08.02.04.15	Harvesting Oysters on Closed Areas, Reserved Areas, or Sanctuaries
[(13)] (15) — [(18)] (20)	(text unchanged)	
[(19)] (21)	COMAR 08.02.03.14	Possession of Undersized Hard [Crabs:21] Crabs: 21 or more per bushel
[(20)]	COMAR 08.02.05.01A	Unlawfully Fishing with a Spear Gun
(21)	COMAR 08.02.05.01B	Unlawfully Fishing with a Bow and Arrow
(22)	COMAR 08.02.05.01C	Fish Snagging — Tidal Waters]
[(23)] (22)	COMAR 08.02.05.05	[Possessing] Possession or Sale of American Shad: 11 or more fish
[(24)] (23)	COMAR 08.02.05.06	[Possessing] Possession or Sale of Hickory Shad: 11 or more fish

(24)	COMAR 08.02.05.09	Possession or Sale of River Herring: 11 or more fish
(25)—(37)	(text unchanged)	
(38)	COMAR 08.02.05.16A(2)	Daily Catch [Limit] <i>Limit</i> — Red Drum: 3 or more fish over daily catch limit
(39)—(77)	(text unchanged)	
(78)	COMAR [08.02.11.03F] 08.02.11.01G	Using or Possessing Illegal Gear in Delayed Harvest Areas
(79)—(106)	(text unchanged)	
(107)	COMAR 08.02.25.02F	Projectile Gear Violation in Nontidal Waters
(108)	COMAR 08.02.25.03F	Projectile Gear Violation in Tidal Waters
(109)	16 U.S.C. § 3371-3378	Any Lacey Act Violation

H.—L. (text unchanged)

.07 Commercial Charter Boat and Fishing Guide License Suspension Schedule.

A. A person guiding fishing parties in Maryland in any capacity shall be notified that their tidal fish license, authorization, or entitlement to guide fishing parties may be subject to suspension or revocation whenever that fishing guide has been convicted for violating any of the provisions described in Regulation [.08D—G] .08D—J of this chapter.

B.—D. (text unchanged)

E. Suspension and Revocation Schedule.

(1) The suspension and revocation schedule in §C(3) of this regulation establishes the maximum number of days that a fishing guide’s tidal fish license, authorization, or entitlement to guide fishing parties may be suspended or revoked through the accumulation of points. A lesser penalty may be imposed at the Department’s discretion if the circumstances warrant it, to include

consideration of the fishing guide’s disciplinary record and the fishing guide’s agreement to comply with any conditions that the Department may reasonably require.

(2) — (5) (text unchanged)

F.—G. (text unchanged)

.08 Charter Boat/Fishing Guide Point Assignment Schedule.

A. For each conviction of a chargeable violation listed in §§D—[I] J of this regulation, the Department shall enter on the record of a fishing guide the number of points listed for that particular offense. Points accumulated under this regulation only apply to the entitlement to guide fishing parties or suspension or revocation of a tidal fish license or authorization to guide fishing parties.

B. The number of points specified in §§D—[I] J of this regulation shall be assessed against a fishing guide for each conviction.

C. (text unchanged)

D. Tier I. The following violations are Tier I violations. A fishing guide who receives a conviction for a Tier I violation receives 5 points.

	Statute or Regulation	Description
(1)—(7)	(text unchanged)	
(8)	COMAR 08.02.05.09	Possession or Sale of River Herring: 1 fish
[(8)] (9)—[(42)] 43	(text unchanged)	

E. Tier II. The following violations are Tier II violations. A fishing guide who receives a conviction for a Tier II violation receives 10 points.

	Statute or Regulation	Description
(1)—(21)	(text unchanged)	
(22)	COMAR 08.02.05.09	Possession or Sale of River Herring: 2 fish
[(22)] (23)—[(48)] (49)	(text unchanged)	

F. Tier III. The following violations are Tier III violations. A fishing guide who receives a conviction for a Tier III violation receives 15 points.

	Statute or Regulation	Description
(1)—(12)	(text unchanged)	
(13)	COMAR 08.02.05.05	[Possessing] Possession or Sale of American Shad: 3 or more fish
(14)	COMAR 08.02.05.06	[Possessing] Possession or Sale of Hickory Shad: 3 or more fish
(15)	COMAR 08.02.05.09	Possession or Sale of River Herring: 3 or more fish
[(15)] (16)—[(87)] (88)	(text unchanged)	

G. Tier IV. The following violations are Tier IV violations. A fishing guide who receives a conviction for a Tier IV violation receives 20 points.

	Statute or Regulation	Description
(1)	COMAR 08.02.03.03	Violation of Trotline Length Restrictions
[(1)] (2)	(text unchanged)	
(3)	COMAR 08.02.15.12B	Possession of Striped Bass Between Midnight and 5 a.m.

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(4)	COMAR 08.02.25.02A—E and G	Gear Violation in Nontidal Waters
(5)	COMAR 08.02.25.03 A—E and G	Gear Violation in Tidal Waters

H. Tier V. The following violations are Tier V violations. A fishing guide who receives a conviction for a Tier V violation receives 25 points.

	Statute or Regulation	Description
(1)	(text unchanged)	
(2)	COMAR 08.02.15.03D	Targeting Striped Bass in Closed Area

I. Tier VI. The following violations are Tier VI violations. A fishing guide who receives a conviction for a Tier VI violation receives 30 points.

	Statute or Regulation	Description
(1)	(text unchanged)	
(2)	4-205.1, COMAR 08.02.19	Possession of a Nuisance or Prohibited Species — [10] 5 or More
(3)—(11)	(text unchanged)	
(12)	COMAR 08.02.03.15D	Failure to Obtain Crabbing Charter Decal
[(12)] (13)—[(48)] (49)	(text unchanged)	
(50)	COMAR 08.02.25.02F	Projectile Gear Violation in Nontidal Waters
(51)	COMAR 08.02.25.03F	Projectile Gear Violation in Tidal Waters
(52)	16 U.S.C. § 3371-3378	Lacey Act Violation (Misdemeanor)

J. Tier VII. The following violations are Tier VII violations. A fishing guide who receives a conviction for a Tier VII violation receives 35 points.

	Statute or Regulation	Description
(1)	16 U.S.C. § 3371-3378	Lacey Act Violation (Felony)

JOSEPH P. GILL
Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.22 Sharks

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

Notice of Proposed Action

[14-373-P]

The Secretary of Natural Resources proposes to amend Regulation .03 under **COMAR 08.02.22 Sharks**.

Statement of Purpose

The purpose of this action is to address language regarding permitting in the commercial shark fishery. Upon guidance by the National Oceanographic and Atmospheric Administration (NOAA), there is no requirement to have a federal permit for a harvester licensed by the state of Maryland to commercially fish for sharks in State waters. A licensed Maryland fisherman must still sell the sharks to a federally permitted dealer, and anyone commercially harvesting in the Exclusive Economic Zone (EEZ) between 3 and 200 miles offshore of the coast must also be federally permitted. This action also addresses commercial catch limits, clarifying that a harvester with a federal shark permit may not catch more sharks than on his federal permit, but that a harvester without a federal shark permit does not have a catch limit when harvesting in State waters. Current regulatory text is confusing because it does not address catch limits for commercial harvesters who do not have federal shark permits. This action will not increase harvest pressure on sharks in State waters as commercial licensees without federal permits were already allowed to commercially harvest sharks in State waters without a permit.

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 Shark 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@maryland.gov, or fax to 410-260-8310. Comments will be accepted through January 12, 2015. A public hearing has not been scheduled.

.03 Commercial Fishery.

A.—B. (text unchanged)

C. Catch Limits. An individual *who has been issued a federal shark permit issued under 50 CFR §635* may not harvest, possess, or land more sharks than authorized by the individual's federal shark permit.

D. (text unchanged)

E. General.

(1) Prior to harvesting *or landing* a shark for commercial purposes, an individual shall[:

(a) Be] *be* authorized in accordance with Natural Resources Article, §4-701, Annotated Code of Maryland.]; and

(b) Obtain an appropriate shark permit from the National Oceanic and Atmospheric Administration.]

(2) *A vessel which is used to catch, possess, or land any shark species listed in §A of this regulation for commercial purposes from the waters of the federal Exclusive Economic Zone (EEZ) of the*

Atlantic Ocean, which are defined as those ocean waters between 3 and 200 miles offshore, shall be permitted by the National Marine Fisheries Service in accordance with 50 CFR §635.

[(2)] (3)—[(6)] (7) (text unchanged)

JOSEPH P. GILL
Secretary of Natural Resources

Subtitle 18 BOATING — SPEED LIMITS AND OPERATION OF VESSELS

08.18.37 Department Managed Lakes

Authority: Natural Resources Article, §§8-703 and 8-704, Annotated Code of Maryland

Notice of Proposed Action

[14-381-P]

The Secretary of Natural Resources proposes to amend Regulations .01—.04 under COMAR 08.18.37 Department Managed Lakes.

Statement of Purpose

The purpose of this action is to update and clarify existing boating laws and coordinates of certain boundaries. This will ensure safe boating on Maryland's waterways.

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 Donna Morrow, Division Director, Clean Waterways, Facilities and Regulations Division, Maryland Department of Natural Resources — Boating Services, 580 Taylor Avenue, E/4, Annapolis, Maryland 21401, or call 410-260-8773, or email to Donna.Morrow@Maryland.gov, or fax to 410-260-8453. Comments will be accepted through January 12, 2015. A public hearing has not been scheduled.

.01 Smithville Lake.

A. Smithville Lake means the area of pooled water at the headwaters of Smithville Ditch, a tributary of Marshyhope Creek [(north of the dam at Opossum Hill Road)] *north of a line beginning at a point, at or near Lat. 38° 46.428' N., Long. 75° 43.852' W., then running 89° (True) to a point, at or near Lat. 38° 46.430' N., Long. 75° 43.742' W., in Caroline County, formed by the dam and the lake bottom.*

B. Smithville Lake has a 6-knot [(6.9 mph)] speed limit all year.

.02 Unicorn Mill Pond.

A. Unicorn Mill Pond means the area of pooled water at the headwaters of Unicorn Branch [(south of the dam at MD 313)] *east of a line beginning at a point, at or near Lat. 39° 14.863' N., Long. 75° 51.572' W., then running 90° (True) to a point, at or near Lat. 39° 14.863' N., Long. 75° 51.552' W., in Queen Anne's County, formed by the dam and lake bottom.*

B. Unicorn Mill Pond has a 6-knot [(6.9 mph)] speed limit all year.

.03 Urieville Community Lake.

A. Urieville Community Lake means the area of pooled water at the headwaters of Morgan Creek [(north of the dam at MD 213)] *northwest of a line beginning at a point, at or near Lat. 39° 16.740' N., Long. 76° 1.4700' W., then running 57° (True) to a point, at or near Lat. 39° 16.745' N., Long. 76° 1.460' W., in Kent County, formed by the dam and lake bottom.*

B. Urieville Community Lake has a 6-knot [(6.9 mph)] speed limit all year.

.04 Wye Mills Community Lake.

A. Wye Mills Community Lake means the area of pooled water at the headwaters of the Wye East River [(east of the dam at MD 213)] *east of a line beginning at a point, at or near Lat. 38° 56.585' N., Long. 76° 4.795' W., then running 223° (True) to a point, at or near Lat. 38° 56.567' N., Long. 76° 4.817' W., then running 189° (True) to a point, at or near Lat. 38° 56.515' N., Long. 76° 4.827' W., then running 142° (True) to a point, at or near Lat. 38° 56.495' N., Long. 76° 4.807' W., formed by the dam and lake bottom.*

B. Wye Mills Community Lake has a 6-knot [(6.9 mph)] speed limit all year.

JOSEPH P. GILL
Secretary of Natural Resources

Subtitle 18 BOATING — SPEED LIMITS AND OPERATION OF VESSELS

08.18.38 Bush River

Authority: Natural Resources Article, §§8-703 and 8-704, Annotated Code of Maryland

Notice of Proposed Action

[14-380-P]

The Secretary of Natural Resources proposes to amend Regulations .01 and .02 under COMAR 08.18.38 Bush River.

Statement of Purpose

The purpose of this action is to update and clarify existing boating laws and coordinates of certain boundaries. This will ensure safe boating on Maryland's waterways.

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 Donna Morrow, Division Director, Clean Waterways, Facilities and Regulations Division, Maryland Department of Natural Resources — Boating Services, 580 Taylor Avenue, E/4, Annapolis, Maryland 21401, or call 410-260-8773, or email to Donna.Morrow@Maryland.gov, or fax to 410-260-8453. Comments will be accepted through January 12, 2015. A public hearing has not been scheduled.

PROPOSED ACTION ON REGULATIONS

1500

.01 Bush River.

The Bush River includes all the waters of the Bush River and its tributaries upstream of a line [from a point at Lego Point, Lat. 39°20'12.6"N., Long. 76°15'15.1"W., then running 58° True to a point on the shore at Abbey Point, Lat. 39°20'58.2"N., Long. 76°13'41.2"W.] beginning at Lego Point, at or near Lat. 39° 20.210' N., Long. 76° 15.252' W., then running 58° (True) to Abbey Point, at or near Lat. 39° 20.970' N., Long. 76° 13.687' W.

.02 Upper Otter Point Creek.

A. Upper Otter Point Creek includes all waters of Otter Point Creek and its tributaries upstream of a line [from Lat. 39°26'40.5"N., Long. 76°16'25.3"W., then running 279° True to a point on the west shore of Otter Point Creek, Lat. 39°20'43.5"N., Long. 76°10'51.0"W.] beginning at a point at or near Lat. 39° 26.665' N., Long. 76° 16.422' W., then running 280° (True) to a point, at or near Lat. 39° 26.725' N., Long. 76° 16.848' W.

B. (text unchanged)

JOSEPH P. GILL
Secretary of Natural Resources

Title 09 DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 09 BOARD OF MASTER ELECTRICIANS

09.09.02 Continuing Education

Authority: Business Occupations and Professions Article, §§6-205(2)(ii) and 6-310(c)(3), Annotated Code of Maryland

Notice of Proposed Action

[14-368-P]

The Maryland Board of Master Electricians proposes to amend Regulation **.01** under **COMAR 09.09.02 Continuing Education**. This action was considered by the Maryland Board of Master Electricians at a public meeting held on July 22, 2014, notice of which was given by publication in 41:14 Md. R. 869 (July 11, 2014), pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to clarify that the continuing education (CE) required for license renewal must be completed prior to the submission of a renewal application, regardless of the expiration date of the license.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Robin Bailey, Executive Director, Board of Master Electricians, Department of Labor, Licensing, and Regulation, 500 N. Calvert Street, Third Floor Baltimore, MD 21202, or call 410-230-6160, or email to robin.bailey@maryland.gov, or fax to 410-244-0977. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the State Board of Master Electricians during a public meeting to be held on February 24, 2015, at 10 a.m., 500 North Calvert Street, Third Floor Conference Room, Baltimore, MD 21202.

.01 Required Hours of Continuing Education.

A.—D. (text unchanged)

E. *Completion of Continuing Education Required Prior to Filing of Renewal Application.*

(1) *A licensee shall complete the continuing education required by §§A—C of this regulation prior to filing any application for renewal of a license, notwithstanding the expiration date for the license to be renewed; and*

(2) *Failure to complete the continuing education required by §§A—C of this regulation in advance of filing any application for renewal of a license may be considered by the Board to be a violation of Business Occupations and Professions Article, §6-316(a)(1), Annotated Code of Maryland, among other potential violations related to failure to complete the required continuing education hours.*

MICHAEL BERG
Chairman
Board of Master Electricians

Subtitle 23 BOARD FOR PROFESSIONAL ENGINEERS

09.23.04 Fees

Authority: Business Occupations and Professions Article, §§14-101, 14-208, 14-209, 14-401—14-405, 14-407, 14-413, and 14-414; Business Regulation Article, §§2-106, 2-106.1, and 2-106.2; Annotated Code of Maryland

Notice of Proposed Action

[14-379-P]

The Board for Professional Engineers proposes to amend Regulation **.03** under **COMAR 09.23.04 Fees**. This action was considered by the Board for Professional Engineers at a public meeting held on March 13, 2014, notice of which was given by publication in 41:4 Md. R. 315 (February 21, 2014), pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to set application, permit, and reinstatement fees for firms offering engineering services in the State of Maryland. Per legislation effective October 1, 2013, the Board for Professional Engineers has been mandated with licensing and regulating engineering firms. Accordingly, application and permit fees must be set in order to cover the costs of creating and operating the permitting functions by the Board. Engineering firms are required to hold a permit as of October 1, 2015.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The fees will raise approximately \$150,000 in new revenue in the first year. Engineering firms and small businesses would be impacted.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
<hr/>		
A. On issuing agency:		
State Occupational and Professional Design Boards	(R+)	\$150,000

	Benefit Cost (-)	(+) Magnitude
<hr/>		
D. On regulated industries or trade groups:		
Engineering firms	(-)	\$150,000
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

A. Firms applying for the initial permit will pay the \$100 application fee and the \$200 permit fee. The Board estimates that there are 500 engineering firms that will be seeking a permit.

D. Engineering firms offering engineering services in the State of Maryland must hold a firm permit as of October 1, 2015. The Board estimates that 500 firms will apply for a required permit. The combined amount of the application fee and permit fee is \$300.

Economic Impact on Small Businesses

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

Small businesses offering engineering services will be impacted by a new requirement to obtain a firm permit. Initial cost for the permit will be \$300, followed by a \$200 renewal fee every 2 years.

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 January 16, 2015. A public hearing will be held, January 16, 2015, 10:30 a.m. at 500 N. Calvert Street, Third Floor Conference Room, Baltimore, MD 21202, to hear comments from the public on proposed fees for firm permits.

Open Meeting

Final action on the proposal will be considered by the Board for Professional Engineers during a public meeting to be held on February 12, 2015, 9 a.m., at 500 N. Calvert Street, Third Floor Conference Room, Baltimore, MD 21202.

.03 Fees and Costs.

A. The Secretary and the design boards have agreed to average their direct and indirect costs, based on the calculation of costs

performed by the Secretary in consultation with the design boards. Based on these calculations, the Board sets the following fees:

- (1) — (7) (text unchanged)
 - (8) Replacement license certificate fee — \$35[.];
 - (9) *Permit fee* — \$200;
 - (10) *Nonrefundable initial application fee payable in connection with an application for permit* — \$100; and
 - (11) *Permit reinstatement fee* — \$200.
- B. — E. (text unchanged)

HOWARD C. HARCLERODE II
Chairman
State Board for Professional Engineers

Subtitle 24 BOARD OF PUBLIC ACCOUNTANCY

09.24.02 Continuing Education

Authority: Business Occupations and Professions Article, §§2-207(a), 2-311, and 2-312, Annotated Code of Maryland

Notice of Proposed Action

[14-356-P]

The Maryland State Board of Public Accountancy proposes to amend Regulation .01, adopt new Regulation .02, amend and recodify existing Regulations .02 — .04 to be Regulations .03 — .05, and recodify existing Regulation .05 to be Regulation .06 under **COMAR 09.24.02 Continuing Education**. This action was considered a public meeting held on October 7, 2014, notice of which was given by publication in 41:18 Md. R. 1061 (September 5, 2014), pursuant to State Government Article §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to define certain terms used in COMAR 09.24.02; modify the basic continuing education requirements to include the time period in which the continuing education must be earned, to clarify that excess credit hours in ethics can be used to meet the general continuing education requirements, and to limit the use of excess credit hours reported in a license renewal application to the next license renewal application; set forth the types of qualifying continuing education programs and the necessary documentation of attendance or completion; and establish the method for calculating credit hours of continuing education and set the minimum period of instruction necessary for receiving continuing education credit.

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 Dennis L. Gring, Executive Director, Maryland State Board of Public Accountancy, 500 North Calvert St., Suite 308, Baltimore, MD 21202, or call 410-230-6224, or email to dennis.gring@maryland.gov, or fax to 410-333-6314. Comments will

be accepted through January 15, 2015. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Maryland State Board of Public Accountancy during a public meeting to be held on February 3, 2015, at 500 North Calvert Street, Third Floor Conference Room, Baltimore, Maryland 21202.

.01 Citation of Regulations, Applicability, and Purpose.

A. (text unchanged)

B. The requirement does not apply to those licensees who have been placed on inactive status. [An individual placed on inactive status may not engage in any degree of public practice. The phrase “engaged in the practice of certified public accountancy” is defined in COMAR 09.24.01.01.]

C. (text unchanged)

.02 Definitions.

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

B. *Terms Defined.*

(1) “Application date” means:

(a) *The date and time an online license application is electronically submitted to the Board;*

(b) *The date a mailed, paper license application is postmarked by the U.S. Postal Service; or*

(c) *The date a paper license application otherwise delivered is stamped by the Board.*

(2) “Carried forward” means *eligible to be counted towards the continuing education requirement for the following 2-year licensing term.*

(3) “Certificate of attendance” means *a document issued and signed by the instructor, or other qualified program representative, that:*

(a) *Certifies an individual’s attendance at a continuing education program; and*

(b) *Includes the following:*

(i) *The name of the attendee;*

(ii) *The title of the program;*

(iii) *The subject matter presented;*

(iv) *The method by which the subject matter was presented;*

(v) *The number of credit hours earned by the attendee;*

(vi) *The name of the entity sponsoring the program; and*

(vii) *The date of the program.*

(4) “Certificate of completion” means *a document issued and signed by a qualified program representative that:*

(a) *Certifies that an individual has successfully completed the learning objectives of the continuing education program; and*

(b) *Includes the following:*

(i) *The name of the attendee;*

(ii) *The title of the program;*

(iii) *The subject matter presented;*

(iv) *The method by which the subject matter was presented;*

(v) *The number of credit hours earned by the attendee;*

(vi) *The name of the entity sponsoring the program;*

(vii) *The date of the program; and*

(viii) *The registry number of the program sponsor.*

(5) “Continuing education publication” means *information pertaining to the practice of public accountancy prepared and issued for distribution or sale to the public for the purpose of providing continuing education instruction.*

[.02] .03 Basic Requirement.

A. [The] *An applicant for license renewal shall complete, prior to submitting an application, a minimum of 80 credit hours of [acceptable] qualifying continuing education in each 2-year license term [after initial renewal].*

B. *The requirement in §A of this regulation does not apply to the first renewal of a license.*

[B.] *C. Professional Ethics.*

(1) *A minimum of 4 credit hours of the continuing education for each 2-year license term shall be in professional ethics [with no carry forward provision for excess hours].*

(2) *Credit hours in professional ethics in excess of 4 hours in a 2-year license term may not be carried forward to satisfy this requirement.*

(3) *Credit hours in professional ethics in excess of 4 hours in a 2-year license term may be carried forward to meet the requirement of §A of this regulation.*

[C.] *D. Except as provided in [Regulation §B] §C of this regulation [and Regulation .03G of this chapter], [all] qualifying credit hours in excess of the 80 credit hours required for a 2-year license term [can], up to a maximum of 80 credit hours, may be carried forward to apply [as credit to the 80-hour requirements of] to the following [2 years] 2-year license term.*

[D. The following standards will be used to measure the hours of credit to be given for acceptable continuing education programs completed by individual applicants:

(1) *Only participation hours or the equivalent (and not hours devoted to preparation) will be counted.*

(2) *Services as teacher, lecturer, or discussion leader in accounting and related subjects qualifying for continuing education credit will be included to the extent that it contributes to the licensee’s professional competence. Repetitious presentation, that is, those that are substantially the same subject material, may be included only once in each reporting cycle. Hours allowable in the capacity of teacher, lecturer, or discussion leader may not exceed 45 hours of the minimum requirements with no carry-over provision for excess hours.*

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

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

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

E. *Qualifying credit hours reported in a license renewal application in excess of the 80 credit hour requirement in §A of this regulation may only be carried forward to apply to the following 2-year license term.*

[E.] *F. The Board shall allow a maximum of 80 credit [acceptable] hours of qualifying continuing education earned [after] in the initial [licensure] license term to be carried forward if the credit hours are properly reported on the first renewal application [in accordance with Regulation .04C of this chapter].*

[F. An applicant shall complete 80 hours of continuing education in compliance with the Board’s Accountancy Continuing Education Regulations before receiving a license to practice certified public accountancy if:

(1) *The applicant is not licensed as a certified public accountant in another state or jurisdiction; and*

(2) *The applicant passed the examination more than four years prior to applying to the Board for a license.]*

[.03] .04 Qualifying Continuing Education Programs [Which Qualify] and Methods.

A. *The overriding consideration in determining whether a specific program or method qualifies is that it shall be a [formal] program or*

method of learning which contributes directly to the professional competence of an individual after this individual has been licensed to practice certified public accountancy.

B. Group Continuing Education Programs.

(1) A [Group] *group* continuing education [programs] *program* will qualify only if *it meets* §A of this regulation. [is met and:

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

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

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

(d) A record of attendance is preserved;

(e) The sponsor agrees to admit a member of the Board or of the CPE Advisory Committee on request to monitor the program.]

(2) [These] *Types of group continuing education* programs would include:

(a) — (b) (text unchanged)

(c) Non-credit [short] courses at universities and colleges;

(d) [Formal, organized in-firm] *In-firm* education programs;

and

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

(3) *An individual who reports participation in a qualifying group continuing education program to satisfy the continuing education requirements of this chapter shall provide, upon the Board's request, the following documentation:*

(a) *A certificate of completion; or*

(b) *A certificate of attendance.*

C. University and College Courses.

(1) University and college courses taken for academic credit at an institution of higher education that meets the requirements of Business Occupations and Professions Article, §2-303(c), Annotated Code of Maryland, will qualify only if §A of this regulation is met.

(2) Credit towards the continuing education requirement will be calculated [at] *as follows:*

(a) 15 hours for each semester hour credit; and

(b) 10 hours for each quarter hour credit.

(3) *An individual who reports completion of a university or college course to satisfy the continuing education requirements of this chapter shall provide, upon the Board's request, an official transcript that includes the course.*

D. Other Programs.

(1) A program other than a group program will qualify only if [:

(1) The] *the* program meets the requirements of §A of this regulation. [;

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

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

(4) The program provides evidence of satisfactory completion.]

(2) *An individual who reports participation in a program other than a group continuing education program to satisfy the continuing education requirements of this chapter shall provide, upon the Board's request, the following documentation:*

(a) *A certificate of completion; or*

(b) *A certificate of attendance.*

(3) *Electronic Self-Study. In order to qualify, an electronic self-study program of 10-minute duration must include:*

(a) *At least one stated learning objective; and*

(b) *Require the participant to correctly answer at least two final assessment questions at the end of the program.*

E. Peer Reviews.

(1) A peer review shall qualify if conducted in accordance with Business Occupations and Professions Article, Title 2, Subtitle 4A, Annotated Code of Maryland, and COMAR 09.24.06.

(2) Calculation of Credit for Peer Reviews.

(a) Only an individual in a firm that receives [an unmodified] *a "passing" peer review report with no deficiencies* may receive credit.

(b) (text unchanged)

(c) The peer reviewer shall allocate a maximum of:

[(i) 8 hours for a report review;]

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

(d) (text unchanged)

(3) *An individual who reports participation in a peer review to satisfy the continuing education requirements of this chapter shall provide, upon the Board's request, a written certification signed and dated by the peer reviewer indicating the following:*

(a) *The name of the individual receiving credit;*

(b) *The name of the reviewed firm;*

(c) *The permit number of the reviewed firm;*

(d) *The type of peer review performed; and*

(e) *The number of credit hours awarded to the individual.*

F. Continuing Education Publications.

(1) An individual may receive continuing education credit for authoring or contributing to a continuing education publication that:

(a) Meets §A of this regulation; and

(b) Has been reviewed prior to publication by a qualified independent party.

(2) Credit Hours.

(a) *The Board shall determine the number of credit hours to be awarded to an individual for authoring or contributing to a continuing education publication based on the time spent by the individual:*

(i) *Performing research associated with the continuing education publication; and*

(ii) *Writing the continuing education publication.*

(b) *An individual may be awarded a maximum of 10 credit hours for each continuing education publication.*

(c) *Continuing education publication credit hours may not exceed 40 credit hours per individual for any license period.*

(3) *Documentation. An individual who reports authoring or contributing to a continuing education publication to satisfy the continuing education requirements of this chapter shall provide, upon the Board's request, the following documentation:*

(a) *For printed media, the individual shall provide a copy of the published work.*

(b) *For digital media, the individual shall provide a copy of the published work.*

(c) *For online media, the individual shall provide:*

(i) *The complete uniform resource locator of the published work;*

(ii) *The title of the published work; and*

(iii) *The date of the published work.*

(d) *For all types of media, the individual shall, on a form provided by the Board:*

(i) *Certify the hours spent by the individual researching and writing the continuing education publication; and*

(ii) *Identify the independent party who reviewed the continuing education publication.*

G. Services as a Teacher, Lecturer, or Discussion Leader.

(1) An individual may receive continuing education credit for services as a teacher, lecturer, or discussion leader that meet §A of this regulation.

(2) *Credit Hours.*

(a) *An individual who provides services as a teacher, lecturer, or discussion leader will be awarded credit hours for a presentation of a course or program in the following amounts:*

(i) *For a university or college course offered at an institution of higher education that meets the requirements of Business Occupations and Professions Article, §2-303(c), Annotated Code of Maryland, the individual shall receive 15 hours of continuing education for each semester hour credit of the course and 10 hours of continuing education for each quarter hour credit of the course; or*

(ii) *For any other course or program, the individual shall receive three times the credit hours of the course or program.*

(b) *Credit hours for services as a teacher, lecturer, or discussion leader may not exceed 45 credit hours per individual for any license period.*

(c) *An individual may only be awarded credit hours for the first time presentation of a course or program within a 2-year license term.*

(3) *Documentation. An individual who reports services as a teacher, lecturer, or discussion leader to satisfy the continuing education requirements of this chapter shall provide, upon the Board's request, the following documentation:*

- (a) *The professional credentials of the individual;*
- (b) *The name of the course or program;*
- (c) *The group or institution offering the course or program;*
- (d) *An outline or syllabus of the subject matter presented;*
- (e) *The date of the presentation;*
- (f) *The location of the presentation; and*
- (g) *The duration of the presentation.*

[.04] .05 Controls and Reporting.

A. Applicants for license renewal or reinstatement shall provide a certification of compliance with [renewal] the license requirements, under Business Occupations and Professions Article, §§2-311 and 2-312, Annotated Code of Maryland, under penalty of perjury, in an appropriate form specified by the Board. [The following minimum documentation for qualification shall be retained by the licensee for 4 years from the date of renewal:

- (1) Sponsoring organization;
- (2) Location of course;
- (3) Title of program;
- (4) Topical outline of the course;
- (5) Description of content;
- (6) Dates attended;
- (7) Hours claimed; and
- (8) Information which reflects the expertise of the instructor in the subject matter.]

B. *An applicant for license renewal or reinstatement who reports continuing education credit hours to the Board shall retain the applicable documentation of the credit hours, as specified in this chapter, for a period of 4 years from the application date.*

[B.] C. The Board, at its discretion, may verify the information and documentation supporting the certification of continuing education credit hours reported [under Regulation .02C of this chapter or §A of this regulation]. Upon request, the [licensee] individual who reported the continuing education credit hours shall submit to the Board, or its designee, copies of the original documentation [supporting the certification provided under §A of this regulation].

[C. A continuing education credit earned pursuant to Regulation .02C of this chapter shall be reported on the appropriate form at the time of application for the first renewal of a license.]

D. An applicant for license renewal or reinstatement may request a modification of continuing professional education credit hours previously reported to the Board provided that the applicant:

(1) Makes the request in writing within 30 days of [submitting the license renewal] the application date; and

(2) (text unchanged)

E. *An applicant for reinstatement may only report continuing education hours earned within 2 years of the application date.*

F. *Credit Hour Calculation. For purposes of these regulations, the Board shall calculate continuing education credit hours as follows:*

(1) *50 minutes of instruction shall be considered equivalent to 1 credit hour;*

(2) *25 minutes of instruction shall be considered equivalent to .5 credit hour;*

(3) *10 minutes of instruction shall be considered equivalent to .2 credit hour;*

(4) *Instruction of duration other than set forth in §F(1)—(3) of this regulation shall be rounded down to the lowest 10-minute increment; and*

(5) *Instruction of a duration less than 10 minutes may not qualify for continuing education credit.*

ELIZABETH S. GANTNIER
Chair

Maryland Board of Public Accountancy

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 01 PROCEDURES

10.01.08 Procedures for Access to Records

Authority: Health-General Article, §2-104(b); State Government Article, §§10-611—10-628; Annotated Code of Maryland

Notice of Proposed Action

[14-363-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .04 under **COMAR 10.01.08 Procedures for Access to Records**.

Statement of Purpose

The purpose of this action is to allow the Department, in appropriate cases, to obtain reimbursement of its actual costs when it responds to very large requests under the Public Information Act, i.e., requests the response to which require the Department to devote more than 2 hours of employee time. The proposal follows the approach recommended in model regulations published by the Office of the Attorney General.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. When the Department receives a request under the Public Information Act for which a response will require more than 2 hours of employee time, the Department would have discretion to recover amounts commensurate with the actual cost of the employee time. The Department's current regulations, which have been in place for many years, anticipate recovery of a maximum of \$25 per hour of employee time, substantially less than the actual cost of that time at current salaries.

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

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

A., D., E., and F. When submitting a very large PIA request, an applicant might occasionally have to pay a slightly higher fee, commensurate with the actual cost to the Department.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele A. Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through January 12, 2015. A public hearing has not been scheduled.

.04 Fees.

A. Fee Schedule for Copying and Mailing.

(1)—(2) (text unchanged)

[(3) Employee Time. Except for the first 2 hours which are free, the standard charge for responding to requests for public information is \$25 per hour of employee time. Employee time to respond to a request may include time searching for records, preparing records to be copied, copying records, and any other similar tasks.]

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

B. Fees for Search or Preparation Time.

(1) Except as provided in §B(2) of this regulation, the custodian may charge a reasonable fee for time that an official, employee, or agent of the Department spends to search for requested public records or to prepare public records for inspection and copying, including legal review.

(2) The custodian may not charge a search or preparation fee for the first 2 hours that an official, employee, or agent of the Department spends to respond a request for public records.

[B.] C.—[C.] D. (text unchanged)

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

Subtitle 07 HOSPITALS

10.07.01 Acute General Hospitals and Special Hospitals

Authority: Health-General Article, §19-308.6, Annotated Code of Maryland

Notice of Proposed Action

[14-359-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .33 under **COMAR 10.07.01 Acute General Hospitals and Special Hospitals.**

Statement of Purpose

The purpose of this action is to repeal regulatory requirements that uniform code be adopted and implemented within 2 years after this regulation is adopted and to require all hospitals to have a uniform emergency code for situations involving an active shooter within the hospital.

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 January 12, 2015. A public hearing has not been scheduled.

.33 Uniform Emergency Codes.

A. [Within 2 years after this regulation is adopted, each] *Each* hospital shall adopt and implement the following set of uniform codes for the identified emergency situations as part of its emergency or disaster plans:

(1)—(9) (text unchanged)

(10) Security Only Response — Code Purple; [and]

(11) Emergency or Disaster — Code Yellow; *and*

(12) *Active Shooter* — Code Silver.

B. — G. (text unchanged)

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

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.42 Free-Standing Medicare-Certified Ambulatory Surgical Centers

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

Notice of Proposed Action
[14-358-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .01—.06 under **COMAR 10.09.42 Free-Standing Medicare-Certified Ambulatory Surgical Centers**.

Statement of Purpose

The purpose of this action is to change the rate and implement a payment methodology for the ASC facility fee for dental services.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The Department of Health and Mental Hygiene (the Department) is proposing the coverage of dental services in an Ambulatory Surgery Center (ASC). With the dental services rendered at an ASC versus the Outpatient Department (OPD) of a hospital, the Department is projecting an overall cost savings.

II. Types of Economic Impact.

	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(E+)	\$2,055,916
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+)	
	Cost (-)	Magnitude
D. On regulated industries or trade groups:		
Ambulatory Surgery Center	(+)	\$2,055,916
E. On other industries or trade groups:		
Hospital OPD	(-)	\$341,087
F. Direct and indirect effects on public:	NONE	

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

A., D., and E. The proposed regulations have an overall cost savings to the Department. The Department is projecting an expenditure of \$2,055,916 to the ASC for the reimbursement of the facility costs associated with dental services that will be provided at the ASC; however, the Department is projecting a savings of approximately \$341,087 from the OPD of a hospital, which results in an overall cost savings.

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 January 12, 2015. A public hearing has not been scheduled.

.01 Definitions.

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

[(1) “Ambulatory surgical center or ASC” means any distinct, Medicare-certified entity that operates exclusively for the purpose of providing surgical services to patients not requiring hospitalization.]

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

(2) “Dental Benefits Administrator (DBA)” means an entity that administers the dental program for the Department of Health and Mental Hygiene.

(3) “Dental services” means emergency, preventive, or therapeutic services for oral diseases which are administered by or under the general supervision of a dentist in the practice of the profession.

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

[(4)] (5) “Free-standing [ambulatory surgical center] Ambulatory Surgery Center (ASC)” means [a unit] an entity capable of providing ambulatory surgical services, which is not located in a hospital setting, and which is Medicare-certified to furnish ambulatory surgical services.

[(5)] (6)—[(7)] (8) (text unchanged)

[(8)] (9) “Medicare-certified facility” means a facility which:

(a)—(b) (text unchanged)

(c) Meets the conditions set forth by (CMS) in 42 CFR Part 416, [Subpart] Subparts B, C, and F, [§§416.164—416.167] §416.163.

[(9)] (10)—[(14)] (15) (text unchanged)

.02 License Requirements.

A. (text unchanged)

B. The provider shall ensure that all X-ray and other radiological equipment is maintained and inspected in compliance with the requirements of the Maryland Radiation Act, Environment Article, Title 8, Subtitle 3, Annotated Code of Maryland, and meets the standards established by [COMAR 10.14.02] COMAR 26.12.01 and COMAR 26.12.02 or other applicable standards established by the state in which the service is provided.

C. (text unchanged)

.03 Conditions for Participation.

A. General requirements for participation in the Program are that a provider shall meet all conditions for participation as set forth in COMAR 10.09.36.03 and 42 CFR, Part 416, Subpart B.

B. Specific requirements for participation in the Program [as a free-standing Medicare-certified ambulatory surgical center include all of the following:] are that the provider shall meet all specific conditions for participation as set forth in 42 CFR, Part 416, Subpart C, to include the following:

(1)—(7) (text unchanged)

.04 Covered Services.

The Program covers the following:

A.—B. (text unchanged)

C. Surgical procedures which meet the standards described in 42 CFR Part 416, Subpart [F, §416.75] D, §416.65, and as published by the Centers for Medicare and Medicaid Services[.]; and

D. Dental services that have been pre-authorized by the Dental Benefits Administrator (DBA).

.05 Limitations.

The Program does not cover the following:

A.—E. (text unchanged)

F. Surgical procedures which:

(1)—(7) (text unchanged)

(8) Are otherwise excluded under 42 CFR §411.15(a)—(h) and (j)—(s);

G.—N. (text unchanged)

.06 Payment Procedures.

A. [Reimbursement by the Program is for facility services provided by a free-standing ambulatory surgical center in connection with covered surgical procedures, including but not limited to] *The Program reimburses a facility fee when the free-standing Medicare certified ambulatory surgery center provides a covered surgical procedure, in accordance with 42 CFR §416.166 to an eligible Medicaid recipient. Reimbursement for the facility fee includes, but is not limited to the following:*

(1)—(6) (text unchanged)

(7) Supervision of the services of a nurse anesthetist by the operating surgeon; [and]

(8) Ancillary items and services that are integral to a covered surgical procedure as defined in 42 CFR §416.166[.]; and

(9) *Any laboratory testing performed under a Clinical Laboratory Improvement Amendment of 1988 (CLIA) certificate of waiver.*

B. Reimbursement Methodology:

(1) Reimbursement fees equal [98] 80 percent of the [2007] current Medicare-approved ASC facility fee for services furnished to Medicaid recipients in connection with covered surgical procedures.

[(2) For those procedure codes with reimbursement rates capped by the Deficit Reduction Act of 2005 (DRA), reimbursement is at 100 percent of the Medicare approved ASC facility fee.]

[C.] (2) If one covered surgical procedure is furnished to a recipient, payment is at the Maryland Medicaid Program payment amount which is [98] 80 percent of the [2007] current Medicare approved facility fee for that procedure.

[D.] (3) If more than one covered surgical procedure is provided to a recipient in a single operative session, payment is made at 100 percent of the Maryland Medicaid Program payment amount for the procedure with the highest reimbursement rate. Other covered surgical procedures furnished [in] during the same session are reimbursed at 50 percent of the Maryland Medicaid Program payment amount for each [of those procedures] procedure.

[D-1.] (4) When a covered surgical procedure is terminated before the completion due to extenuating circumstances or circumstances that threaten the well-being of the patient, the Medicaid Program payment amount is based on one of the following:

[(1)] (a) If the covered procedure for which the anesthesia is planned is discontinued after the induction of anesthesia or after the procedure is started, the reimbursement amount is [98] 80 percent of the [2007] current Medicare approved facility fee; or

[(2)] (b) [One-half of the 2007 Medicare approved facility fee will be reimbursed if the procedure for which anesthesia is planned is discontinued after the patient is prepared for surgery and taken to the room where the procedure is to be performed, but before the anesthesia is induced or if a covered surgical procedure for which

anesthesia was not planned is discontinued after the patient is prepared for surgery and taken to the room where the procedure is to be performed.] *If the patient is prepared for surgery and the surgery is then cancelled before the induction of anesthesia, reimbursement shall be 50 percent of Maryland Medicaid payment amount.*

C. Dental services rendered in an ASC on or after December 1, 2014, shall be reimbursed as follows:

(1) For covered dental services that have a reimbursement amount of \$1,000 through \$2,999.99, the ASC facility fee will be \$600;

(2) For covered dental services that have a reimbursement amount of \$3,000 through \$4,999.99, the ASC facility fee will be \$1,250;

(3) For covered dental services that have a reimbursement amount of \$5,000 through \$7,999.99, the ASC facility fee will be \$2,500; and

(4) For covered dental services that have a reimbursement amount of \$8,000 and over, the ASC facility fee will be \$3,000.

[E.] D.—[F.] E. (text unchanged)

[G. The provider shall bill the Program the composite Medicare rate for free-standing ambulatory surgical center services.]

[H.] F. The Program shall authorize payment on Medicare cross-over claims only if:

(1) — (2) (text unchanged)

(3) Medicare has determined that the services are medically [necessary] justified, excludes dental services.

[I.] G. The Department shall make supplemental payment on Medicare cross-over claims subject to the following provisions:

(1) Deductible [and co-insurance,] is paid in full;

(2) Coinsurance shall be paid lesser of:

(a) 100 percent of the coinsurance amount; or

(b) The balance remaining after the Medicare payment is subtracted from the Medicaid rate; and

[(2)] (3) Services not covered by Medicare, but considered medically necessary by the Program, according to the limitations of Regulation .04C of this chapter.

[J.] H. The provider may not bill the Program for:

(1)—(2) (text unchanged)

(3) Professional services rendered by mail or telephone; [and]

(4) Services which are provided at no charge to the general public[.]; and

(5) *Providing a copy of a recipient's medical record when requested by another licensed provider on behalf of the recipient.*

[K.] I.—[M.] K. (text unchanged)

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

Subtitle 32 BOARD OF PHYSICIANS

10.32.02 Hearings Before the Board of Physicians

Authority: Health Occupations Article, §§1-307, 1-402, 4-602—1-604, 1-606, 14-205, 14-206, 14-307, 14-317, 14-401, 14-401.1, 14-404, 14-405, 14-405.1, 14-406—14-409, 14-411, 14-505, 14-5A-03, 14-5A-09, 14-5A-13(d), 14-5A-16, 14-5A-17, 14-5A-17.1, 14-5A-19, 14-5A-23, 14-5B-03, 14-5B-09, 14-5B-12(d), 14-5B-13, 14-5B-14, 14-5B-14.1, 14-5B-16, 14-5B-19, 14-5C-03, 14-5C-09, 14-5C-16, 14-5C-17, 14-5C-19, 14-5C-23, 14-5D-08, 14-5D-12(d), 14-5D-13—14-5D-16, 14-5D-18, 14-5E-03, 14-5E-09, 14-5E-16, 14-5E-17, 14-5E-19, 14-5E-23, 14-5F-04, 14-5F-11, 14-5F-18, 14-5F-20, 14-5F-23, 14-5F-29, 14-601, 14-606, 15-205(b), 15-307(f), 15-311-15-314, 15-315, 15-316 and 15-403; State Government Article, §§10-206, 10-216, and 10-226; Annotated Code of Maryland

Notice of Proposed Action

[14-375-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations **.02—, .06, and .14—, .16**, repeal existing Regulations **.07 and .13**, recodify and amend existing Regulations **.08—, .12** to be Regulations **.07—, .10** and **.13** respectively, and adopt new Regulations **.11** and **.12** under **COMAR 10.32.02 Hearings Before the Board of Physicians**.

Statement of Purpose

The purpose of this action is to amend the regulations that govern procedures for disciplinary and licensing matters before the Board of Physicians. This proposal changes existing regulations by:

- (1) Establishing dual Disciplinary Panels, each consisting of 11 members, through which allegations of grounds for disciplinary action must be resolved;
- (2) Authorizing the Board to issue a cease and desist order or obtain injunctive relief against an individual for taking any action for which the Board determines there is a preponderance of the evidence of grounds for discipline under the Medical Practice Act or that poses a serious risk to the health, safety, and welfare of a patient;
- (3) Establishing processes and procedures for issuing cease and desist orders, including hearing procedures and sanctions for noncompliance the order; and
- (4) Amends the judicial review authority for a licensee to appeal a final decision of the Board or disciplinary panel, in specified contested cases to the Board of Review and then take any further appeal allowed by the Administrative Procedure Act (APA).

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 January 12, 2015. A public hearing has not been scheduled.

.02 Definitions.

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

(1) “Administrative law judge (ALJ)” means a hearing officer delegated the duty of conducting evidentiary hearings for the Board *or disciplinary panel*.

(2)—(4) (text unchanged)

(5) “Advisory letter” means a nonpublic letter issued by [the Board] *a disciplinary panel* which informs, educates, or admonishes an individual licensed [or certified] by the Board in regard to the practice of medicine or an allied health profession.

(6) “Allied health professional” means an individual who is licensed by the Board under:

(a) *Health Occupations Article, §§14-5A—14-5F, Annotated Code of Maryland; or*

(b) *Health Occupations Article, Title 15, Annotated Code of Maryland.*

[(6)] (7) “Applicant” means an individual who has submitted an application to [the]:

(a) *The Board [an application] for initial licensure or for administrative [or postdisciplinary] reinstatement; or*

(b) *Disciplinary panel for postdisciplinary reinstatement.*

[(7)] (8) (text unchanged)

[(8)] (9) “Board counsel” means the attorney assigned from the Office of the Attorney General for the purpose of advice on legal matters before the Board *or a disciplinary panel*.

[(9)] (10) “Cease and desist order” means an order of the Board issued under *Health Occupations Article, §14-206(e), Annotated Code of Maryland*, prohibiting an individual from practicing medicine without a license *or from taking an action for which there are grounds for discipline under Health Occupations Article, §14-404, and which poses a serious risk to the health, safety, and welfare of a patient.*

[(10)] (11) “Charging document” means [a document issued by the: Board which sets forth charges or an intent to deny an application for initial licensure for administrative reinstatement on grounds authorized by the Medical Practice Act or other statute granting the Board disciplinary authority] *written notification that sets forth the grounds upon which the Board or a disciplinary panel is taking administrative action against the respondent or applicant.*

[(11)] (12) Complaint.

(a) “Complaint” means an allegation or report that:

(i) A [health care provider] *Board licensee* has committed a prohibited act for which [the Board] *a disciplinary panel* can take disciplinary action *or impose a fine[, or deny licensure; or];*

(ii) An individual is practicing medicine without a license; *or*

(iii) *A licensed physician has acted necessitating a Board action under Health Occupations Article, §14-206(e)(2), Annotated Code of Maryland.*

(b) (text unchanged)

[(12)] (13) (text unchanged)

[(13) “Disciplinary Committee for Case Resolution (DCCR)” means a committee composed of a minimum of 3 Board members who make recommendations to the Board for proposed disposition of matters prior to a hearing.]

(14) “Disciplinary panel” means a panel established under *Health Occupations Article, §14-401, Annotated Code of Maryland, which:*

(a) *Is composed of 11 Board members; and*

(b) *Addresses:*

(i) *Complaints and disciplinary actions against licensed physicians and allied health professionals; and*

(ii) *Postdisciplinary licensure reinstatements.*

[(14)] (15) “Disposition agreement” means a formal nonpublic agreement by which the health care provider agrees to comply with certain conditions and the [Board] *disciplinary panel* stays further investigation or forgoes further action on a matter based on compliance with those conditions.

[(15)] (16) “Final order” means:

(a) The final written decision of the Board *or disciplinary panel* which results from a contested case proceeding or other formal proceeding and which contains findings of fact, conclusions of law, and a disposition which:

(i)—(v) (text unchanged)

(b)—(c) (text unchanged)

[(16)] (17)—[(17)] (18) (text unchanged)

[(18)] (19) Investigation.

(a) “Investigation” means the gathering of the information necessary for the Board *or a disciplinary panel* to determine one or more of the following:

(i) Whether there is reasonable cause to charge the respondent with a violation of the Medical Practice Act or another statute which gives [the Board] *a disciplinary panel* disciplinary authority;

(ii)—(iii) (text unchanged)

(iv) Whether an individual has complied with any [Board] *disciplinary panel* order.

(b) (text unchanged)

[(19)] “Investigative Review Panel (IRP)” means a disciplinary subcommittee composed of Board members, advised by staff, Board counsel, and others, which is designated by the Board to:

(a) Review complaints;

(b) Recommend for full investigation or closure; and

(c) Make recommendations as to action on cases under investigation.]

(20) “Involved medical specialty” means the area of medical specialty whose practitioners, in the [Board’s] *disciplinary panel*’s opinion:

(a)—(b) (text unchanged)

(21) [Licensure.

(a) “Licensure” means permission to engage in a health care profession regulated by the Board.

[(b) “Licensure” includes certification and registration.]

(22)—(23) (text unchanged)

(24) “Post deprivation hearing” means a [Board] *disciplinary panel* hearing scheduled after the [Board] *disciplinary panel* has issued an order for summary suspension pursuant to State Government Article, §10-226(c)(2), Annotated Code of Maryland, and at which the respondent has the opportunity to explain why the [Board] *disciplinary panel* should rescind the order of summary suspension.

(25) (text unchanged)

(26) “Predeprivation hearing” means a [Board] *disciplinary panel* hearing at which the respondent has the opportunity to explain why the [Board] *disciplinary panel* should not issue an order for summary suspension pursuant to State Government Article, §10-226(c)(2), Annotated Code of Maryland.

(27) “Preliminary investigation” means the [gathering of the information necessary for the Board to determine whether it should dismiss a complaint, or conduct further investigation to determine reasonable cause to charge the respondent with a violation of the Medical Practice Act or another statute which gives the Board authority or to find an applicant ineligible for licensure or simple reinstatement and begins with the receipt of a complaint] *initial review of a complaint or application irregularity which is the basis for the decision on whether to assign the case to a disciplinary panel for a full investigation or whether to close the investigation due to lack of jurisdiction or because, even if there were a full investigation,*

there still would not be a legal or factual basis for the issuance of a charging document.

(28) “Prohibited act” means any conduct for which the Board *or a disciplinary panel* can issue a sanction.

(29) “Proposed decision” means the proposed findings of fact and, where required by the delegation order from the Board *or a disciplinary panel*, the proposed conclusions of law and proposed disposition issued by the administrative law judge.

(30) “Recusal” means disqualification by a Board *or disciplinary panel* member from participating in a proceeding because of a legal interest or prejudice in the case before the Board *or disciplinary panel*.

[(31)] “Reinstatement inquiry panel” means a committee of Board members who may meet informally and confidentially with applicants for postdisciplinary reinstatement and make recommendations to the Board.]

[(32)] (31) “Respondent” means an individual who has been:

(a) Given notice to answer allegations concerning violations of a statute over which the Board *or a disciplinary panel* has jurisdiction;

(b) Notified as to a potential summary suspension pursuant to State Government Article, §10-226(c), Annotated Code of Maryland; *or*

(c) Given notice to answer allegations concerning violations of a Board *or disciplinary panel* order[; or

(d) Given notice that the Board is investigating good moral character or the commission of an act that could be the subject of discipline if committed by a licensee, in relation to an application for licensure].

[(33)] (32) (text unchanged)

[(34)] (33) “Sanction” means an action by the Board *or a disciplinary panel* which:

(a)—(f) (text unchanged)

[(35)] (34) “Sanctioning guidelines” means guidelines[, adopted by the Board and] set out in Regulation [.11] .10 of this chapter, indicating the minimum and maximum penalty associated with each ground for discipline and mitigating or aggravating circumstances which could result in imposition of a penalty below the minimum or above the maximum.

[(36)] (35) “Show cause” means a demand by letter or order issued by [the Board] *a disciplinary panel*, which directs the respondent to:

(a) Respond either in writing or by an appearance before the Board *or a disciplinary panel*; and

(b) (text unchanged)

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

[(38)] (37) “Stay” means the withholding of [Board] *disciplinary panel* action against a health care provider.

[(39)] (38)—[(40)] (41) (text unchanged)

[(41)] (42) “Surrender” means the voluntary relinquishing of a Board license to [the Board] *a disciplinary panel* [by a health care provider].

[(42)] (43) (text unchanged)

.03 Prehearing Proceedings.

A. This regulation applies to:

(1) Proceedings under Health Occupations Article, §1-307, 14-405, 14-5A-17(b), 14-5B-14(b), 14-5C-17(b), 14-5D-15, 14-5E-16(b), 14-5F-18(b) or 15-315, Annotated Code of Maryland; and

(2) To the extent specifically provided in this regulation, cease and desist orders.

B. This regulation does not apply to procedures pursuant to Health Occupations Article, §14-404(b), 14-5A-17(c), 14-5B-14(c), 14-5C-17(c), 14-5D-14(b), 14-5E-16(c), *or 14-5F-18(c)* or 15-314(b), Annotated Code of Maryland.

C. Investigation of Complaints.

(1) Designated staff shall undertake a preliminary investigation [of each complaint as appropriate to the nature of the complaint] regarding an allegation of grounds for disciplinary or other action brought to the Board's attention before the allegation is assigned to a disciplinary panel.

(2) [The Board's Investigative Review Panel (IRP) shall] A complaint concerning alleged grounds for discipline of a Board licensee shall be assigned to a disciplinary panel which:

(a) Shall review a complaint in light of the preliminary investigation; and [may]

(b) May direct further investigation, referral for peer review, [dismissal] closure without charges, or [dismissal] closure with an advisory letter.

(3) Participation in the [IRP] complaint review process is not ordinarily a basis for recusal of a [Board] disciplinary panel member from further proceedings in the case.

(4) Investigative Subpoenas.

(a) Except as provided in §C(4)(b) of this regulation, upon the receipt of a timely written request from a psychiatrist who is the subject of a complaint concerning the quality of the psychiatric care provided by that psychiatrist, a quorum of [the Board] a disciplinary panel shall review a subpoena for mental health records made or held by that psychiatrist before the subpoena is enforced.

(b)—(c) (text unchanged)

D. Review by the Peer Reviewers.

(1) [The Board] After being assigned a complaint, a disciplinary panel shall [contract for peer review services if a question of] have the matter reviewed by peer reviewers if the complaint concerns an allegation that a physician failed to:

(a) Meet the standards of quality medical care [in the practice of medicine arises]; or

(b) Keep adequate medical records.

(2) The [Board] disciplinary panel shall obtain reports from at least two different peer reviewers in each case for each allegation referred for peer review.

(3) If one or both peer reviewers conclude that a violation of the standard of care has occurred, the [Board] disciplinary panel shall make the final peer review report, consisting of the reports of each individual peer reviewer, available to the respondent for review before the [Board] disciplinary panel considers whether to issue charges. The [Board] disciplinary panel shall redact the names of the peer reviewers before making the report available under this section.

(4) (text unchanged)

(5) The [Board] disciplinary panel shall:

(a)—(b) (text unchanged)

E. Prosecution of Complaint.

(1) Except as provided in §E(2) of this regulation, [the Board] a disciplinary panel may not bring charges against a licensee based solely on events contained in a complaint the [Board] disciplinary panel received more than 6 years after:

(a)—(b) (text unchanged)

(2) (text unchanged)

(3) After reviewing the completed investigative information and reports, [the Board] a disciplinary panel shall make its determination to:

(a) [Dismiss the complaint] Close a complaint investigation without charges;

(b) (text unchanged)

(c) Request the respondent to enter into a disposition agreement with the [Board] disciplinary panel if the respondent suffers from substance abuse or a physical, mental, or emotional condition which may otherwise jeopardize medical care;

(d) Issue an initial cease and desist order, subject to:

(i) Section E(4) and (5) of this regulation; and

(ii) The procedures set out in Regulation .13 of this chapter;

[(e)] (d) Except as provided in §E(1) of this regulation, vote to charge a respondent with a violation of [the Medical Practice Act] a ground under Health Occupations Article, §14-404, Annotated Code of Maryland, or COMAR 10.32.07, or another statute which gives the Board or disciplinary panel [disciplinary] authority;

[(f)] (e) Vote to deny [initial licensure or] administrative reinstatement; or

[(g)] (f) Accept a surrender on terms acceptable to the [Board] disciplinary panel.

(4) Summary Suspension.

(a) In addition to charging, the [Board] disciplinary panel assigned to the complaint may vote to summarily suspend or vote an intent to summarily suspend the license of the respondent pursuant to State Government Article, §10-226(c), Annotated Code of Maryland.

(b) A vote to summarily suspend the license of the respondent may be taken before the [Board] disciplinary panel charges the respondent.

(5) After a vote to take formal action under [§E(3) (d), (e), or (f)] §E(3)(d) or (e) and (4) of this regulation, the [Board] disciplinary panel shall refer the matter to the administrative prosecutor for prosecutorial action.

(6) Based upon a review of the case, the prosecutor may refer the matter back to the [Board] disciplinary panel for further consideration.

(7) If the [Board] disciplinary panel issues charges [or a notice of an intent to deny an application for initial licensure or for administrative reinstatement], the [Board] disciplinary panel shall serve it upon the respondent by regular mail or hand delivery at the address the respondent maintains for purposes of licensure notice. The [Board] disciplinary panel may delegate the issuance and service of the charges to the administrative prosecutor.

(8) [The [Board] disciplinary panel, in the notice of [intent to deny an application for initial licensure or] administrative reinstatement, shall provide the respondent with an opportunity to request a hearing within 30 days from receipt of service.

(9) Disciplinary Committee for Case Resolution (DCCR).

(a) After service of the charging document, the [Board shall offer the] respondent and the complainant shall be offered a meeting with the disciplinary panel that was originally assigned the complaint and which sits as a DCCR. [This] The meeting is a voluntary, informal settlement, proceeding to explore the possibility of a consent order or other resolution of the matter. The proceedings concerning a summary suspension are governed by Regulation .08 of this chapter and do not entail a meeting before a DCCR.

(b) If [there is no agreement between] the respondent and the administrative prosecutor each do not agree with the proposed settlement offered by the DCCR, the matter proceeds to a hearing before the Office of Administrative Hearings.

(c) Except for the [Board's] DCCR's consideration of a proposed resolution of a case achieved through the conference with the DCCR, [neither the Board,] the disciplinary panel, the parties, [nor] and the complainant may not make use of any commentary, admissions, facts revealed, or positions taken, including any disposition recommended by the DCCR, in the subsequent stages of the disciplinary proceedings unless the subject matter is available from other sources or is otherwise discovered. The respondent, administrative prosecutor, and complainant are prohibited from revealing this material.

(d) The complainant and respondent may attend and participate as authorized by statute. The complainant may be accompanied by Board staff but not by any other person.

[(e)] Participation in a DCCR is not ordinarily a basis for recusal of a Board member from further proceedings in the case.]

F. Representation; Parties.

(1) The respondent may appear in proper person or be represented by counsel in any matter before the [Board] *a disciplinary panel* and during any stage of the disciplinary proceedings. The respondent may be represented only by an attorney admitted to the Maryland Bar or specially admitted to practice law in Maryland under Rule 14 of the Maryland Rules Governing Admissions to the Bar found in the Maryland Rules.

(2) The administrative prosecutor shall present evidence and argument at an evidentiary hearing on the charges and arguments before [the Board] *a disciplinary panel* in the exceptions process as specified in Regulation .05 of this chapter.

(3) The administrative prosecutor is a party to the administrative proceedings:

(a) (text unchanged)

(b) Until [the Board's] *a disciplinary panel's* final decision is issued.

(4) The Board *or a disciplinary panel* is not a party to the proceedings before an administrative law judge.

G. *The Chair, or the Chair's designee, of a disciplinary panel assigned the complaint may issue orders necessary to regulate the proceedings under this regulation.*

.04 Adjudication of Allegations in a Charging Document.

A. Application.

(1) This regulation applies to cases under Health Occupations Article, §§1-307, 14-405, 14-5A-17(b), 14-5B-14(b), 14-5C-17(b), 14-5D-15, *14-5E-16(b)*, *14-5F-18(b)* and 15-315 Annotated Code of Maryland.

(2) This regulation does not apply to cases under Health Occupations Article, §14-404(b), 14-5A-17(c), 14-5B-14(c), 14-5C-17(c), 14-5D-14(b), *14-5E-16(c)*, *or 14-5F-18(c)* or 15-314(b), Annotated Code of Maryland, or to cease and desist orders issued under Health Occupations Article, §14-206(e), Annotated Code of Maryland.

B. Delegation.

(1) [The Board shall] *If the charges are not resolved with the DCCR, the chair of the DCCR shall* refer the case to the other disciplinary panel which shall [initially] delegate to an administrative law judge responsibility to make:

(a)—(c) (text unchanged)

(2) If the [Board] *disciplinary panel* has delegated the case to the Office of Administrative Hearings for the issuance of proposed findings of fact only, the following apply:

(a) (text unchanged)

(b) The [Board] *disciplinary panel* may rescind the delegation if:

(i) The parties jointly notify the [Board] *disciplinary panel* prior to the prehearing conference, or the administrative law judge notifies the [Board] *disciplinary panel* prior to the occurrence of the factors set out in State Government Article, §10-205(d)(2), Annotated Code of Maryland, that there are no substantial factual allegations in dispute;

(ii) (text unchanged)

(iii) The [Board] *disciplinary panel* determines that the facts agreed upon are sufficient to decide the issue; and

(c) If a delegation to the Office of Administrative Hearings has been rescinded pursuant to §B(2)(b) of this regulation, the [Board] *disciplinary panel* shall set the case on the [Board] *disciplinary panel* docket for the [Board] *disciplinary panel* to issue conclusions of law and a disposition based on the undisputed material facts, after giving the parties a reasonable opportunity for written and oral argument.

(3) If the [Board] *disciplinary panel* has delegated the case to the Office of Administrative Hearings for the issuance of proposed findings of fact and conclusions of law only, the following apply:

(a) (text unchanged)

(b) The [Board] *disciplinary panel* may rescind the delegation if:

(i) The parties jointly notify the [Board] *disciplinary panel* prior to the prehearing conference, or the administrative law judge notifies the [Board] *disciplinary panel* prior to the occurrence of the factors set out in State Government Article, §10-205(d)(2), Annotated Code of Maryland, that there are no substantial factual allegations or conclusions of law in dispute;

(ii) (text unchanged)

(iii) The [Board] *disciplinary panel* determines that the facts and conclusions of law agreed upon are sufficient to decide the issue.

(c) If a delegation to the Office of Administrative Hearings has been rescinded pursuant to §B(3)(b) of this regulation, the [Board] *disciplinary panel* shall set the case on the [Board] *disciplinary panel* docket for the [Board] *disciplinary panel* to issue a disposition based on the undisputed material facts and conclusions of law, after giving the parties a reasonable opportunity for written and oral argument.

(4) The [Board] *disciplinary panel* may rescind a delegation to an administrative law judge if prior to the start of the evidentiary hearing:

(a) (text unchanged)

(b) The [Board] formally executes an approval of [disciplinary panel] *initially assigned the complaint agrees to* that proposed consent order.

C. Discovery.

(1)—(2) (text unchanged)

(3) Mandatory Discovery.

(a)—(c) (text unchanged)

(d) If an expert adopts the written report of the [Board] *disciplinary panel's* peer reviewer or reviewers, or adopts a sufficiently specific charging document as the expert's report, that adoption is considered to satisfy the requirements set forth in §C(3) of this regulation.

(4)—(7) (text unchanged)

D. Hearing.

(1)—(2) (text unchanged)

(3) During these proceedings, the administrative law judge shall treat all records except for a charging document [issued by the Board] as confidential and sealed.

(4) (text unchanged)

(5) The administrative law judge shall issue to the [Board] *disciplinary panel, that delegated the case to the ALJ*, a written proposed decision including, where applicable, proposed findings of fact, proposed conclusions of law, and a proposed disposition after the conclusion of the hearing.

.05 [Board] Disciplinary Panel Exceptions Process and Final Order.

A. Application.

(1) This regulation applies to cases under Health Occupations Article, §§1-307, 14-405, 14-5A-17(b), 14-5B-14(b), 14-5C-17(b), 14-5D-15, *14-5E-16(b)*, *14-5F-18(b)* and 15-315 Annotated Code of Maryland.

(2) This regulation does not apply to cases under Health Occupations Article, §14-404(b), 14-5A-17(c), 14-5B-14(c), 14-5C-14(c), 14-5D-14(b), *14-5E-16(f)*, *or 14-5F-18(c)* or 15-314(b), Annotated Code of Maryland, or to cease and desist orders issued under Health Occupations Article, §14-206(e), Annotated Code of Maryland.

B. Exceptions.

(1) Written Exceptions.

(a) Any party may file with the [Board] *disciplinary panel*, that delegated the case to an administrative law judge, exceptions to a proposed decision of an administrative law judge within 15 days of its issuance. A party may file a response to any exceptions within 15 days of the date the exceptions are filed. The [Board] *disciplinary panel* may extend the period for filing exceptions and responses. The [Board] *disciplinary panel* may grant a party filing exceptions the opportunity to file a reply to a response within a stated period of time as determined by the [Board] *disciplinary panel* in any specific case. No further exceptions or responses of any kind may be accepted.

(b) Format.

(i)—(ii) (text unchanged)

(iii) If a party attaches any part of the record to the exceptions, response, or reply, the attached pages are not to be encompassed within the applicable page limit. The [Board] *disciplinary panel* may require the attachment of those parts of the record cited in the exceptions in a form designated by the Board.

(c) (text unchanged)

(d) The [Board] *disciplinary panel* chair or the [Board] *disciplinary panel* chair's designee may in each case rule on specific procedural issues with respect to written exceptions.

(e) The [Board] *disciplinary panel* may not accept additional evidence through the written exceptions process.

(2) Oral Exceptions Hearing.

(a) If either party files exceptions, the [Board] *disciplinary panel* shall schedule a hearing, ordinarily 30 days after the receipt of responses to the exceptions, after which the [Board] *disciplinary panel* shall issue an order containing the [Board's] *disciplinary panel's* findings of fact, conclusions of law, and disposition.

(b) The presiding [Board] *disciplinary panel* member, usually the [Board] *disciplinary panel* chair, shall:

(i)—(iii) (text unchanged)

(c) (text unchanged)

(3) Additional Evidence. At the oral exceptions hearing, the [Board] *disciplinary panel* may not accept additional evidence unless:

(a) Both parties consent to the admission of additional documentary evidence and the [Board] *disciplinary panel* determines that acceptance of the additional evidence would promote the just and efficient completion of the process; or

(b) The [Board] *disciplinary panel* determines that either:

(i)—(ii) (text unchanged)

(4) If the parties do not file exceptions, the [Board] *disciplinary panel* shall consider the record, including the proposed decision of the administrative law judge, and issue its order based on the [Board's] *disciplinary panel's* findings of fact and conclusions of law.

(5) A Board staff member who testified at the hearing before the administrative law judge may not be present during [Board] *disciplinary panel* deliberations.

C. Board Action.

(1) Final Order. The [Board] *disciplinary panel* shall issue a final order within 90 days after the conclusion of:

(a) (text unchanged)

(b) Other formal [Board] *disciplinary panel* proceedings.

(2) Effect of Revocation Order.

(a) When a time period is not stated in an order for revocation, the [Board] *disciplinary panel* may not entertain an application for postdisciplinary reinstatement until at least 3 years after the date of the order.

(b) (text unchanged)

(c) The [Board] *disciplinary panel* may not entertain an application for postdisciplinary reinstatement after an order of revocation unless:

(i) (text unchanged)

(ii) [Any condition] *The conditions* set out in the order [has] *have* been fulfilled;

(iii)—(iv) (text unchanged)

(d) The [Board] *disciplinary panel* that issued the final order revoking or suspending the respondent shall entertain applications for reinstatement pursuant to the procedures and standards of Regulation .06B of this chapter.

[(3) Denial of Licensure. If the Board issues a final order of denial of an application for initial licensure on disciplinary grounds or on grounds of lack of moral character, the respondent may not reapply for a minimum of 3 years or for a longer period as set out in the order.]

[(4)] (3) Tolling.

(a) Except as a [Board] *disciplinary panel* order directs otherwise in a specific case, if a licensee subject to probation or suspension fails to renew a license:

(i)—(iii) (text unchanged)

(b) Section [C(4)(a)] *C(3)(a)* of this regulation does not:

(i) (text unchanged)

(ii) Require the [Board] *disciplinary panel* to reinstate any former licensee.

.06 Postdisciplinary Reinstatement of a License.

A. Postdisciplinary reinstatement after an order of suspension is subject to the following conditions:

(1) If an order suspends a license for a certain period of time, the respondent may petition the [Board] *disciplinary panel* that issued the order to suspend for postdisciplinary reinstatement only pursuant to that order;

(2) The [Board] *disciplinary panel* may not entertain early termination of the suspension;

(3) If termination of a suspension is made contingent on the happening of an event, the respondent shall establish the occurrence of the event to the satisfaction of the [Board] *disciplinary panel*; and

(4) If a health care practitioner whose license is suspended fails to renew the suspended license when that license expires, the health care practitioner may petition the [Board] *disciplinary panel* for termination of suspension only after applying for and meeting the requirements for reinstatement set out in COMAR 10.32.01.10.

B. Postdisciplinary reinstatement of a revoked or surrendered license is subject to the following conditions:

(1) A petitioner for postdisciplinary reinstatement of a revoked or surrendered license shall submit the following:

(a)—(b) (text unchanged)

(c) Written responses to any questions the [Board] *disciplinary panel* may propose concerning the reasons the license was revoked or surrendered and the petitioner's current fitness to practice; and

(d) (text unchanged)

(2) If a license was revoked or surrendered while the licensee was under investigation or subject to disciplinary charges, the [Board] *disciplinary panel* may not consider the application for postdisciplinary reinstatement unless:

(a)—(c) (text unchanged)

(3) The [Board] *disciplinary panel* may grant postdisciplinary reinstatement of a revoked or surrendered license only in accordance with the terms of the order of revocation or the letter of surrender;

(4) The [Board] *disciplinary panel* may grant postdisciplinary reinstatement subject to any terms and conditions the [Board] *disciplinary panel* considers appropriate for public safety and the protection of the integrity and reputation of the profession;

(5) The [Board] *disciplinary panel that issued the order to revoke or suspend* may convene a reinstatement inquiry panel which:

- (a) (text unchanged)
- (b) May consider the petitioner’s history; and
- (c) May consider presentations from both the petitioner and the administrative prosecutor’s office; and
- (d) Shall make a recommendation to the full Board].

(6) The [full Board] *disciplinary panel* shall consider the application form, the petitioner’s responses to the written questions, and the supporting documentation and written arguments, if any, submitted by the petitioner and the administrative prosecutor’s office, as well as the reinstatement inquiry panel’s recommendation;

(7) The [Board] *disciplinary panel* shall determine in its discretion if postdisciplinary reinstatement is in the interest of the health and welfare of the general public and consistent with the best interest of the profession; and

(8) A [Board] *disciplinary panel* decision denying reinstatement may set out when, if ever, a subsequent petition may be submitted.

C. The [Board] *disciplinary panel* shall issue a final written order on the postdisciplinary reinstatement application that:

- (1) (text unchanged)
- (2) Reinstates the license of the petitioner with one or more of the following conditions:
 - (a)—(d) (text unchanged)
 - (e) Other conditions that the [Board] *disciplinary panel* considers necessary; or
- (3) (text unchanged)

D. (text unchanged)

E. A petition for postdisciplinary reinstatement may be withdrawn only with the permission of the [Board] *disciplinary panel*. The [Board] *disciplinary panel* may not refund the fee except for extraordinary cause.

[.08] .07 Proceedings under Health Occupations Article, §§14-404(b), 14-5A-17(c), 14-5B-14(c), 14-5C-17(c), 14-5D-14(b), 14-5E-16(c), 14-5F-18(c) and 15-314(b), Annotated Code of Maryland.

A. In this regulation, “health care provider” means an individual who is a:

- (1)—(7) (text unchanged)
- (8) Licensed athletic trainer; [or]
- (9) *Licensed perfusionist;*
- (10) *Licensed naturopathic doctor; or*
- [(9)] (11) (text unchanged)

B. Health Occupations Article, §§14-404(b), 14-5A-17(c), 14-5B-14(c), 14-5C-17(c), 14-5D-14(b), *14-5E-16(c)*, *14-5F-18(c)* and 15-314(b), Annotated Code of Maryland, govern mandatory actions of the suspension or revocation of a license on the filing of certified docket entries, if the health care provider is convicted of or pleads guilty, including by an Alford plea, or a plea of nolo contendere to a crime involving moral turpitude.

C. Procedures.

(1) The Office of the Attorney General through Board counsel shall provide to the [Board] *disciplinary panel assigned to the case* certified docket entries of the criminal court proceeding and the following documents from the court record:

- (a)—(b) (text unchanged)
- (2) When the [Board] *disciplinary panel* determines that documents provided to it indicate that the respondent comes within the language and intent of Health Occupations Article, §14-404(b), 14-5A-17(c), 14-5B-14(c), 14-5C-17(c), 14-5D-14(b), *14-5E-16(c)*, *14-5F-18(c)* or 15-314(b), Annotated Code of Maryland, and the [Board] *disciplinary panel* has a basis for finding preliminarily that it applies to the respondent, the [Board] *disciplinary panel* shall vote to

issue an order requiring the respondent to show cause why the [Board] *disciplinary panel* should not take action under this section.

(3) After the vote to issue the show cause order, the [Board] *disciplinary panel* shall refer the matter to the administrative prosecutor for prosecutorial action.

(4) Based upon a review of the case, the prosecutor may refer the matter back to the [Board] *disciplinary panel* for further consideration.

D. Service.

(1) The [Board] *disciplinary panel* shall serve the respondent by regular mail or hand delivery at the address the respondent maintains for purposes of licensure notice.

(2) The [Board] *disciplinary panel* may choose to serve the respondent personally.

E. Opportunity to be Heard.

(1)—(2) (text unchanged)

(3) The respondent may also, within 30 days of service of the show cause order, request an opportunity to address the [Board] *disciplinary panel* by a limited evidentiary hearing on the same issues. However, this argument may not be as of right, but is discretionary based on the existence of genuine issues of material fact or law as determined by the [Board] *disciplinary panel*.

(4) The presiding [Board] *disciplinary panel* member, usually the [Board] *disciplinary panel* chair, shall determine all procedural issues that are governed by this section, and may impose reasonable time limitations. The presiding [Board] *disciplinary panel* member shall make any rulings reasonably necessary to facilitate the effective and efficient operation of the hearing. Ordinarily, the respondent and the administrative prosecutor shall limit their oral presentation to 20 minutes each. The respondent shall proceed first.

(5) The presiding [Board] *disciplinary panel* member shall allow for consideration of documents the presiding [Board] *disciplinary panel* member determines relevant and material. The presiding [Board] *disciplinary panel* member may not admit oral testimony or witnesses.

(6) [Board] *Disciplinary panel* members may ask questions of any party appearing before the [Board] *disciplinary panel*.

F.—G. (text unchanged)

H. [Board] *Disciplinary Panel* Action.

(1) After consideration of the respondent’s answer, either in writing or at a hearing, the [Board] *disciplinary panel* shall deliberate and determine whether the crime is a crime involving moral turpitude, and then shall issue an appropriate order.

(2) A pending appeal of the conviction or plea does not operate as a bar to the [Board’s] *disciplinary panel’s* acting under Health Occupations Article, §14-404(b)(1), 14-5A-17(c)(1), 14-5B-14(c)(1), 14-5C-17(c), 14-5D-14(b)(1), *14-5E-16(c)*, *14-5F-18(c)* or 15-314(b), Annotated Code of Maryland.

(3) A respondent suspended pursuant to Health Occupations Article, §14-404(b), 14-5A-17(c), 14-5B-14(c), 14-5C-17(c), 14-5D-14(b)(1), *14-5E-16(e)*, *14-5F-18(c)* or 15-314(b), Annotated Code of Maryland, shall be reinstated immediately upon the filing of a certified docket entry that the conviction has been reversed. The reinstatement does not terminate any other disciplinary action or investigation pending against the respondent.

[.09] .08 Summary Suspension.

A. (text unchanged)

B. Notice of Intent to Summarily Suspend.

(1) Based on information gathered during an investigation, the [Board] *disciplinary panel* may determine that there is a substantial likelihood of a risk of serious harm to the public health, safety, or welfare by the health provider, and vote an intent to summarily suspend the license of the respondent.

(2) If the [Board] *disciplinary panel* votes an intent to summarily suspend, the Board shall refer the matter to the administrative prosecutor for prosecutorial action.

(3) Based upon a review of the case, the prosecutor may refer the matter back to the [Board] *disciplinary panel* for further consideration.

(4) (text unchanged)

(5) The proposed order for summary suspension includes but is not limited to:

(a) (text unchanged)

(b) Notification that the respondent may request a full hearing to appeal the summary suspension, if executed by the [Board] *disciplinary panel*; and

(c) (text unchanged)

(6) Service.

(a) The [Board] *disciplinary panel* shall serve the respondent:

(i)—(ii) (text unchanged)

(b) The [Board] *disciplinary panel* may choose to serve the respondent personally.

(7) A show cause notice may not be required in extraordinary circumstances. The [Board] *disciplinary panel*, after consultation with the Board's counsel, may suspend a license[, registration, or certification] without prior notice and opportunity to be heard, if:

(a) The [Board] *disciplinary panel* determines that the health, welfare, and safety of the public or the physician imperatively requires immediate suspension;

(b) (text unchanged)

(c) The respondent is provided with a postdeprivation opportunity to be heard *within 15 days* by the [Board] *disciplinary panel, that voted to summarily suspend the license* [within 15 days].

C. Representation.

(1) The respondent may appear in proper person or be represented by counsel in any matter before the [Board] *disciplinary panel*. If represented at an evidentiary hearing, the respondent shall be represented only by an attorney admitted to the Maryland Bar or specially admitted to practice law in Maryland under Rule 14 of the Rules Governing Admission to the Bar found in the Maryland Rules.

(2) (text unchanged)

D. Predeprivation Hearing Before the [Board] *Disciplinary Panel*.

(1) *The disciplinary panel, that voted to issue a show cause order, shall hold the predeprivation hearing on whether to summarily suspend the license.* The presiding [Board] *disciplinary panel* member shall determine all procedural issues that are governed by this section, and may impose reasonable time limitations. The presiding [Board] *disciplinary panel* member may make any rulings reasonably necessary to facilitate the effective and efficient operation of the hearing, and shall limit the oral presentation by the respondent and the administrative prosecutor to 20 minutes each. The respondent shall proceed first.

(2) The presiding [Board] *disciplinary panel* member:

(a) Shall allow for consideration of oral presentations and documents considered by the presiding [Board] *disciplinary panel* member to be relevant and material to the proceeding and not unduly repetitious; and

(b) (text unchanged)

(3) The [Board] *disciplinary panel* members may ask any questions of any party appearing before the [Board] *disciplinary panel*.

E. If the [Board] *disciplinary panel* proceeds under §B(7) of this regulation, the [Board] *disciplinary panel* shall hold a postdeprivation initial hearing. The [Board] *disciplinary panel* shall conduct the hearing in accordance with §D of this regulation unless the parties waive this hearing and proceed to the summary suspension appeal.

F. Burdens of Production and Persuasion.

(1) (text unchanged)

(2) The administrative prosecutor bears the burden to show by a preponderance of the evidence that the health, welfare, and safety of the public imperatively requires the [Board] *disciplinary panel* to issue an order to suspend the respondent's license.

G. After the predeprivation hearing, the [Board] *disciplinary panel* shall vote to:

(1)—(4) (text unchanged)

H. After the postdeprivation hearing, the [Board] *disciplinary panel* shall vote to:

(1)—(4) (text unchanged)

I. (text unchanged)

J. Evidentiary Hearing Before the Administrative Law Judge.

(1) (text unchanged)

(2) After a full evidentiary hearing, the administrative law judge shall [provide the Board] *issue a proposed decision* with [proposed] findings of fact, [and] conclusions of law and [proposed] disposition. The administrative prosecutor and respondent may file exceptions in accordance with Regulation .05B of this chapter. *If a party files exceptions, unless the exceptions hearing is waived, an exceptions hearing, on the record, shall be held before the disciplinary panel that had not issued the order of summary suspension.* After the [Board] *disciplinary panel* issues its final order, the respondent may appeal this decision in accordance with Regulation [.07] .12 of this chapter.

[.10] .09 Sanctioning and Imposition of Fines.

A. General Application of Sanctioning Guidelines.

(1) Sections A and B of this regulation and Regulation [.11] .10 of this chapter do not apply to offenses for which a mandatory sanction is set by statute or regulation.

(2) Except as provided in §B of this regulation, for violations of Health *Occupations* Article, §§14-404(a), 14-504 and 1-302, Annotated Code of Maryland, the [Board] *disciplinary panel* shall impose a sanction not less severe than the minimum listed in the sanctioning guidelines nor more severe than the maximum listed in the sanctioning guidelines for each offense.

(3) (text unchanged)

(4) The [Board] *disciplinary panel* may impose more than one sanction, provided that the most severe sanction neither exceeds the maximum nor is less than the minimum sanction permitted in the chart.

(5) (text unchanged)

(6) If a licensee has violated more than one ground for discipline as set out in the sanctioning guidelines:

(a) (text unchanged)

(b) The [Board] *disciplinary panel* may impose concurrent sanctions based on other grounds violated.

(7) Notwithstanding the sanctioning guidelines set forth in Regulation [.11] .10 of this chapter, in order to resolve a pending disciplinary action, the [Board] *disciplinary panel* and the licensee may agree to a surrender of license or a consent order with terms, sanction, and fine agreed to by the [Board] *disciplinary panel*, the administrative prosecutor, and the licensee.

(8) Depending on the facts and circumstances of each case, and to the extent that the facts and circumstances apply, the [Board] *disciplinary panel* may consider the aggravating and mitigating factors set out in §B(5) and (6) of this regulation and may in its discretion determine, based on those factors, that an exception should be made and that the sanction in a particular case should fall outside the range of sanctions listed in the sanctioning guidelines.

(9) If the [Board] *disciplinary panel* imposes a sanction that departs from the sanctioning guidelines set forth in Regulation [.11]

.10 of this chapter, the [Board] *disciplinary panel* shall state its reasons for doing so in its final decision and order.

B. Aggravating and Mitigating Factors.

(1) Depending on the facts and circumstances of each case, and to the extent that the facts and circumstances apply, the [Board] *disciplinary panel* may consider the aggravating and mitigating factors set out in §B(5) and (6) of this regulation and may in its discretion determine, based on those factors, that an exception should be made and that the sanction in a particular case should fall outside the range of sanctions listed in the sanctioning guidelines.

(2) Nothing in this regulation requires the [Board] *disciplinary panel* or an administrative law judge to make findings of fact with respect to any of these factors.

(3) A departure from the sanctioning guidelines set forth in Regulation [.11] .10 of this chapter is not a ground for any hearing or appeal of a [Board] *disciplinary panel* action.

(4) The existence of one or more of these factors does not impose on the [Board] *disciplinary panel* or an administrative law judge any requirement to articulate its reasoning for not exercising its discretion to impose a sanction outside of the range of sanctions set out in the sanctioning guidelines.

(5) Mitigating factors may include, but are not limited to, the following:

(a)—(b) (text unchanged)

(c) The offender voluntarily admitted the misconduct, made full disclosure to the [Board] *disciplinary panel* and was cooperative during the [Board] *disciplinary panel* proceedings;

(d)—(i) (text unchanged)

(6) (text unchanged)

C. (text unchanged)

D. Other Fines.

(1) The [Board] *disciplinary panel* shall impose a fine of \$100 for a violation of Health Occupations Article, §14-505, Annotated Code of Maryland, and a fine of \$100 for a violation of Health Occupations Article, §14-316(f), Annotated Code of Maryland.

(2) The [Board] *disciplinary panel* shall pay all monies collected pursuant to §D(1) of this regulation into the Board’s fund.

E. Offenses Related to Continuing Medical Education Credits.

(1) First Offense of Failure to Document Credits.

(a) Except as provided in §E(2) or (3) of this regulation, if a licensee has submitted an application claiming the completion of continuing medical education credits and the licensee fails to document the completion of such continuing medical education credits when audited by the Board, the [Board] *disciplinary panel* may impose a civil fine under Health Occupations Article, §14-316(d)(4) (5), 14-5A-13(d)(2), 14-5B-12(d)(2), 14-5D-12(g), or 15-307(f), Annotated Code of Maryland, of up to \$100 per missing continuing medical education credit in lieu of a sanction under Health Occupations Article, §14-404, 14-5A-17, 14-5B-14, 14-5D-14, or 15-314, Annotated Code of Maryland.

(b) Section E(1)(a) of this regulation does not limit the Board’s or *disciplinary panel*’s authority to require completion of the missing continuing medical education credits.

(2) Willful Falsification.

(a) If a licensee has willfully falsified an application with respect to continuing medical education credits, the licensee may be charged under one or more of the following, as appropriate:

(i) Health Occupations Article, §14-404(a)(3), 14-5A-17(a)(3), 14-5B-14(a)(3), 14-5C-17(a)(3), 14-5D-14(a)(3), 14-5E-16(a)(3), 14-5F-18(a)(19), or 15-314(a)(3), Annotated Code of Maryland;

(ii) Health Occupations Article, §14-404(a)(11), 14-5A-17(a)(10), 14-5B-14(a)(10), 14-5C-17(a)(10), 14-5D-14(a)(10), 14-5E-16(a)(10), 14-5F-18(a)(9), or 15-314(a)(11), Annotated Code of Maryland; and

(iii) Health Occupations Article, §14-404(a)(36) or 15-314(a)(36), Annotated Code of Maryland.

(b) Upon a finding of a violation, the [Board] *disciplinary panel* may impose any discipline authorized under Health Occupations Article, §14-404(a), 14-405.1, 14-5A-17, 14-5B-17, 14-5C-17, 14-5D-14, 14-5E-16, 14-5F-18, 15-314, or 15-316, Annotated Code of Maryland, and the sanctioning guidelines.

(3) Licensees Previously Disciplined Under §E(1) or (2) of this Regulation.

(a) If a licensee has been previously fined or otherwise disciplined under §E(1) or (2) of this regulation, the [Board] *disciplinary panel* may, for a subsequent offense relating to continuing medical education credits, charge a licensee under one or more of the following, as appropriate:

(i) Health Occupations Article, §14-404(a)(3), 14-5A-17(a)(3), 14-5B-14(a)(3), 14-5C-17(a)(3), 14-5D-14(a)(3), 14-5E-16(a)(3), 14-5F-18(a)(19) or 15-314(a)(3), Annotated Code of Maryland;

(ii) Health Occupations Article, §14-404(a)(11), 14-5A-17(a)(10), 14-5B-14(a)(10), 14-5C-17(a)(10), 14-5D-14(a)(10), 14-5E-16(a)(10), 14-5F-18(a)(9), or 15-314(a)(11), Annotated Code of Maryland; and

(iii) (text unchanged)

(b) Upon a finding of a violation, the [Board] *disciplinary panel* may impose any discipline authorized under Health Occupations Article, §14-404(a), 14-405.1, 14-5A-17, 14-5B-17, 14-5C-17, 14-5D-14, 14-5E-16, 14-5F-18, 15-314, or 15-316, Annotated Code of Maryland, and the sanctioning guidelines for a subsequent offense.

(c) The [Board] *disciplinary panel* may not apply the sanction described in §E(1) of this regulation in determining a sanction for a licensee previously fined or disciplined for an offense related to continuing medical education credits.

(4) The [Board] *disciplinary panel* shall pay all monies collected pursuant to this section into the State’s General Fund.

F. Payment of Fines.

(1) An individual shall pay to the [Board] *disciplinary panel* any fine imposed under this regulation within 15 calendar days of the date of the order, unless the order specifies otherwise.

(2) Filing an appeal under State Government Article, §10-222, Annotated Code of Maryland, does not stay payment of a fine imposed by the [Board] *disciplinary panel* pursuant to this regulation.

(3) If an individual fails to pay, in whole or in part, a fine imposed by the [Board] *disciplinary panel* pursuant to this regulation, the [Board] *disciplinary panel* may not restore, reinstate, or renew a license until the fine has been paid in full.

(4) In its discretion, the [Board] *disciplinary panel* may refer all cases of delinquent payment to the Central Collection Unit of the Department of Budget and Management to institute and maintain proceedings to ensure prompt payment.

[.11] .10 Sanctioning Guidelines for Physicians.

A. Subject to provisions of Regulation [.10A and B] .09A and B of this chapter, the [Board] *disciplinary panel* may impose sanctions as outlined in §B of this regulation on physicians for violations of Health Occupations Article, §§14-404(a), 14-504, and 1-302, Annotated Code of Maryland.

B. (text unchanged)

.11 Disciplinary Actions and Licensure Denials Assigned to the Board.

A. This regulation applies to proceedings under Health Occupations Article, §14-205(b)(1)(iii), 14-206(e), 14-307, 14-405, 14-606(a)(4)(ii), 14-5A-17(a), 14-5A-09, 14-5A-23(b), 14-5B-09, 14-5B-14(a), 14-5B-19(b), 14-5C-09, 14-5C-17(a), 14-5C-23(b), 14-5D-08, 14-5D-14(a), 14-5D-18(b), 14-5E-09, 14-5E-16(a), 14-5E-23(b),

14-5F-11, 14-5F-18(a), 14-5F-29(b), 15-313, or 15-403, Annotated Code of Maryland.

B. The final decision in the proceedings in this regulation is made by the full Board.

C. Denial of Application for Initial License.

(1) When an individual files an application for a license with the Board, the applicant shall be investigated to determine whether the Board will:

- (a) Issue a license; or
- (b) Deny the application.

(2) The Board may vote for the issuance of an intent to deny application for an initial license to practice medicine or an allied health profession for one or any combination of the grounds for denial, including:

- (a) Failing to meet the minimal qualifications or requirements of licensure;
- (b) Committing an act or an omission constituting grounds for discipline under Health Occupations Article, §14-404, Annotated Code of Maryland;
- (c) Failing to complete the application or failing to provide additional information requested by the Board in connection with the application;
- (d) Submitting false or misleading information in connection with the application; or
- (e) Failing to cooperate with the Board's investigation of the application.

(3) If the Board votes to issue a notice of an intent to deny an application for an initial license, the notice shall be served upon the applicant by regular mail or hand delivery to an address the applicant identified on the applicant's application.

(4) After service of the notice of intent to deny application for initial license, the applicant shall be offered an informal meeting with a panel of the Board to explore whether the matter can be resolved with a consent order. The administrative prosecutor also may attend the meeting. The panel may recommend a consent order granting a license, denying a license, or granting a license with appropriate terms and conditions including probation.

(5) If the applicant and the administrative prosecutor agree with the panel's proposed resolution, the applicant shall sign a consent order with the proposed resolution, and the Board shall vote on whether to approve the resolution. If the applicant and the administrative prosecutor do not agree with the panel's proposed resolution, the Board shall delegate the matter to the Office of Administrative Hearings for a contested case hearing.

(6) If the matter proceeds to a hearing before the Office of Administrative Hearings, the administrative prosecutor shall present evidence before an administrative law judge in support of the denying the initial licensure application. The applicant shall be given an opportunity to present evidence in support of granting the license.

(7) The administrative law judge shall conduct an evidentiary hearing in accordance with:

- (a) The Administrative Procedure Act;
- (b) COMAR 28.02.01; and
- (c) COMAR 10.32.02.04C, which shall, whenever possible, be construed as supplementing and in harmony with COMAR 28.02.01.

(8) The administrative law judge shall issue a proposed decision. Within 15 days of the issuance of the proposed decision, the applicant and the administrative prosecutor may file exceptions to the proposed decision with the Board. A response to the exceptions may be filed within 15 days of the filing of the exceptions.

(9) If exceptions are filed, the Board shall hold a hearing on the exceptions. The exceptions hearing is based upon evidentiary record established before the Office of Administrative Hearings.

(10) The Board shall vote and issue a final decision and order on whether the initial license application is granted or denied.

(11) An individual whose application for initial licensure has been denied by a final decision and order by the Board may petition for judicial review of the final decision and order as provided by Health Occupations Article, §14-408(a), Annotated Code of Maryland.

D. Unauthorized Practice and Misrepresentation as a Licensed Practitioner.

(1) The Board may vote for charges that an individual has practiced medicine or an allied health profession without authorization or that an individual has misrepresented one's self as a practitioner of medicine or as an allied health professional.

(2) If the Board votes to charge an individual for practicing medicine or an allied health care profession without authorization or with misrepresenting one's self as a practitioner of medicine or as an allied health professional, the notice shall be served upon the respondent by regular mail, certified mail, or hand delivery to the individual.

(3) After service of the charges, the respondent shall be offered an informal meeting with a panel of the Board to explore whether the matter can be resolved with a consent order. The administrative prosecutor may attend the meeting. The panel may recommend a consent order.

(4) If the respondent and the administrative prosecutor agree with the panel's proposed resolution, the respondent shall sign a consent order with the proposed resolution, and the Board shall vote on whether to approve the resolution. If the applicant and the administrative prosecutor do not agree with the panel's proposed resolution, the Board shall delegate the matter to the Office of Administrative Hearings for a contested case hearing.

(5) If the matter proceeds to a hearing before the Office of Administrative Hearings, the administrative prosecutor shall present evidence before an administrative law judge to prove the charges. The applicant shall be given an opportunity to present evidence in defense.

(6) The administrative law judge shall conduct an evidentiary hearing in accordance with:

- (a) The Administrative Procedure Act;
- (b) COMAR 28.02.01; and
- (c) COMAR 10.32.02.04C which shall, whenever possible, be construed as supplementing and in harmony with COMAR 28.02.01.

(7) The administrative law judge shall issue a proposed decision. Within 15 days of the issuance of the proposed decision, the applicant and the administrative prosecutor may file exceptions to the proposed decision with the Board. A response to the exceptions may be filed within 15 days of the filing of the exceptions.

(8) If exceptions are filed, the Board shall hold a hearing on the exceptions. The exceptions hearing is based upon evidentiary record established before the Office of Administrative Hearings.

(9) The Board shall vote and issue a final decision and order. If the Board determines that the respondent has practiced a health care profession without authorization or misrepresented one's self as a practitioner of medicine, the Board may fine the respondent as authorized by statute and regulation.

(10) An individual who is aggrieved by a final decision and order by the Board may petition for judicial review of the final decision and order as provided by Health Occupations Article, §14-408(a), Annotated Code of Maryland.

E. Cease and Desist Orders

(1) An initial Board order to cease and desist issued under §14-206(e) of the Medical Practice Act from the unauthorized practice of medicine or from taking any action for which there are grounds for discipline under Health Occupations Article, §14-404, Annotated

Code of Maryland, and which pose a serious risk to the health, safety, and welfare of a patient:

(a) *Is a public document; and*

(b) *Is effective immediately unless the order states otherwise.*

(2) *The Board shall serve the initial order by hand delivery, certified mail, or first-class mail.*

(3) *Challenge.*

(a) *A respondent may challenge the factual or legal basis of the initial order by filing a written opposition within 30 days of its issuance, and may include a request for a hearing.*

(b) *The Board shall consider that opposition and shall provide a hearing if requested.*

(c) *After considering the written opposition and the presentation at the hearing, if any, the Board may issue a final order to rescind, modify, or affirm the cease and desist order.*

(d) *The Board shall serve the final order by hand delivery, certified mail, or first-class mail to the last known address of the respondent.*

(e) *The respondent may seek judicial review of the Board's final order as provided in the Administrative Procedure Act.*

(4) *Violations of a Cease and Desist Order.*

(a) *The Board may impose a fine as provided in Regulation .09C of this chapter on any individual who violates a cease and desist order.*

(b) *Before imposition of a fine for violation of a cease and desist order, the Board shall give notice of the alleged violation, and an opportunity for a hearing.*

(c) *The hearing may not concern issues:*

(i) *That were not raised under §E(3) of this regulation;*
or

(ii) *That were raised under §E(3) of this regulation, but for which the Board did not grant the relief or modification requested.*

(d) *The only issues to be considered at the hearing are:*

(i) *Whether the individual violated the cease and desist order; and*

(ii) *The amount of any fine to be imposed.*

(e) *The Board shall issue a final order stating whether a violation occurred and if so, the amount of the fine.*

(f) *The respondent may seek judicial review of the Board's final order as provided in the Administrative Procedure Act.*

(5) *Nothing in this regulation prohibits the Board from delegating any hearing to the Office of Administrative Hearings as permitted by State Government Article, §10-205, Annotated Code of Maryland.*

.12 Judicial Review.

A. *A respondent whose license has been sanctioned by a final order of the disciplinary panel after a contested case proceeding under Health Occupations Article, §14-404, 14-5A-17.1, 14-5B-14.1, 14-5C-17(b), 14-5D-15, 14-5E-17, 14-5F-23, or 15-315(b), Annotated Code of Maryland, may seek judicial review of the disciplinary panel's decision as provided under Health Occupations Article, §14-408(a), Annotated Code of Maryland.*

B. *An individual whose application for administrative reinstatement has been denied by a final disciplinary panel order after a contested case proceeding under Health Occupations Article, §14-205(a)(1)(iii), 14-5A-17.1, 14-5B-14.1, 14-5C-17(b), 14-5D-15, 14-5E-17, 14-5F-23, or 15-315(b), Annotated Code of Maryland, may appeal the decision as provided under Health Occupations Article, §14-408(a), Annotated Code of Maryland.*

[.12].13 Recusal in Board or Disciplinary Panel Proceedings.

A. *A Board or disciplinary panel member may not participate in an investigation or a proceeding in which the impartiality of the*

Board or disciplinary panel member might reasonably be questioned, including but not limited to proceedings and investigations in which the Board or disciplinary panel member has or appears to have:

(1)—(2) *(text unchanged)*

B. *[A Board member shall determine whether the Board member falls within §A of this regulation and shall state the] The recusal shall be stated on the record.*

C. *In a hearing before the Board or disciplinary panel, the parties may waive the recusal.*

[D. *Participation by a Board member in an investigation, DCCR, IRP, or other administrative proceeding involving a respondent does not constitute a basis for recusal in a contested case proceeding unless the Board member has:*

(1) *Personal bias or prejudice against the respondent; or*

(2) *Knowledge of disputed evidentiary facts outside of the administrative process.]*

.14 Proposed Orders; Show Cause Hearings.

A. *Nothing in this chapter prohibits [the Board from issuing] the issuance of a charging document with a proposed order which will go into effect if the respondent fails to request a hearing.*

B. *Nothing in this chapter prohibits [the Board] a disciplinary panel from conducting a show cause hearing to determine if there has been:*

(1)—(2) *(text unchanged)*

(3) *Any other violation of a Board or disciplinary panel order.*

C. *[The Board] A disciplinary panel may terminate a show cause hearing if it determines that there are material facts in dispute which cannot reasonably be determined in that venue. The [Board] disciplinary panel may then convene an evidentiary hearing or delegate such a hearing to an administrative law judge.*

.15 Confidentiality.

A. *Except for formal charging documents, notices of intent to deny, or as otherwise provided by law, the proceedings of the Board and the disciplinary panels are confidential, and the confidentiality of the proceedings cannot be waived by the parties.*

B. *(text unchanged)*

C. *To the extent possible, even after a final order is entered by the Board or a disciplinary panel, the parties shall refrain from revealing legal documents or oral statements or information that would reveal the identity of any patients referenced in the [Board] order.*

.16 Ethics.

The Board and the disciplinary panels may consider the Principles of Ethics of the American Medical Association, but these principles are not binding on the Board or the disciplinary panels.

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

Subtitle 32 BOARD OF PHYSICIANS

10.32.10 Licensure of Radiation Therapists, Radiographers, Nuclear Medicine Technologists, and Radiologist Assistants

Authority: Health Occupations Article, §§14-306, 14-5B-01, 14-5B-03, Annotated Code of Maryland

Notice of Proposed Action
[14-374-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .09 under **COMAR 10.32.10 Licensure of Radiation Therapists, Radiographers, Nuclear Medicine Technologists, and Radiologist Assistants.**

Statement of Purpose

The purpose of this action is to authorize radiographers who meet prescribed qualifications and certifications to add to their scope of practice the authority that includes the insertion of a peripherally inserted central catheter while working in a cardiac-catheterization laboratory.

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 January 12, 2015. A public hearing has not been scheduled.

.09 Scope of Practice—Radiography.

A.—B. (text unchanged)

C. *The scope of practice of radiography includes the insertion and removal of peripherally inserted central catheters with or without fluoroscopic guidance if the:*

(1) *Radiographer is:*

(a) *Registered by the ARRT in advanced qualifications in cardiac-interventional radiography, vascular-interventional radiography, or cardiovascular-interventional radiography;*

(b) *Working in a cardiac catheterization laboratory or interventional radiographic laboratory while cardiac catheterization or interventional procedures are ongoing; and*

(c) *Under the onsite supervision of the supervising physician;*

(2) *Supervising physician in the cardiac catheterization or interventional laboratory is responsible for the acts of the radiographer with respect to insertion or removal of peripherally inserted central catheters; and*

(3) *Facility where the procedure is performed:*

(a) *Has protocols available for review by the Board;*

(b) *Documents the training provided to the radiographer;*
and

(c) *Evaluates the radiographer on a regular basis for competency, documents the results of these tests, and makes the results available for inspection by the Board.*

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

Subtitle 40 BOARD OF PODIATRIC MEDICAL EXAMINERS

10.40.07 Civil Penalties

Authority: Health Occupations Article, §16-505(b), Annotated Code of Maryland

Notice of Proposed Action

[14-362-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .02—.04 under **COMAR 10.40.07 Civil Penalties**. This action was considered at a public meeting on September 11, 2014, notice of which was given by publication on the Board’s website at <http://dhmh.maryland.gov/mbpme/SitePages/Home.aspx>, pursuant to State Government Article, §10-506(c)(1), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to implement standards for the assessment of a civil fine against licensees found guilty of unauthorized practice.

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 January 12, 2015. A public hearing has not been scheduled.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(2) (text unchanged)

(3) “Violation” means an act or omission proscribed under Health Occupations Article, §§16-311(a) and 16-501, Annotated Code of Maryland.

.03 Authority to Impose [Administrative] Civil Monetary Penalty.

A. After a hearing under Health Occupations Article, §16-313, Annotated Code of Maryland, and COMAR 10.40.05, the Board may impose [an administrative] a civil monetary penalty of *no less than \$1,000 and no more than \$50,000* [or less] under this chapter [on a licensee] *against an individual* who commits a violation.

B. (text unchanged)

C. *The Board may impose a civil monetary penalty against an individual who practices podiatry without a license in violation of Health Occupations Article, §16-501, Annotated Code of Maryland.*

D. *The Board may not impose a fine under §C of this regulation against a podiatrist for practicing podiatry on an expired license if the:*

(1) *Podiatrist’s license is reinstated within 30 calendar days of the expiration date of the license; and*

(2) *The licensee complies with COMAR 10.40.02.*

.04 Factors to be Considered in the Assessment of Penalties.

The Board shall consider the following factors in determining whether to impose a penalty and the amount of any penalty:

- A.—D. (text unchanged)
- E. The individual’s history of any previous violation; *and*
- F. *If the penalty being imposed is for unauthorized practice, the length of time in which the individual engaged in the unauthorized practice.*

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

Subtitle 56 BOARD OF DIETETIC PRACTICE

10.56.09 Disciplinary Sanctions and Monetary Penalties

Authority: Health Occupations Article, §§5-205 and 5-403(b), Annotated Code of Maryland

Notice of Proposed Action

[14-367-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations **.01**, **.02**, and **.06** and adopt new Regulation **.07** under **COMAR 10.56.09 Disciplinary Sanctions and Monetary Penalties**. This action was considered at a public meeting on September 18, 2014, notice of which was given by publication in 41:17 Md. R. 993 (August 22, 2014) and on the Board’s website at <http://dhmh.maryland.gov/dietetic/SitePages/boardmeetings.aspx>, pursuant to State Government Article, §10-506(c)(1), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to authorize the Board of Dietetic Practice to impose a civil fine no greater than \$50,000 upon an unlicensed individual for practicing dietetics without a license or misrepresenting to the public that the individual is licensed by the Board. The proposal also sets forth factors to be used in determining the amount of the civil fine.

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 800-735-22580, or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through January 12, 2015. A public hearing has not been scheduled.

.01 Scope.

This chapter establishes the standards by which the Board may impose a disciplinary sanction, *civil fine*, or administrative monetary penalty, not to exceed:

- A. \$5,000, on an individual licensed under Health Occupations Article, Title 5, Annotated Code of Maryland, for an act or omission prohibited under Health Occupations Article, §5-311, Annotated Code of Maryland; *or*
- B. \$50,000 on an individual who violates Health Occupations Article, §5-401 or 5-402, Annotated of Maryland.

.02 Definitions.

- A. (text unchanged)
 - B. Terms Defined.
 - (1) (text unchanged)
 - (2) *“Civil fine” means a monetary fine imposed by the Board in accordance with Health Occupations Article, §5-403, Annotated Code of Maryland.*
- [(2)] (3)—[(4)] (5) (text unchanged)

.06 Payment of Penalties.

- A. A licensee *or unlicensed individual* shall pay to the Board a penalty *or civil fine* imposed under this chapter by the date the Board’s order is issued, unless the Board’s order specifies otherwise.
- B. Filing an appeal under State Government Article, §10-222, Annotated Code of Maryland, or Health Occupations Article, §5-313, Annotated Code of Maryland, does not automatically stay payment of a penalty *or civil fine* imposed by the Board under this chapter.
- C.—E. (text unchanged)

.07 Civil Fines.

- A. *The Board may impose a civil fine of no less than \$1,000 and no more than \$50,000 against an individual who:*
 - (1) *Practices dietetics without a license in violation of Health Occupations Article, §5-401, Annotated Code of Maryland; or*
 - (2) *Misrepresents or implies to the public by use of the protected titles in violation of Health Occupations Article, §5-402, Annotated Code of Maryland.*
- B. *Factors to be used in determining the amount of the fine may include, but are not be limited to, the following:*
 - (1) *The extent to which the individual derived any financial benefit from the unauthorized practice or misrepresentation of title;*
 - (2) *The willfulness of the unauthorized practice or misrepresentation of title;*
 - (3) *Actual or potential harm caused by the unauthorized practice or misrepresentation of title;*
 - (4) *The cost of the investigation; and*
 - (5) *The length of time in which the individual engaged in the unauthorized practice or misrepresentation of title.*

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

Title 11 DEPARTMENT OF TRANSPORTATION

Subtitle 01 OFFICE OF THE SECRETARY

11.01.10 Maryland Minority Business

Authority: Transportation Article, §2-103; State Finance and Procurement Article, §§14-301—14-308, Annotated Code of Maryland

Notice of Proposed Action [14-366-P-I]

The Secretary of the Maryland Department of Transportation proposes to amend Regulation .01 under COMAR 11.01.10 **Maryland Minority Business Enterprise/Federal Disadvantaged Business Enterprise Program**.

Statement of Purpose

The purpose of this action is to update existing regulations to reflect the most recent revisions to the Maryland Minority Business Enterprise Program Manual.

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 January 12, 2015. 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 State of Maryland—Maryland Minority Business Enterprise Program Manual Formerly known as the Maryland Minority Business Enterprise/Federal Disadvantaged Business Enterprise Program (November 1999), has been declared a document generally available to the public and appropriate for incorporation by reference. For this reason, it will not be printed in the Maryland Register or the Code of Maryland Regulations (COMAR). Copies of this document are filed in special public depositories located throughout the State. A list of these depositories was published in 41:1 Md. R. 9 (January 10, 2014), and is available online at www.dsd.state.md.us. The document may also be inspected at the office of the Division of State Documents, 16 Francis Street, Annapolis, Maryland 21401.

.01 Incorporation by Reference.

The Maryland Minority Business Enterprise Program Manual, formerly known as The Maryland Minority Business Enterprise/Federal Disadvantaged Business Enterprise Program

(Maryland Department of Transportation, November 1999), as amended February 2009 and July 2014, is incorporated by reference.

JAMES T. SMITH, JR.
Secretary of Transportation

Title 12 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

Subtitle 11 OFFICE OF THE SECRETARY

12.11.09 Inmate Welfare Fund

Authority: Correctional Services Article, §§2-109 and 10-502, Annotated Code of Maryland

Notice of Proposed Action [14-364-P]

The Secretary of Public Safety and Correctional Services proposes to amend Regulations .01—.04 and adopt new Regulation .05 under **COMAR 12.11.09 Inmate Welfare Fund**.

Statement of Purpose

The purpose of this action is to update existing terminology to reflect current practices and add provisions for an internal Inmate Welfare Fund Board with oversight for management of inmate welfare funds.

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 Hall, Director, Policy and Regulations, Department of Public Safety and Correctional Services, 300 E. Joppa Rd Suite 1000 Towson, MD 21286, or call 410-339-5000. Comments will be accepted through January 12, 2015. A public hearing has not been scheduled.

.01 Purpose.

These regulations provide policy and procedures for administration of inmate welfare funds at Department of Public Safety and Correctional Services (*Department*) correctional and detention facilities.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) Commissary.

(a) "Commissary" means a *contractual* service operation from which an inmate may purchase food, health items, and other sundry merchandise to enhance the inmate's health and welfare needs.

(b) (text unchanged)

[(2) “Commissioner” means the Commissioner of Correction and the Commissioner of Pretrial Detention and Services.

(3) “Director” means the Director of the Patuxent Institution.]

(2) *Inmate*.

(a) “*Inmate*” has the meaning stated in *Correctional Services Article, §1-101, Annotated Code of Maryland*.

(b) “*Inmate*” includes an individual referred to as a:

(i) *Resident*; or

(ii) *Detainee*.

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

[(6)] (5) “*Inmate welfare fund*” means a fund used to benefit the general inmate population that is derived primarily from [profits] *commissions* from [the sale of goods through the commissary operation and such commission generating operations as vending machines and telephone usage.] *vendors who provide*:

(a) *Commissary services*;

(b) *Inmate telephone services*; and

(c) *Vending machines services*.

[(7) “Warden” means the warden of a Division of Correction institution, warden of the Baltimore City Detention Center, or warden of the Patuxent Institution or designee.]

(6) “*Managing official*” has the meaning stated in *Correctional Services Article, §1-101, Annotated Code of Maryland*.

[(8)] (7) (text unchanged)

.03 Funding Administration.

A. Each *Department* correctional or detention facility shall establish and maintain an inmate welfare fund according to this chapter.

[B. Before November 1 of each fiscal year, the Director of the Division of Financial Services along with each Commissioner and the Director shall:

(1) Review existing and proposed cost allocations for inmate-related programs; and

(2) Transfer allocations from the respective institutional inmate welfare funds to identified inmate-related programs.]

B. *The Inmate Welfare Fund Board (Board) shall oversee inmate welfare fund administrative activities.*

C. *Board membership shall consist of the following Department personnel:*

(1) *Secretary (Chairman)*;

(2) *Deputy Secretary for Operations (DSO)*;

(3) *Deputy Secretary for Administration (DSA)*;

(4) *Chief of Staff (COS)*;

(5) *Executive Director — North Region*;

(6) *Executive Director — Central Region*;

(7) *Executive Director — South Region*;

(8) *Director of Financial Services*; and

(9) *Director of Administrative Services for Operations*.

D. *The Board, at a minimum, shall:*

(1) *Review existing and proposed cost allocations for Department inmate-related programs to determine the use of inmate welfare funds in the subsequent budget year*;

(2) *Identify and quantify priority projects to be supported with inmate welfare funding*;

(3) *Identify the type of expenditures that require Board approval*;

(4) *Identify the type of expenditures and the dollar amount delegated to Operations that may be disbursed without Board approval*;

(5) *Determine the amount each Department correctional and detention facility’s inmate welfare fund is obligated to contribute to Department inmate-related programs*; and

(6) *Prepare a year- end report that identifies all inmate welfare fund revenues and expenditures by type and dollar amount for the previous fiscal year.*

E. *The Board, at a minimum, shall meet in January and June of each year.*

F. *The Deputy Secretary for Administration shall provide administrative support staff for the Board who shall:*

(1) *Schedule meetings*;

(2) *Document Board discussions and decisions*;

(3) *File and maintain records of discussions and decisions*; and

(4) *Perform other duties related to Board activities.*

.04 Inmate Welfare Fund Expenditures.

A. [Inmate goods and services shall include all of] *Inmate welfare funds are reserved for the following Department programs and services:*

(1) [Medical supplies and services as authorized by the Commissioner or the Director] *Chaplaincy*;

[(2) Commissary goods for resale];

[(3)] (2) [Athletic and recreational services, supplies, and equipment] *Inmate legal services included in the Office of the Secretary budget in Program 01*;

[(4)] (3) [Educational services, material, supplies, and equipment] *Education and library services provided by the Department of Labor, Licensing, and Regulation*;

[(5)] (4) [Entertainment expenditures, including movie rentals, newspapers, and books] *Inmate Grievance Office*;

[(6)] (5) [Repair and replacement of property] *Positions that supervise inmate education and chaplaincy programs included in the Deputy Secretary for Operations budget program 03*; and

[(7)](6) [Indigent inmate welfare packages; and] *Priority inmate-related projects*.

[(8) Other goods and services as approved by the Commissioner or the Director for their respective facilities].

B. Each [warden or facility administrator of this regulation] *managing official* [an inmate welfare fund] shall have the authority to approve inmate welfare fund expenditures [for the categories in §A(2)—(7)] *authorized by the Board under Regulation .03 of this chapter, if [the correctional facility’s]:*

(1) [Working capital requirement, as defined under Regulation.02B(8) of this chapter, is maintained] *The facility maintains adequate inmate welfare funds to make the required contribution to Department-related programs listed under §A of this regulation before the end of each fiscal year*; and

(2) [Allocation, determined under Regulation.03B of this chapter, to the Department’s inmate-related programs is made by the end of the fiscal year] *The available balance of the facility inmate welfare fund does not drop below zero after the expenditure is made.*

C. Before [using] *a managing official uses inmate welfare funds to procure goods or services [not included in §B of this regulation] that have not been authorized by the Board*[:

(1) A warden], *the managing official shall obtain authorization from the [warden’s Commissioner or Director] Board*[: or

(2) A facility administrator shall obtain authorization from the facility administrator’s warden who shall receive authorization required under §C(1) of this regulation].

D. A request to *the Board* under §C of this regulation shall include:

(1) — (2) (text unchanged)

(3) *Justification for the expenditure*; and

(4) *The current inmate welfare fund account balance*[: and

(5) *The average working capital requirement for the institution*].

E. A copy of the *Board’s approval of a request submitted* under §C of this regulation shall be attached to the related purchase order.

[F. Emergency Procurement Exception.

In an emergency, a warden may use inmate welfare funds to obtain goods or services necessary to address the emergency:

- (1) As provided under COMAR 21.05.06.02; and
- (2) Without meeting the requirements of §§B and C of this regulation.]

.05 Interest Earned on Inmate Welfare Funds.

If applicable, interest earned on inmate welfare fund money, except for operating expenses, shall be deposited in the inmate welfare fund.

GREGG L. HERSHBERGER
Secretary of Public Safety and Correctional Services

Title 13B MARYLAND HIGHER EDUCATION COMMISSION

Subtitle 02 ACADEMIC REGULATIONS

13B.02.03 Academic Programs — Degree Granting Institutions

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

Notice of Proposed Action

[14-365-P]

The Maryland Higher Education proposes to amend Regulation .02 under **COMAR 13B.02.03 Academic Programs—Degree Granting Institutions**. This action was considered by the Commission at an open meeting held on October 22, 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 update regulations relating to areas of concentration at institutions of higher education. The proposed regulation change will permit community colleges to offer areas of concentration (AOC) within an Associate degree. These AOCs can appear on students’ transcripts and diplomas and will allow community colleges to use AOCs in their catalogs and marketing materials.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. Based on historical estimates derived from AOCs in the 4-year sector and new degree proposals in the 2-year sector, we anticipate receiving an average of two new AOC proposals per year from each Maryland community college. AOCs carry a submission and review fee of \$250 per proposal. When applied across all 16 Maryland community colleges, the annual revenue impact is \$8,000 for the Maryland Higher Education Commission. Since these regulations would not fully go into effect until the spring 2015 semester, anticipated revenues would be lower in FY 2015.

II. Types of Economic Impact.	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude
A. On issuing agency:		
AOC Proposal Fee	(R+)	\$8,000 annually
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+)	Magnitude
	Cost (-)	
D. On regulated industries or trade groups:		
AOC Proposal Fee	(-)	\$8,000 annually
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. Based on historical estimates derived from AOCs in the 4-year sector and new degree proposals in the 2-year sector, we anticipate receiving an average of two new AOC proposals per year from each Maryland community college. AOCs carry a submission and review fee of \$250 per proposal. When applied across all 16 Maryland community colleges, the annual revenue impact is \$8,000 for the Maryland Higher Education Commission. Since these regulations would not fully go into effect until the spring 2015 semester, anticipated revenues would be lower in FY 2015.

D. Based on historical estimates derived from AOCs in the 4-year sector and new degree proposals in the 2-year sector, we anticipate receiving an average of two new AOC proposals per year from each Maryland community college. AOCs carry a submission and review fee of \$250 per proposal. When applied across all 16 Maryland community colleges, the annual revenue impact is \$8,000 for the Maryland Higher Education Commission. Since these regulations would not fully go into effect until the spring 2015 semester, anticipated revenues would be lower in FY 2015.

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 Shawna Acker-Ball, Director of Academic Affairs, Maryland Higher Education Commission, 6 N Liberty Street, 10th Floor, Baltimore, MD 21201, or call 410-767-3268, or email to shawna.acker-ball@maryland.gov, or fax to 410-332-0270. Comments will be accepted through January 12, 2015. A public hearing has not been scheduled.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) “Area of concentration” means a sequential arrangement of courses within a program that:

(a) *At the associate’s level is at least 12 semester credit hours, and not greater than 30 semester credit hours;*

[(a)] (b)— [(c)] (d) (text unchanged)

(2) — (26) (text unchanged)

CATHERINE M. SHULTZ
Acting Secretary of Higher Education

Title 14 INDEPENDENT AGENCIES

Subtitle 09 WORKERS’ COMPENSATION COMMISSION

Notice of Proposed Action

[14-369-P]

The Workers’ Compensation Commission proposes to amend:

(1) Regulation .02 under **COMAR 14.09.15 Open Meetings**;
and

(2) Regulations .03 and .13 under **COMAR 14.09.16 Public Information Act Requests**.

This action was considered at a public meeting on October 23, 2014, notice of which was given by publication in 41:20 Md. R. 1189 (October 3, 2014).

Statement of Purpose

The purpose of this action is to update now-obsolete COMAR references.

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 Amy Lackington, Administrator, Workers’ Compensation Commission, 10 E. Baltimore Street, Baltimore, MD 21202, or call 410-864-5300, or email to alackington@wcc.state.md.us, or fax to 410-864-5301. Comments will be accepted through January 12, 2015. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Workers’ Compensation Commission during a public meeting to be held on February 12, 2015, at 10 E. Baltimore Street, Baltimore, MD 21202.

14.09.15 Open Meetings

Authority: Labor and Employment Article, §9-309(a); [State Government] *General Provisions* Article, [§10-507(b)] §§3-101—3-501; Annotated Code of Maryland

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) “Open Meeting” means any meeting of the Commission required to be open to the public by [State Government] *the Open Meetings Act, General Provisions* Article, §§[10-501—10-512] 3-101—3-501, Annotated Code of Maryland.

(3) “Public body” has the meaning stated in [State Government] *General Provisions* Article, §[10-502] 3-101(h), Annotated Code of Maryland.

14.09.16 Public Information Act Requests

Authority: Labor and Employment Article, §9-309(a); [State Government] *General Provisions* Article, §§ [10-611—10-628] 4-101—4-601; Annotated Code of Maryland

.03 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) “Act” means the Public Information Act, [State Government] *General Provisions* Article, §§ [10-611—10-628] 4-101—4-601, Annotated Code of Maryland.

(2)—(9) (text unchanged)

.13 Review of Denial.

If the custodian denies a request to inspect or copy a public record of the Commission, the applicant, within 30 days after receipt of the notice of denial, may file an appropriate action in the circuit court under [State Government Article, §10-623, Annotated Code of Maryland] *the Act*.

R. KARL. AUMANN
Chairman
Workers’ Compensation Commission

Subtitle 31 OFFICE FOR CHILDREN

14.31.10 Maryland After-School and Summer Opportunity Fund Program

Authority: Human Services Article, §8-1106, Annotated Code of Maryland

Notice of Proposed Action

[14-378-P]

The Governor’s Office for Children proposes to adopt new Regulations .01 — .08 under a new chapter, **COMAR 14.31.10 Maryland After-School and Summer Opportunity Fund Program**. This action was considered on August 14, 2014 at a public meeting.

Statement of Purpose

The purpose of this action is to promulgate regulations under the Governor’s Office for Children in accordance with Human Services Article, §8-1106, Annotated Code of Maryland; to allow local management boards the opportunity to receive awards from the Fund; and to clarify requirements for reporting and record keeping.

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, Floor 15, Baltimore, MD 21202, or call 410-767-4092, or email to anne.sheridan@maryland.gov, or fax to 410-333-5248. Comments will be accepted through January 12, 2015. A public hearing has not been scheduled.

.01 Purpose.

A. The purpose of the Maryland After-School and Summer Opportunity Fund Program (MASOFP) is to assist parents by providing after-school enrichment activities for school-age children in the State.

B. The purpose of this chapter is to set forth:

- (1) Requirements and responsibilities for administering the MASOFP; and
- (2) Minimum standards for after-school programs that receive funds provided under the MASOFP.

.02 Definitions.

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

B. Terms Defined.

- (1) “Activity aide” means a staff member in an after-school program who is assigned to assist with a program activity.
- (2) “Activity supervisor” means a staff member in an after-school program who is assigned to be in charge of a program activity.
- (3) “Administrative entity” means an entity other than a Local Management Board that is awarded a grant from the Fund.
- (4) “Advisory Board” means the Advisory Board of the MASOFP.
- (5) “After-school program” means an organized and supervised enrichment program of activities that takes place:
 - (a) Before the school starts each day and after school ends each day;
 - (b) On weekends;
 - (c) On holidays;
 - (d) During vacations; or
 - (e) During summer break.
- (6) “Executive Committee” means the Executive Committee of the Advisory Board.
- (7) Fund.
 - (a) “Fund” means the Maryland After-School and Summer Opportunity Fund in the Program.
 - (b) “Fund” does not include other money provided under any other federal, State, or local appropriation or grant program.
- (8) “Licensed child care provider” means a:
 - (a) Family day care provider who is registered to operate a family day care home pursuant to COMAR 13A.15; or
 - (b) Child care facility that:
 - (i) Is licensed to operate pursuant to COMAR 13A.16; or
 - (ii) Operates under a letter of compliance pursuant to COMAR 13A.17.
- (9) “Local management board (LMB)” means an entity composed of local community stakeholders that has statutory responsibility for implementing the delivery of child and family services in a local Maryland jurisdiction pursuant to Human Services Article, §8-301, Annotated Code of Maryland.
- (10) “Maryland After-School and Summer Opportunity Fund Program (MASOFP)” or “Program” means the Program created by the Maryland After-School and Summer Opportunity Fund Act to

provide funding for the expansion or improvement of after-school enrichment programs in Maryland.

- (11) “The Office” means the Governor’s Office for Children.
- (12) “Parent” means a school-age child’s:
 - (a) Biological or adoptive parent;
 - (b) Guardian; or
 - (c) Custodian.
- (13) “Program director” means the individual who is designated to manage, on a daily basis, the operations, activities, and personnel of an after-school program.
- (14) “Program operator” means the individual, organization, or other entity that:
 - (a) Has the legal authority and responsibility for governing and operating an after-school program; and
 - (b) Is designated by an LMB or other administrative entity as the recipient of MASOFP funds.
- (15) “Program participant” means a school-age child who is enrolled in an after-school program.
- (16) “School-age child” means an individual who:
 - (a) Attends a public or nonpublic school in kindergarten through grade 12; or
 - (b) Does not attend public or nonpublic school and is 5 — 18 years old or younger than 21 years old with a disabling condition.
- (17) “Serious incident” means an event or occurrence involving a program participant that interrupts normal procedures or operations.
- (18) “Staff member” means an individual, whether paid or unpaid, who performs a duty on a continuing basis for an after-school program.
- (19) “Technical assistance” means assistance in the identification and implementation of effective practices for after-school programs.
- (20) “Volunteer” means an individual who:
 - (a) Performs a duty in or for an after-school program but is not a compensated employee of the program;
 - (b) Is not enrolled in the after-school program; and
 - (c) Is not the parent of a program participant who accompanies the participant during a program activity.

.03 Roles and Responsibilities.

A. The Executive Committee:

- (1) Shall administer the MASOFP in consultation with the Advisory Board;
 - (2) Shall, in consultation with the Advisory Board:
 - (a) Determine the standards of operation for after-school programs as set forth in this chapter;
 - (b) Determine protocol for the distribution of funds;
 - (c) Determine the criteria for awarding grants from the Fund; and
 - (d) At least every 5 years, review and update a comprehensive plan for the delivery and improvement of after-school programming under the MASOFP;
 - (3) Shall, in consultation with the Advisory Board and with the approval of a majority of the Executive Committee, award grants, which may include planning grants, from the Fund;
 - (4) May allocate a portion of the Fund for technical assistance and professional development offered by the Office or other entities approved by the Executive Committee; and
 - (5) Shall, by December 31 of each year, report to the Maryland General Assembly on the implementation of the MASOFP and the effectiveness of the after-school opportunity programs funded by MASOFP grants.
- B. The Office shall administer the Fund under the direction of the Executive Committee.

C. The LMB or any other administrative entity that is awarded a grant from the Fund for allocation to one or more after-school programs shall:

- (1) Allocate the funds in accordance with the conditions of the award;
- (2) Monitor and evaluate each after-school program to which it has allocated funds to determine if:
 - (a) The program operator:
 - (i) Meets the requirements of §E of this regulation; and
 - (ii) Satisfies all other conditions, if any, under which funds were allocated to the program; and
 - (b) The program meets the standards of operation set forth in this chapter by conducting, in accordance with the LMB's or administrative entity's monitoring policy, site visits to the program to assess the program's compliance with the standards;
 - (3) Receive, investigate, and take appropriate corrective action in connection with any complaint concerning the operation of, or service provided by a program to which it has allocated funds;
 - (4) Collect and report all information in accordance with the conditions of the award; and
 - (5) Have full responsibility for responding to any inquiry or request for information about a program to which it has allocated funds.

D. The Office shall:

- (1) Provide consultation and technical assistance on achieving and maintaining compliance with the standards to the LMB or other administrative entity and, upon request by the LMB or other administrative entity, to the program; and
- (2) Maintain records of consultative and technical assistance activities the Office conducts pursuant to this regulation.

E. The operator of an after-school program subject to the requirements of this chapter shall ensure that the program meets the standards of operation set forth in this chapter.

.04 Standards of Operation for After-School Programs — Scope.

The standards of operation set forth in this chapter:

- A. Apply only to after-school programs that receive funds provided under the MASOFP; and
- B. Do not apply to an after-school program that receives funds provided under the MASOFP if the program is operated:
 - (1) By a licensed child care provider; or
 - (2) As a youth camp subject to the requirements of COMAR 10.16.06.

.05 Standards of Operation — Program Administration.

The after-school program shall:

- A. Develop and maintain a written statement of program goals;
- B. Develop and maintain written program policies that:
 - (1) Are freely available to staff members and parents;
 - (2) Contain a statement of commitment to include all school-age children;
 - (3) Require inserting the statement of commitment in recruitment and enrollment materials;
 - (4) Include a statement of unrestricted parental access to the program at all times during program operating hours; and
 - (5) Include procedures for:
 - (a) Ensuring the health, safety, and security of program participants;
 - (b) Disciplining program participants;
 - (c) The circumstances under which program participants will be dismissed from the program, including:
 - (i) A mediation process for parents/guardians of removed program participants; and
 - (ii) Tracking and reporting the reasons for dismissal of program participants;

(d) Keeping an enrollment log and a record of daily attendance; and

(e) Ensuring that the whereabouts and status of each program participant are known whenever the participant is present at the program site or involved in a program activity;

C. Maintain active and adequate liability insurance;

D. If in partnership with one or more entities, develop a signed memorandum of understanding delineating each partner's roles and responsibilities;

E. Provide structured and unstructured program activities according to a written schedule that:

- (1) Are consistent with the stated goals of the program;
- (2) Meet the developmental and social needs of program participants;
- (3) Are conducive to positive and constructive interactions among program staff and participants; and
- (4) Are conducted as scheduled;

F. Ensure that each staff member:

- (1) Before beginning work with program participants, receives:
 - (a) Orientation to the program;
 - (b) Training in the prevention, detection, and reporting of child abuse and neglect; and
 - (c) Other training appropriate to the staff member's program responsibilities;
- (2) After beginning work with program participants, receives continued training as needed to meet the healthy development of program participants and the goals of the program;
- (3) Uses positive techniques to guide the behavior of program participants; and
- (4) Relates to program participants individually and in groups in a manner that is appropriate to the participants' individual and group needs;

G. Comply with the American with Disabilities Act and provide reasonable accommodations for program participants with disabilities; and

H. Upon request, make available for review and copying by a representative of the Office, LMB, or other administrative entity that provides MASOFP funds to the program any record, written policy, written procedure, or other document required by this chapter.

.06 Standards of Operation — Program Safety, Health, and Nutrition.

The after-school program shall:

- A. Comply with all:
 - (1) Applicable State and local building, fire, health, and zoning codes;
 - (2) State child abuse and neglect laws;
 - (3) Other applicable State, federal, and local laws, regulations, and policies; and
 - (4) Written program policies, including, but not limited to those required in accordance with Regulation .05B of this chapter;
- B. Have indoor space to successfully conduct all planned individual and group activities;
- C. Provide hand washing, toilet, and drinking water facilities that are operable and appropriate to the ages, number, and genders of all program participants;
- D. Provide clean facilities and indoor and outdoor space that:
 - (1) Are free from health hazards, including lead hazards and asbestos hazards; and
 - (2) Have:
 - (a) Adequate sanitary supplies and equipment;
 - (b) Proper trash and refuse removal; and
 - (c) Comfortable levels of heat, ventilation, noise, and light;
- E. Provide activity materials and equipment that are:
 - (1) Safe and in good condition; and

(2) Sufficient in quantity and type to support successful achievement of program goals;

F. Provide furniture and storage areas for use by program participants that are safe, age-appropriate, and adequate for the number of participants;

G. Prohibit from the program premises the:

(1) Use of alcohol, tobacco, and illicit drugs during the program's hours of operation; and

(2) Presence of any weapon;

H. Provide a telephone or similar means for communicating outside of the program area that is:

(1) Operable;

(2) Reliable; and

(3) Freely available to all program staff;

I. Ensure that there is at least one staff member present at all times during the program's hours of operation (on the program premises or at a site off the program premises when program participants are at the site that is off premises) who holds a current certificate indicating successful completion of:

(1) Basic first aid training through the American Red Cross, or a program with equivalent standards;

(2) Cardiopulmonary resuscitation (CPR) training through the American Heart Association, or a program with equivalent standards, that is appropriate to the ages of all program participants; and

(3) Medication administration training if necessary for the needs of program participants;

J. Maintain first aid supplies that are:

(1) In good, usable condition;

(2) Immediately accessible to staff members for use in an emergency;

(3) Sufficient in quantity and type for emergency situations that may reasonably be expected to occur at the program; and

(4) Available on the program premises and off premises when program participants are off premises;

K. If the program provides transportation of program participants by motor vehicle, ensure that:

(1) Each vehicle used is safely operable;

(2) If required by Maryland law, each occupant of the vehicle is secured in a seat belt or child safety seat that is appropriate for the occupant's age and weight, as specified by Maryland law; and

(3) The program complies with all applicable local, State, and federal transportation requirements;

L. Establish and follow written policies and procedures for:

(1) Reporting suspected child abuse or neglect as required by State law;

(2) Ensuring release of a program participant only to the participant's parent or other authorized adult;

(3) Creating and maintaining a record of each:

(a) Injury or accident occurring to a program participant during program hours;

(b) Serious incident involving a program participant during program hours;

(c) Instance of a program participant requiring medical attention;

(d) Death of a program participant during program hours or as a result of an accident, injury or serious incident occurring during program hours; and

(e) Administration to a program participant by a staff member of a prescription or nonprescription medication;

(4) Informing the parent of a program participant about any injury or accident occurring to, or serious incident involving, the participant on the same day that it occurs;

(5) Excluding a staff member or a program participant from the program premises for an:

(a) Acute illness as defined by COMAR 10.16.06.02; or

(b) Infectious or communicable disease for which the State or local health department recommends exclusion;

(6) Ensuring that each staff member and program participant washes his or her hands thoroughly:

(a) After using the sanitary facilities;

(b) Before food handling and eating;

(c) After an outdoor activity; and

(d) At other times when necessary to prevent the spread of disease; and

(7) Ensuring prompt and safe evacuation of the program premises by all program staff and participants in the event of a fire or other emergency;

M. For each program participant, ensure that the following is maintained on the program premises and is immediately accessible to staff members and includes, but is not limited to:

(1) Emergency contact information;

(2) Medications, if any, being used by the participant;

(3) Information about any condition, including allergies, that the participant has that may require medical or other special attention;

(4) Documentation of immunization history, if the participant is not enrolled in a Maryland school; and

(5) Parent permission for the following circumstances and others as may be required by the nature of the program:

(a) Transport;

(b) Field trips;

(c) Data-sharing; and

(d) Use of photographic images;

N. Ensure that the items in §M(1) —(3) of this chapter for each program participant are available and accessible to staff members who are supervising program participants off premises.

O. Ensure that all areas used for food storage, handling, preparation, service, and consumption are clean, safe, in good repair, and free from infestation; and

P. Ensure that nutritious snacks or meals are available to all program participants, as follows:

(1) Programs shall participate in federal nutrition programs for which agencies/vendors are eligible, as applicable;

(2) Programs shall become sponsor sites or feeding sites for the U.S. Department of Agriculture Summer Food Service Program that provides meals for children during the summer months; or

(3) Programs shall become sites for the At-Risk Afterschool Meals Program administered by the Maryland State Department of Education and shall provide snacks and meals for program participants in after-school programs that have an academic or enrichment component.

.07 Standards of Operation — Program Staff.

A. To serve as:

(1) A program director, an individual shall be 21 years old or older;

(2) An activity supervisor, an individual shall be 18 years old or older; or

(3) An activity aide, an individual shall be 16 years old or older.

B. Each staff member shall have education, training, or experience, or any combination thereof, appropriate to the staff member's level of program responsibility.

C. Criminal Background Checks.

(1) Each staff member shall apply for a criminal background check before the individual begins work with program participants.

(2) The program operator shall ensure that there is a fingerprint-supported criminal background check result on file for each individual required to apply for a criminal background check before the individual begins work with program participants.

.08 Standards of Operation — Supervision of Program Participants.

A. Whenever attending an after-school program subject to this chapter, a program participant shall:

- (1) Receive supervision at all times which is appropriate to the individual age, needs, and capabilities of the participant; and
- (2) Be assigned by the program to an activity group.

B. Each activity group:

(1) Shall have a staff-to-participant ratio of at least 1 to 15; and

(2) If approved by the LMB or other administrative entity, may be of any size if the staff-to-participant ratio required by this regulation is maintained.

C. Each activity group shall be supervised by the program director or an activity supervisor.

D. Under the direct supervision of the program director or an activity supervisor, an activity aide who is 16 years old or older may lead the activities of a portion of an activity group if:

(1) The portion consists of not more than 15 program participants; and

(2) The program director or activity supervisor is readily available to the activity aide for consultation and assistance.

E. A staff member who is younger than 18 years old may not be left alone with any group of program participants.

F. A staff member shall be 16 years old or older to be counted for the staff-to-participant ratio required by this regulation.

ANNE SHERIDAN
Executive Director
Governor’s Office for Children

**Title 15
DEPARTMENT OF
AGRICULTURE**

**Subtitle 14 BOARD OF VETERINARY
MEDICAL EXAMINERS**

Notice of Proposed Action

[14-371-P]

The State Board of Veterinary Medical Examiners proposes to:

(1) Amend Regulations **.03, .06, and .11** under **COMAR 15.14.01 Standards of Practice and Code of Ethics for the Practice of Veterinary Medicine in the State;**

(2) Amend Regulation **.02** under **COMAR 15.14.05 Health Certificate and Rabies Certificate for Companion Animals;**

(3) Adopt new Regulation **.02** and recodify existing Regulations **.02—.07** to be Regulations **.03—.08** under **COMAR 15.14.07 Minimum Standards for Mobile Veterinary Clinics;**

(4) Amend Regulations **.02** and **.03** under **COMAR 15.14.09 Qualifications for Licensure, by Examination, as a Veterinarian;**

(5) Adopt new Regulation **.03**, recodify existing Regulation **.03** to be Regulation **.04**, and amend and recodify existing Regulation **.04** to be Regulation **.05** under **COMAR 15.14.10 Continuing Education Requirements;**

- (6) Amend Regulation **.02** under **COMAR 15.14.12 Fees;** and
- (7) Amend Regulations **.03** and **.11** under **COMAR 15.14.13 Qualifications for Examination and Registration of a Veterinary Technician.**

Statement of Purpose

The purpose of this action is to define the terms “high-volume, low-cost spay/neuter facility” and “mobile veterinary clinic”; expand the list of licensees who may be charged with advertising violations and the types of actions that would constitute violations; set forth the veterinary license reinstatement process; permit either a veterinarian’s handwritten or electronic signature on a health certificate and rabies certificate for a companion animal; update the steps for meeting certain educational criteria needed for licensure; explain the continuing education (CE) requirement and amend the fee structure for a newly-licensed or newly-reinstated veterinarian; expand the list of organizations providing SBVME-preapproved CE; provide a deadline for certain types of CE submitted to the SBVME for review; and require a veterinary technician applicant to obtain a certain minimum grade in certain college courses if the applicant does not have a degree from a veterinary technology program accredited by the American Veterinary Medical Association.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. There may be a minimal, indeterminable impact on veterinary hospitals that use certain terminology in their advertising, and will need to alter their advertising to comply with this proposal. Depending upon the type of advertising they use, they may incur an expense in making revisions to the language. A veterinarian who fails to renew a veterinary registration in a timely manner will incur an expense for filing an application reinstating the license. Also, a veterinarian whose registration lapses for more than 5 years will be required to apply for a new license with the SBVME. There is an application fee when applying for a new license. Further, because additional documentation must be supplied from other licensing boards, the overall costs when applying for a new license are higher than those proposed if reinstatement must be sought. The SBVME is proposing a reduction in the veterinary registration fee for individuals who register during the second half of the fiscal year. The change in the fee schedule would result in decreased revenue for the SBVME. Additionally, an individual applying to become a registered veterinary technician and who did not earn at least a grade of C in certain SBVME-required college courses will need to retake those courses to be eligible for registration. There may be a cost to an applicant who needs to retake a course to achieve a higher grade.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:		
(1) Board of Veterinary Medical Examiners	(R+)	\$2,925
(2) Board of Veterinary Medical Examiners	(R-)	\$9,975
B. On other State agencies:	NONE	
C. On local governments:	NONE	

PROPOSED ACTION ON REGULATIONS

	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
(1) Licensed veterinarians	(-)	Indeterminable
(2) Applicants for veterinary licenses	(+)	\$105
(3) Applicants for veterinary technician registration	(-)	Indeterminable
E. On other industries or trade groups:		
	NONE	
F. Direct and indirect effects on public:		
Companion animal owners	(+)	Indeterminable

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

A(1). Currently, there is no fee to a veterinarian to reinstate a veterinary license that has lapsed. The SBVME proposes to require a \$225 application fee. On average, 13 veterinarians applies for reinstatement annually. The SBVME expects to see an increase in revenue of approximately \$2,925.

A(2). Currently, all veterinarians who register their license to practice in the State are required to pay the same \$215 fee. The SBVME proposes to reduce the registration fee to \$110 for newly-licensed or newly-reinstated veterinarians who register between January 1 - June 30. Approximately 60%, or 95 veterinarians per year register during the second half of the fiscal year. The reduced fee would result in a decrease in revenue for the SBVME of approximately \$9,975 annually. However, because the SBVME is also proposing a reinstatement fee, the net effect would be a decrease in revenue of \$7,050 annually.

D(1). Veterinarians or veterinary hospital owners who pay for advertising may be negatively impacted if they are required to change their advertising to comply with the SBVME’s proposal. Also, a veterinarian who does not renew their veterinary license in a timely manner will incur an additional expense to have the license reinstated with the SBVME.

D(2). Veterinarians who become licensed and then register during the second half of the fiscal year will not be required to pay the full \$215 registration fee, but rather will pay \$110. This may have a positive impact on veterinary hospital owners who pay registration fees for their newly-licensed veterinarians.

D(3). The SBVME requires that individuals applying for registration as veterinary technicians take certain college courses if they do not possess a degree from a veterinary technology program accredited by the American Veterinary Medical Association. These individuals will be required to provide proof of having obtained at least a C in each course required by the SBVME. Failure to provide proof of having earned a C or higher in the required courses will necessitate the applicant retaking and successfully passing each course as part of the SBVME’s application process.

F. This proposal helps to protect pet owners from misleading advertising by prohibiting the use of certain terminology unless a licensee is a specialist and can provide proof of this fact. The proposal also requires that veterinarians or hospital owners provide documentation to the SBVME that they have obtained certain education and training before they can advertise as operating a high-volume, low-cost spay/neuter facility.

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 Laura C. Downes, Executive Director, Maryland Department of Agriculture, State Board of Veterinary Medical Examiners, 50 Harry S. Truman Parkway Suite 102, Annapolis, Maryland 21401, or call 410-841-5862, or email to laura.downes@maryland.gov, or fax to 410-841-5780. Comments will be accepted through January 12, 2015. A public hearing has not been scheduled.

15.14.01 Standards of Practice and Code of Ethics for the Practice of Veterinary Medicine in the State

Authority: Agriculture Article, §§2-103, 2-304 and 2-310, Annotated Code of Maryland

.03 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(5) (text unchanged)

(6) “High-volume, low-cost spay/neuter facility” means a licensed facility:

(a) Which is regularly used for the treatment of animals by a veterinary practitioner;

(b) Where the sterilization of dogs and cats is the primary function performed by a veterinarian licensed and registered by the Board; and

(c) Where the owner complies with the licensing and sanitation standards in COMAR 15.14.03 and 15.14.07.

[(6)] (7)—[(13)] (14) (text unchanged)

.06 Advertising.

A. A veterinarian or an owner of a licensed veterinary hospital, limited use veterinary hospital, or animal control facility may not prepare, cause to be prepared, use, or participate in the use of, any advertisement or other public communication containing information about the services of particular veterinarians or veterinary hospitals which:

(1) (text unchanged)

(2) Is likely to mislead or deceive because in context it makes:

(a) Only a partial disclosure of relevant [facts; or] facts, including limited hours; or

(b) (text unchanged)

(3) Is intended or is likely to create false or unjustified expectations of favorable [results;] results, including a guarantee or warranty;

(4) Contains any other statement that is intended or likely to cause a reasonable person to misunderstand or be deceived; [or]

(5) Constitutes, is part of, or is a device for carrying out, an otherwise unlawful act[.];

(6) Contains subjective claims of superiority of skills, services, or products;

(7) Offers a secret drug or treatment; or

(8) Endorses a product or procedure, unless the veterinarian or licensee is a regular user of the product or procedure and the product or procedure is recognized as reputable by the American Veterinary Medical Association or by a respected scientific journal.

B. A veterinarian, or an owner of a licensed veterinary hospital, limited use hospital, or animal control facility may not use the word

special or specialty in an advertisement unless the veterinarian performing the procedure or treatment:

(1) Meets the definition of a specialist, as set forth in Reg. 03B(9); and

(2) Is named in the advertisement.

[B.] C. A veterinarian, or [holder of a license to operate a veterinary hospital,] an owner of a licensed veterinary hospital, limited use veterinary hospital, or animal control facility, who advertises the availability of a veterinarian to serve a 24-hour emergency veterinary hospital, shall state clearly in the advertisement whether a veterinarian is personally present at the hospital facility on a 24-hour basis, or is merely on call.

[C.] D. (text unchanged)

E. The name of a veterinary hospital or limited use veterinary hospital may not contain the word specialty, specialist, or a named specialist, unless:

(1) A majority of the veterinarians employed by the facility have obtained and maintained certification from a specialty organization recognized by the American Veterinary Medical Association; and

(2) The advertisement lists the names of those veterinarians by specialty and certification.

F. Before advertising as a high-volume, low-cost spay/neuter facility, a veterinarian or an owner of a licensed veterinary hospital shall provide documentation to the Board of having completed training that promotes and provides advanced spay and neuter education to veterinarians and their staff. Such training may be obtained through an organization approved by the Board, such as the Humane Alliance.

.11 Annual Registration.

A. (text unchanged)

B. [Any veterinarian, who permits his license to become invalid by unpaid registration, shall submit to the Board satisfactory proof of his or her qualifications to practice veterinary medicine or take the examination again.] A veterinarian who fails to renew a veterinary license within 12 months following its expiration date shall seek reinstatement of the license before resuming the practice of veterinary medicine in the State.

C. A veterinarian may seek reinstatement of the veterinary license if the last registration certificate expired no more than 5 years before the date application is made for reinstatement.

D. If more than 5 years have lapsed since the date of expiration of the last registration certificate, the veterinarian shall apply for a new license with the Board, as provided in COMAR 15.14.09.

E. Reinstatement with the Board requires submission of the following to the Board's office:

(1) Personal History Form;

(2) Current resume;

(3) Licensure verification from all state veterinary boards with which the veterinarian is licensed or has ever been licensed;

(4) Proof of the appropriate type and number of hours of continuing education, as provided in COMAR 15.14.10.04, for the period during which the license had lapsed;

(5) Payment of the reinstatement fee, as provided in COMAR 15.14.12.02; and

(6) Provided the veterinarian is approved for reinstatement by the Board, payment of the registration fee, as provided in COMAR 15.14.12.02.

15.14.05 Health Certificate and Rabies Certificate for Companion Animals

Authority: Agriculture Article, §2-304, Annotated Code of Maryland

.02 Information on Certificate.

A. When issuing a health certificate or a rabies certificate for a companion animal, a veterinarian [shall personally sign the certificate and may not:

(1) Delegate to any person the signing requirement; or

(2) Issue a blank or incomplete certificate.] *may not issue a blank or incomplete certificate. The veterinarian's signature shall be:*

(1) *Handwritten by the veterinarian; or*

(2) *An electronic signature of the veterinarian, affixed at the direction of the treating veterinarian at the time of vaccination.*

B. (text unchanged)

15.14.07 Minimum Standards for Mobile Veterinary Clinics

Authority: Agriculture Article, §§2-304 and 2-304.1, Annotated Code of Maryland

.02 Definitions.

"Mobile veterinary clinic" means a mobile unit in which veterinary services are provided to animals that are treated inside the mobile unit.

15.14.09 Qualifications for Licensure, by Examination, as a Veterinarian

Authority: Agriculture Article, §§2-304 and 2-307, Annotated Code of Maryland

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(8) (text unchanged)

(9) "Maryland State Examination" means:

(a)—(b) (text unchanged)

(c) [The QE and evaluated] *Evaluated* clinical experience [or VCSA,] if the applicant is a PAVE graduate.

(10)—(13) (text unchanged)

(14) "PAVE graduate" means an individual who has been issued a certificate by the Program for the Assessment of Veterinary Education Equivalence after successfully completing [either:

(a) A] a minimum of 12 months of evaluated clinical experience at a veterinary college accredited by the American Veterinary Medical [Association; or

(b) The Veterinary Clinical Skills Assessment examination.] *Association.*

[(15) "QE" means the Qualifying Examination, produced by the National Board of Veterinary Medical Examiners, assessing the applicant's basic science knowledge acquired in the pre-clinical portion of veterinary education.]

[(16)] (15) (text unchanged)

[(17) "VCSA" means the Veterinary Clinical Skills Assessment produced by the National Board of Veterinary Medical Examiners, evaluating clinical skills through a hands-on clinical examination.]

.03 Maryland State Examination.

A. Subject Matter.

(1) The Maryland State Examination shall consist of the:

(a)—(c) (text unchanged)

(d) [QE and evaluated] *Evaluated* clinical experience [or QE and VCSA,] if the applicant is a PAVE graduate.

1530

- (2) (text unchanged)
- B.—E. (text unchanged)

15.14.10 Continuing Education Requirements

Authority: Agriculture Article, §2-306(a)(2), Annotated Code of Maryland

.03 New License.

A. A practitioner is exempt from providing proof to the Board of having met the continuing education requirement for 12 months from the license issuance date if:

- (1) The practitioner is registering the veterinary license for the first time, and
- (2) Reinstatement of the license is not required.

B. If a practitioner fails to register the veterinary license within 12 months following notification from the Board of having met the legal requirements for licensure, the practitioner shall meet the legal requirements for licensure, as provided in COMAR 15.14.08 or 15.14.09, as applicable.

[.04] .05 Accreditation.

A.—C. (text unchanged)

D. Credit may be approved for the following:

- (1)—(2) (text unchanged)
- (3) Continuing educational programs given or arranged by the Maryland Veterinary Medical Association; [and]
- (4) Continuing educational programs given or arranged by North American Veterinary Conference, Western Veterinary Conference, Central Veterinary Conference, or American Animal Hospital Association; and

[4] (5) Local, State, regional, or national continuing professional education courses including postgraduate studies, institutes, seminars, lectures, conferences, workshops, extension studies, or other continuing educational programs as approved by the Board. Requests for approval of postgraduate studies and extension studies shall be submitted to the Board no fewer than 60 days before the expiration of the veterinarian's registration certificate.

E.—G. (text unchanged)

15.14.12 Fees

Authority: Agriculture Article, §2-303, Annotated Code of Maryland

.02 Fees.

The following fees are established by the Board of Veterinary Medical Examiners:

A. [Veterinarian registration fee (initial and annual thereafter) - \$215;] Initial registration fee for newly-licensed and newly-reinstated veterinarians:

- (1) Between July 1 and December 31 — \$215;
- (2) Between January 1 and June 30 — \$110.

B. Annual registration renewal fee — \$215;

[B.] C. (text unchanged)

D. Veterinarian reinstatement fee — \$225;

[C.] E.— [I.] K. (text unchanged)

15.14.13 Qualifications for Examination and Registration of a Veterinary Technician

Authority: Agriculture Article, §2-309, Annotated Code of Maryland

.03 Qualifications for Examination.

A. (text unchanged)

B. Eligibility Requirements for Applicants Who do not Meet the Educational Criteria Set Forth in §A of this Regulation. To be eligible

to take the State Board Examination, an examination applicant shall provide:

(1) A school-authenticated transcript showing the applicant to be a holder of an associate's degree or above, which includes a minimum of three credits with a passing grade of C or above in each of the following college level courses:

- (a)—(f) (text unchanged)
 - (2)—(5) (text unchanged)
- C.—E. (text unchanged)

.11 Requirements of Veterinary Technicians from Another State or Foreign Jurisdiction.

A. Subject to the provisions of this regulation, the Board may register an applying veterinary technician who submits proof of meeting the following requirements:

- (1)—(3) (text unchanged)
- (4) Has passed the [Board Examination, as described in Regulation .05C of this chapter.] Maryland State Veterinary Technician Examination, as defined in Regulation .02B(6) of this chapter.

B. (text unchanged)

EARL F. HANCE
Secretary of Agriculture

Subtitle 15 MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION

15.15.01 Guidelines for the Maryland Agricultural Land Preservation Program

Authority: Agriculture Article, §§2-504, 2-509, and 2-513, Annotated Code of Maryland

Notice of Proposed Action

[14-377-P]

The Secretary of Agriculture proposes to amend Regulation .10 under COMAR 15.15.01 Guidelines for the Maryland Agricultural Land Preservation Program.

Statement of Purpose

The purpose of this action is to implement Ch. 12, Acts of 2014, which prohibits the Maryland Agricultural Land Preservation Foundation from purchasing an easement for more than 75 percent or less than 25 percent of the fair market value of the land. This action will also authorize MALPF to purchase an easement for less than 25 percent of the fair market value of the land, if the landowner's asking price is less than 25 percent of the fair market value of the land.

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 Carol West, Executive Director, Maryland Department of Agriculture, Maryland Agricultural Land Preservation Foundation, 50 Harry S. Truman Parkway, Annapolis,

Maryland 21401, or call 410-841-5860, or email to carol.west@maryland.gov, or fax to 410-841-5730. Comments will be accepted through January 12, 2015. A public hearing has not been scheduled.

.10 Value of Easement.

A. Maximum [Value] and Minimum Purchase Price.

(1) Computation. The maximum [value] purchase price of any easement to be purchased shall be the asking price, or the difference as of the valuation date between the fair market value of the land and the agricultural value of the land, whichever is lower [.] , except that:

(a) The maximum purchase price cannot be more than 75 percent of the fair market value of the land; and

(b) The minimum purchase price cannot be less than 25 percent of the fair market value of the land unless the owner's asking price is less than 25 percent of the fair market value of the land.

(2) Valuation date. The valuation date for [each property within an agricultural land preservation district] land being appraised in a given offer cycle shall be July 1, the last day in each offer cycle that an application may be submitted for consideration.

B. — F. (text unchanged)

MARY ELLEN SETTING
Deputy Secretary of Agriculture

Title 26
DEPARTMENT OF THE
ENVIRONMENT

Subtitle 04 REGULATION OF WATER
SUPPLY, SEWAGE DISPOSAL, AND
SOLID WASTE

26.04.11 Composting Facilities

Authority: Environment Article, §9-1725 Annotated Code of Maryland

Notice of Proposed Action
[14-355-P]

The Secretary of the Environment proposes to adopt new Regulations **.01—16** under a new chapter, **COMAR 26.04.11 Composting Facilities**. At this time, the Secretary of the Environment is withdrawing the proposed action to adopt new Regulations **.01—16** under a new chapter, **COMAR 26.04.11 Composting Facilities**, which was published in 41:1 Md. R. 47—59 (January 10, 2014).

Statement of Purpose

The purpose of this action is to establish new regulatory requirements for composting facilities. This action would: delineate tiers of composting facilities based on feedstock types and sizes; create a Composting Facility Permit, which would be required for certain types of composting facilities; establish exemptions to the requirement for a Composting Facility Permit; provide for the creation of a general Composting Facility Permit; establish siting and design requirements for composting facilities; establish operational requirements for composting facilities; provide a process for approval of variances, pilot programs, and research activities; establish procedures for enforcement; set a timeframe and procedure for existing composting facilities to come into compliance with the requirements; require recordkeeping and reporting by composting

facilities; and establish various other requirements related to construction and operation of composting facilities in the State.

The action would fulfill the duty of Maryland Department of the Environment (“the Department”) to adopt composting facility regulations under Environment Article, §9-1725, Annotated Code of Maryland. Because no existing regulations address composting facilities as defined in Environment Article, §9-1701, the Department is proposing to enact a new chapter, COMAR 26.04.11, incorporating the noted regulatory requirements.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed action would establish a new permit and design and operational requirements applicable to some types of composting facilities. The Department would be responsible for writing a general Composting Facility Permit, reviewing permit applications and Notices of Intent, and conducting enforcement. While the proposed action would create a marginal increase in the Department’s workload for permit review and enforcement, the total number of composting facilities in the State is expected to be sufficiently small that these duties could be undertaken with existing resources. Based on MDA registration data, the number of composting facilities currently known to exist is 13, but an unknown number of additional composting facilities exist that are not required to register with MDA. The proposed action includes exemptions for small composting facilities, which would further limit increases in workload.

The proposed action could potentially result in costs to local governments that own or operate (or propose to own or operate) a composting facility subject to the requirements. These costs would include the costs to come into compliance with design and operational requirements and obtain a Composting Facility Permit, and may involve installation of design features and preparation of an operations plan. Costs would be mitigated to the extent that a local government already complies with some of the proposed requirements.

The proposed action would potentially result in costs to regulated composting businesses by instituting new design and operational requirements and requiring a new permit. The costs associated with obtaining the permit would be minimal for any facility opting for the general permit. Some design requirements may cause facilities to incur significant costs. Existing facilities would have until January, 2017 to come into compliance with the proposed regulations and some types of small facilities are exempt from the requirements. The exact magnitude of costs is unknown because it would vary based on individual decisions about feedstock types, facility size, and facility design. There are no fees associated with the proposed action.

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:	(E+)	Indeterminable
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(-)	Indeterminable

E. On other industries or trade groups: NONE

F. Direct and indirect effects on public: NONE

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

A. The proposed action would create a marginal increase in the Department’s workload for permit review and enforcement, but the total number of composting facilities in the State is sufficiently small to allow these duties to be undertaken with existing resources.

C. The proposed action could potentially result in costs to local governments that own or operate (or propose to own or operate) a composting facility subject to the requirements. These costs would include the costs to come into compliance with design and operational requirements and obtain a Composting Facility Permit, and may involve installation of design features and preparation of an operations plan. Costs would be mitigated to the extent that a local government already complies with some of the proposed requirements.

D. The proposed action would potentially result in costs to regulated composting businesses by instituting new design and operational requirements and requiring a new permit. The costs associated with obtaining the permit would be minimal for any facility opting for the general permit. Some design requirements may cause facilities to incur significant costs.

The exact magnitude of costs is unknown because it would vary based on individual decisions about feedstock types, facility size, and facility design. There are no fees associated with the proposed action.

Economic Impact on Small Businesses

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

Small Business Analysis Worksheet

This worksheet is designed to assist the agency in determining if and how the proposal impacts small businesses. Quantify the number of affected small businesses and estimates of costs and benefits to small businesses if possible. State Government Article, §2-1505.2, includes the following definitions which are relevant to the analysis:

“Economic impact analysis” means an estimate of the cost or the economic benefit to small businesses that may be affected by a regulation proposed by an agency pursuant to Title 10, Subtitle 1 of this article.

“Small business” means a corporation, partnership, sole proprietorship, or other business entity, including its affiliates, that: (i) is independently owned and operated; (ii) is not dominant in its field; and (iii) employs 50 or fewer full-time employees.

1a. Intended Beneficiaries. Who are the intended beneficiaries of the proposed regulation? Are these intended beneficiaries primarily households or businesses?

Primarily businesses and local governments. Private and public owners and operators of composting facilities are the intended beneficiaries in that they would obtain a clearer, and in some ways less burdensome, pathway for permitting of their existing and future facilities. Households and businesses located near composting facilities may indirectly benefit from the proposed regulations if the design and operational requirements result in fewer instances of nuisance conditions or water pollution.

1b. Intended Beneficiaries: Households. If households are the primary intended beneficiaries, will the proposal affect their income or purchasing power such that the volume or patterns of their consumer spending will change? If so, what directions of change would you anticipate? Will these expected spending changes have a disproportionate impact on small businesses? Can you descriptively

identify the industries or types of business activities that are impacted?

Households are not the primary intended beneficiaries and the proposal is not expected to have a direct impact on household income, purchasing power, or patterns of consumer spending.

1c. Intended Beneficiaries: Businesses. If businesses are the intended beneficiaries, identify the businesses by industry or by types of business activities. How will businesses be impacted? Are these Maryland establishments disproportionately small businesses? If so, how will these Maryland small businesses be affected? Can you identify or estimate the present number of small businesses affected? Can you estimate the present total payroll or total employment of small businesses affected?

The businesses that will be affected by the proposal are composting businesses and other types of businesses that conduct composting incidental to their primary business (such as farms, landscaping companies, etc.). These businesses may be subject to the requirement for a new permit and to new design and operational requirements. However, these requirements would in some cases replace the requirement for a refuse disposal permit. Composting businesses may need to install additional design features for surface and groundwater protection and may need to develop an operations plan and/or design plans. The magnitude of costs to comply with the regulations for any one business would depend on a variety of individual decisions about feedstock types accepted, facility size, and facility design. There are approximately 13 known composting facilities in existence; approximately 6 are known to be privately owned (as opposed to governmental); and at least 1 of these would be outside the scope of the proposed requirements because it accepts sewage sludge. It is unknown how many of the remaining 5 facilities are small businesses. Total payroll or employment of affected small businesses is therefore unknown.

2a. Other Direct or Indirect Impacts: Adverse. Businesses may not be the intended beneficiaries of the proposal. Instead, the proposal may direct or otherwise cause businesses to incur additional expenses of doing business in Maryland. Does this proposal require Maryland businesses to respond in such a fashion that they will incur additional work-time costs or monetary costs in order to comply? Describe how Maryland establishments may be adversely affected. Will Maryland small businesses bear a disproportionate financial burden or suffer consequences that affect their ability to compete? Can you estimate the possible number of Maryland small businesses adversely affected? (Note that small business compliance costs in the area of regulation are the sum of out-of-pocket (cash) costs plus time costs — usually expressed as payroll, akin to calculations for legislative fiscal notes. Precise compliance costs may be difficult to estimate, but the general nature of procedures that businesses must accomplish to comply can be described.)

In addition to any direct capital costs incurred to bring a composting business into compliance with the proposed regulations, a composting business may incur other costs as a result of the regulations, such as costs to train employees on new operational requirements, develop the required operational plans, and prepare the permit application. For the reasons discussed above, the magnitude of these costs and the number of small businesses impacted cannot be determined. The proposal applies requirements based on facility tier, which is determined primarily by feedstock type and facility size, so costs are unlikely to disproportionately impact small businesses. Exemptions apply to some very small facilities, but these are more likely to be noncommercial entities than small businesses.

2b. Other Direct or Indirect Impacts: Positive. Maryland businesses may positively benefit by means other than or in addition to changed consumer spending patterns. How may Maryland businesses be positively impacted by this initiative? Will Maryland small businesses share proportionately or disproportionately in these

gains? Can you estimate the possible number of Maryland small businesses positively affected?

To the extent that composting facilities regulated under the proposal are small businesses, the proposal may benefit small businesses through: reduced regulatory uncertainty; increased clarity and speed of the permitting process (particularly for the general permit); and a potentially increased ability to obtain financing for capital costs due to the increase in certainty.

3. Long-Term Impacts. There are instances where the longer run economic impact effect from regulations differ significantly from immediate impact. For example, regulations may impose immediate burdens on Maryland small businesses to comply, but the overall restructuring of the industry as a consequence of monitoring and compliance may provide offsetting benefits to the affected small businesses in subsequent years. Can you identify any long run economic impact effects on Maryland small businesses that over time (a) may compound or further aggravate the initial economic impact described above, or (b) may mitigate or offset the initial economic impact described above?

Costs to existing facilities are likely to be greatest during the first 2 years after adoption of the regulations, which is roughly the period for coming into compliance with the requirements. For new facilities, costs are likely to be concentrated in the period prior to beginning operations. If the industry matures in the future to the point that new facility siting declines, the overall costs of the proposal may decrease over time.

4. Estimates of Economic Impact. State Government Article, §2-1505.2 requires that an agency include estimates, as appropriate, directly relating to: (1) cost of providing goods and services; (2) effect on the work force; (3) effect on the cost of housing; (4) efficiency in production and marketing; (5) capital investment, taxation, competition, and economic development; and (6) consumer choice.

For the reasons described above, neither the number of small businesses impacted nor the magnitude of economic impact can be determined.

The proposal may have some additional indirect impacts on price and consumer choice for compost, as well as on jobs. The increase in regulatory clarity is anticipated to result in an increase in the number of composting facilities. This may result in an increase in the availability and a decrease in the price for compost. In turn, this could result in a lower cost to provide goods and services that use compost as an input (landscaping services, etc.). MDE is aware of research that found that composting facilities employ more people per ton of material managed, on average, than do landfills. Increases in composting due to new facility siting could therefore result in a net increase in jobs.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Kaley Laleker, Waste Diversion and Utilization Program, Land Management Administration, Maryland Department of the Environment, 1800 Washington Blvd., Suite 610, Baltimore, MD 21230-1719, or call 410-537-3314, or email to kaley.laleker@maryland.gov, or fax to 410-537-3321. Comments will be accepted through January 12, 2015. A public hearing has not been scheduled.

.01 Scope.

A. Except as otherwise provided, this chapter applies to persons engaged in the construction and operation of composting facilities.

B. Facilities that compost only natural wood waste are subject to the requirements in COMAR 26.04.09.

C. Tier 3 composting facilities are subject to the requirements in: (1) COMAR 26.04.06, for facilities composting sewage sludge;

or

(2) COMAR 26.04.07, for facilities composting solid waste.

D. In addition to the Composting Facility Permit required in Regulation .05A of this chapter, composting facilities may be subject to permit requirements under:

(1) COMAR 26.08.01—04, relating to State and National Pollutant Discharge Elimination System (NPDES) discharge permits; and

(2) COMAR 26.11.02, relating to air quality permits.

.02 Definitions.

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

B. Terms Defined.

(1) "24-hour, 25-year storm event" means the amount of precipitation, occurring over 24 hours, that has a probability of 1/25 of being met or exceeded during any 1-year period.

(2) "Active composting" means the phase of composting prior to curing.

(3) "All-weather pad" means a pad of sufficient construction, firmness, and grading so that composting equipment can manage the process during normal inclement weather, including expected rain, snow, and freezing temperatures.

(4) "All-weather road" means a road of sufficient construction and firmness for vehicles and equipment to traverse during normal inclement weather, including expected rain, snow, and freezing temperatures.

(5) "Animal mortality" means an animal carcass that is generated:

(a) At a farm during the normal course of operations;

(b) At another location and managed by State or local government as part of roadway or other maintenance activities; or

(c) At a farm or other location and managed under an Emergency Exemption under Regulation .06 of this chapter.

(6) "Carbon-rich" means having a carbon-to-nitrogen ratio of at least 60:1.

(7) "Compost" means the product of composting in accordance with the standards established by the Secretary of Agriculture under Agriculture Article, §6–221, Annotated Code of Maryland.

(8) "Compostable products" means containers, films, or food service items, such as a bowls, plates, cups, or cutlery, composed of materials such as:

(a) Vegetable matter;

(b) Paper;

(c) Cardboard; and

(d) Compostable plastics that are, within the length of time and process employed at the composting facility at which they are used, capable of biological decomposition to a degree that they result in marketable compost meeting the standards established by the Secretary of Agriculture under Agriculture Article, §6–221, Annotated Code of Maryland.

(9) "Composting" means the controlled aerobic biological decomposition of organic waste material.

(10) Composting facility.

(a) "Composting facility" means a facility where composting takes place.

(b) "Composting facility" does not include a facility that is required to obtain:

(i) A Natural Wood Waste Recycling Facility Permit under COMAR 26.04.09;

(ii) A Sewage Sludge Utilization Permit under COMAR 26.04.06; or

(iii) A Refuse Disposal Permit under COMAR 26.04.07.

(c) *The exclusions in §B(10)(b) of this regulation apply only to the areas of a site for which one of the listed permits is required.*

(11) *“Composting Facility Operations Plan” (CFOP) means the plan required by Regulation .09 of this chapter.*

(12) *“Composting Facility Permit” means the permit required by Regulations .05 and .06 of this chapter.*

(13) *Contact Water.*

(a) *“Contact water” means liquid, including runoff from precipitation, that has been in contact with feedstocks or active composting material and runs off the feedstock receiving area, feedstock storage area, or active composting area.*

(b) *“Contact water” includes liquid that has passed through or emerged from feedstocks or active composting material and contains soluble, suspended, or miscible materials removed from the piles.*

(14) *“Covered” means covered with:*

(a) *A synthetic, low-permeability cover or tarp designed to prevent precipitation from contacting the covered materials;*

(b) *A roof with either walls or sufficient run-on control measures, such as berms, to prevent run-on from contacting the covered materials; or*

(c) *An alternative approved by the Department.*

(15) *Curing.*

(a) *“Curing” means the phase of the composting process after:*

(i) *Most of the readily metabolized material has been decomposed and stabilized; and*

(ii) *The pathogen reduction requirements in Regulation .09 of this chapter have been met.*

(b) *“Curing” includes periods in which the material is managed to increase maturity prior to use or distribution as compost.*

(16) *“Department” means the Maryland Department of the Environment.*

(17) *“Existing composting facility” means a composting facility that began operations on or before the effective date of this regulation.*

(18) *Farm.*

(a) *“Farm” means the site of a business or activity operated for the primary purpose of tilling, cropping, keeping, pasturing, or producing an agricultural product other than compost, including livestock, poultry, plants, trees, sod, food, feed, or fiber, by in-ground, out-of-ground, container, or other culture.*

(b) *“Farm” does not include the site of a business or activity operated for the primary purpose of producing compost.*

(19) *“Flood plain” means the flood plain of free-flowing waters determined by the Department on the basis of the 100-year flood frequency.*

(20) *“Indoors” means within a structure that is entirely enclosed by walls and has a roof and low-permeability floor constructed of concrete, asphalt, or similar materials.*

(21) *In Support of Composting.*

(a) *“In support of composting” means used to conduct any phase of the composting process, including but not limited to feedstock receiving, feedstock preparation, active composting, curing, compost storage, composting equipment storage or maintenance, or storage of any solid waste or non-compostable materials.*

(b) *“In support of composting” does not include:*

(i) *Areas used to store mobile, general purpose farm equipment such as tractors and backhoes;*

(ii) *Areas associated with the housing or movement of animals where manure may accumulate prior to composting; or*

(iii) *Roads used for transport to the composting facility or between separate composting areas on a site.*

(22) *Major Permit Modification.*

(a) *“Major permit modification” means a significant and substantive change to an individual Composting Facility Permit.*

(b) *“Major permit modification” includes:*

(i) *A change in the facility tier;*

(ii) *A significant increase in facility capacity, throughput, or compost produced per year;*

(iii) *A change in ownership of the facility;*

(iv) *A significant change to the size of the area used in support of composting; and*

(v) *Any other significant change to the design or operation of the composting facility.*

(23) *“Minor permit modification” means a change to an individual Composting Facility Permit that is not a major permit modification.*

(24) *“Natural wood waste” has the meaning stated in COMAR 26.04.09.02.*

(25) *“New composting facility” means a composting facility that began operations after the effective date of this regulation.*

(26) *“Organic” means any natural biological substance of plant or animal origin that is capable of microbial degradation.*

(27) *“Person” means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, or other entity.*

(28) *“Physical contaminants” means non-compostable items including non-compostable plastic, glass, rubber, and metal.*

(29) *“Run-on” means any rainwater or other liquid that drains over land onto any part of a composting facility.*

(30) *“Seasonal high water table” means the highest water table as determined in the soil profile by the encountered indications of soil mottling or iron concretions or by measuring seasonal fluctuations of the water table in a water table well over a period acceptable to the Department.*

(31) *Stormwater.*

(a) *“Stormwater” means stormwater runoff, snow melt runoff, and surface runoff and drainage.*

(b) *“Stormwater” does not include contact water.*

(32) *“Stabilized compost” is defined in COMAR 15.18.04.01.*

(33) *“Tier 1 Facility” means a composting facility that accepts only Type 1 feedstocks.*

(34) *Tier 2 Facility.*

(a) *“Tier 2 Facility” means a composting facility that accepts Type 2 feedstocks.*

(b) *“Tier 2 Facility” includes a composting facility that accepts Type 1 feedstocks in addition to Type 2 feedstocks.*

(c) *“Tier 2 Facility” does not include a composting facility that accepts Type 3 feedstocks.*

(35) *“Tier 2 Small Facility” means a Tier 2 Facility that produces 10,000 cubic yards or less of compost per year.*

(36) *“Tier 2 Large Facility” means a Tier 2 Facility that produces more than 10,000 cubic yards of compost per year.*

(37) *“Tier 3 Facility” means a facility that accepts any Type 3 feedstocks, regardless of whether other feedstock Types are also accepted.*

(38) *“Type 1 feedstock” means:*

(a) *Yard waste, as defined in Environment Article, §9-1701, Annotated Code of Maryland; and*

(b) *Other materials determined by the Department to pose a low level of risk from hazardous substances, human pathogens, and physical contaminants.*

(39) *“Type 2 feedstock” means:*

(a) *Source-separated organics from residential curbside or drop-off programs and non-residential sources, including but not*

limited to pre-consumer and post-consumer food scraps and non-recyclable paper;

(b) Department-approved animal manure and bedding, with Department approval based on factors such as moisture content and pathogen risk;

(c) Department-approved industrially produced food processing materials, including industrial poultry and seafood residuals;

(d) Animal mortalities;

(e) Manufactured organic materials such as waxed-corrugated cardboard, non-coated paper, and compostable products; and

(f) Other materials that the Department determines pose a low level of risk from hazardous substances and a higher level of risk from physical contaminants and human pathogens, compared to Type 1 feedstocks.

(40) "Type 3 feedstock" means:

(a) Sewage sludge, as defined in COMAR 26.04.06.03;

(b) Biosolids, as defined in COMAR 26.04.06.03;

(c) Used diapers;

(d) Mixed municipal solid waste; and

(e) Any other feedstocks that are not Type 1 or Type 2 feedstocks and that the Department determines pose a low level of risk from hazardous substances and a higher level of risk from physical contaminants and human pathogens, compared to Type 1 and Type 2 feedstocks.

.03 Incorporation by Reference.

A. In this chapter, the following documents are incorporated by reference:

(1) 40 CFR §122.26(b)(14), as amended;

(2) 40 CFR Part 503, Appendix B, §(B)(1), as amended, except wherever the words "sewage sludge" appear, substitute "materials being composted"; and

(3) 40 CFR §503.33(b)(5), as amended, except wherever the words "sewage sludge" appear, substitute "materials being composted".

.04 General Restrictions and Specifically Prohibited Acts.

A. *Applicability.* This regulation applies to a composting facility, regardless of whether the composting facility is required to obtain a Composting Facility Permit under this chapter.

B. *General Restrictions.* A person shall not engage in composting in a manner which will likely:

(1) Create a nuisance;

(2) Be conducive to insect and rodent infestation or the harborage of animals;

(3) Cause nuisance odors or other air pollution in violation of COMAR 26.11.06 or involve construction of a source of air pollution subject to a permit to construct or operation of a source of air pollution subject to a permit to operate unless permitted under COMAR 26.11.02;

(4) Cause a discharge of pollutants derived from organic materials or solid waste to waters of this State unless otherwise permitted by the Department;

(5) Harm the environment; or

(6) Create other hazards to the public health, safety, or comfort as may be determined by the Department.

C. The Department, in exercising its authority under these regulations with respect to granting or renewing permits, reviewing operations of a composting facility, or allowing operation under a general permit, may consider any documentation required under these regulations to evaluate whether any of the conditions described in §B of this regulation is likely to occur or has occurred.

D. A person may not own, construct, or operate a composting facility in this State except in accordance with these regulations.

.05 Permits Required.

A. *Applicability.*

(1) This regulation applies to a composting facility that is not located at a farm.

(2) Regulation .06 of this chapter establishes the permit requirements for a composting facility located at a farm.

B. *Permits Required.* Except as provided in §§C—E of this regulation and in Regulation .07 of this chapter, a person:

(1) May not cause, suffer, allow, or permit the construction or operation of a composting facility in the State without a permit issued by the Department under this chapter; and

(2) Shall construct and operate the composting facility:

(a) In accordance with the conditions of an individual Composting Facility Permit issued by the Department; or

(b) In accordance with the conditions of the general Composting Facility Permit after the responsible party has:

(i) Submitted a Notice of Intent (NOI) and all required information in accordance with Regulation .11 of this chapter; and

(ii) Received a letter of acknowledgment from the Department.

C. *Exemptions.* A Composting Facility Permit is not required for a composting facility that complies with the general restrictions in Regulation .04B of this chapter and:

(1) Is located on a residential property and composts organic materials generated on the residential site, if the resulting compost is used on the residential site for personal, household, or family purposes;

(2) Is managed by State or local government and composts animal mortalities as part of roadway or other maintenance activities; or

(3) Is a Tier 1 or Tier 2 Facility that:

(a) At all times, uses no more than 5,000 square feet of area in support of composting operations; and

(b) Except where a smaller pile size is required by local law:

(i) Maintains any raw feedstock storage piles at a height of 9 feet or less; and

(ii) Maintains any active composting pile, curing, or finished compost piles at a height of 12 feet or less.

D. *Tier 3 Facilities.*

(1) A person may not operate a Tier 3 Facility in the State without a permit issued by the Department under COMAR 26.04.06 or COMAR 26.04.07.

(2) A Tier 3 Facility that operates under a permit issued under COMAR 26.04.06 or COMAR 26.04.07 is not required to obtain a Composting Facility Permit issued under this chapter.

E. *Composting Facilities Located at Solid Waste Acceptance Facilities.* A Tier 1 or Tier 2 composting facility that is located at a solid waste acceptance facility, as defined in COMAR 26.04.07.02, is not required to obtain a Composting Facility Permit if:

(1) The composting facility operates under a refuse disposal permit issued under COMAR 26.04.07; and

(2) The composting facility's refuse disposal permit includes design and operational conditions specific to the composting activity.

.06 On-Farm Composting Facilities—Permits Required.

A. *Applicability.*

(1) This regulation applies to a composting facility located at a farm.

(2) Regulation .05 of this chapter establishes the permit requirements for a composting facility that is not located at a farm.

B. Permits Required. Except for an on-farm composting facility that qualifies for an exemption under §§C—G of this regulation and except as provided in Regulation .07 of this chapter, a person:

(1) May not cause, suffer, allow, or permit the operation of an on-farm composting facility in the State without a permit issued by the Department under this chapter; and

(2) Shall construct and operate the composting facility:

(a) In accordance with the conditions of an individual Composting Facility Permit issued by the Department; or

(b) In accordance with the conditions of the general Composting Facility Permit after the responsible party has:

(i) Submitted a Notice of Intent (NOI) and all required information in accordance with Regulation .11 of this chapter; and

(ii) Received a letter of acknowledgment from the Department.

C. A Composting Facility Permit is not required for an on-farm composting facility, regardless of its size, if:

(1) The composting facility complies with the general restrictions in Regulation .04B of this chapter;

(2) The composting facility composts only organic materials generated on site or at another farm controlled by the same operator; and

(3) The compost is used for personal, household, family, or agricultural purposes at the farm where the composting facility is located or at a farm controlled by the same operator.

D. A Composting Facility Permit is not required for an on-farm composting facility that uses no more than 40,000 square feet of area in support of composting operations if the composting facility:

(1) Complies with the general restrictions in Regulation .04B of this chapter;

(2) By no later than January 1, 2017 for an existing composting facility, or before commencement of operations for a new composting facility, is constructed and operated in accordance with:

(a) A nutrient management plan, if required under COMAR 15.20.07; and

(b) Either:

(i) A soil conservation and water quality plan that describes the composting facility components and design, schedule for storage and utilization of the materials, system maintenance, and operational procedures to ensure that the requirements of Regulation .04B of this chapter are met; or

(ii) An agricultural waste management system plan that describes the composting facility components and design, schedule for storage and utilization of the materials, system maintenance, and operational procedures to ensure that the requirements of Regulation .04B of this chapter are met; and

(3) Composts only one or more of the following:

(a) Organic materials generated on site or at another farm controlled by the same operator;

(b) Animal manure and bedding, regardless of the place of generation; and

(c) Type 1 feedstocks, regardless of the place of generation.

E. A Composting Facility Permit is not required for an on-farm composting facility that uses no more than 5,000 square feet of area in support of composting operations if the composting facility:

(1) Is a Tier 1 or Tier 2 facility;

(2) Complies with the general restrictions in Regulation .04B of this chapter; and

(3) Except where a smaller pile size is required by local law:

(a) Maintains any raw feedstock storage piles at a height of 9 feet or less; and

(b) Maintains any active composting pile, curing, or finished compost piles at a height of 12 feet or less.

F. Emergency Exemption for Composting of Animal Mortalities. A Composting Facility Permit is not required for an on-farm composting facility that:

(1) Complies with the general restrictions in Regulation .04B of this chapter;

(2) Temporarily composts animal mortalities generated as a result of a non-routine, catastrophic die off; and

(3) Operates under the approval of and as directed by Maryland Department of Agriculture, in consultation with the Department.

G. Tier 3 Facilities.

(1) A person may not construct or operate a Tier 3 Facility in the State without a permit issued by the Department under COMAR 26.04.06 or COMAR 26.04.07.

(2) A Tier 3 Facility that operates under a permit issued under COMAR 26.04.06 or COMAR 26.04.07 is not required to obtain a Composting Facility Permit issued under this chapter.

.07 Existing Composting Facilities.

A. This regulation applies to composting facilities that began operations on or before the effective date of this regulation.

B. Within 60 calendar days after the effective date of this chapter, an existing composting facility that is required to obtain a Composting Facility Permit under Regulations .05 or .06 of this chapter shall submit an Existing Facility Notification to the Department.

C. The Existing Facility Notification required under §B of this regulation shall be submitted on a form provided by the Department and shall include at least:

(1) The name and location of the composting facility;

(2) Days and hours of operation;

(3) The name and contact information of the composting facility operator and the name of each operator certified by the Department of Agriculture under COMAR 15.18.04;

(4) A brief description of the feedstocks currently accepted and their sources;

(5) An estimate of the quantity of feedstocks accepted annually and the quantity of compost produced annually, in cubic yards;

(6) The area, in square feet, that is used in support of composting operations; and

(7) Whether the compost is distributed off site.

D. An existing composting facility that has submitted a complete and timely Existing Facility Notification as required under §B of this regulation is not subject to the requirements in Regulations .05, .06 and .08—16 of this chapter until January 1, 2017, if the following conditions are met:

(1) The composting facility accepts only feedstocks that it accepted as of the effective date of this regulation and that were described in the Existing Facility Notification, except that the sources of feedstocks may change if the nature and type of the material is substantially the same;

(2) The composting facility accepts materials in quantities not exceeding the annual quantity reported in the Existing Facility Notification; and

(3) The composting facility does not engage in composting in a manner likely to cause any of the prohibited acts listed in Regulation .04B of this chapter.

E. Nothing in this regulation shall be construed to prohibit the Department from enforcing any other law, regulation, or permit applicable to the existing composting facility.

.08 Composting Facility Siting and Design Requirements.

A. This regulation applies to composting facilities that are required to obtain a Composting Facility Permit under this chapter,

and establishes conditions that the composting facility operator shall meet with respect to construction of the composting facility.

B. Siting Criteria.

(1) Except where a greater setback is required by local, State, or federal law or regulations, feedstock receipt, feedstock storage, active composting, curing, and compost storage areas of a composting facility may not be located closer than:

- (a) 50 feet to the property line of a property not owned or controlled by the operator of the composting facility;
- (b) 300 feet to a dwelling not owned or operated by the operator of the composting facility;
- (c) 100 feet to a domestic well; and
- (d) 100 feet to a stream, lake, or other body of water except an impoundment for use in the composting process.

(2) A composting facility shall be located in accordance with all applicable federal laws, regulations, or guidance related to the location of composting facilities at or near airports.

(3) A composting facility may not be located in a flood plain, except as otherwise approved by the Department.

(4) A composting facility shall be located and constructed in accordance with COMAR 26.23 and COMAR 26.24, relating to nontidal and tidal wetlands, respectively.

(5) A composting facility may not be located in conflict with the Chesapeake Bay Critical Area Commission Criteria under COMAR 27.01 or any locally adopted Critical Area Plan.

C. Basic Design Criteria.

(1) As required by Regulation .09 of this chapter, the CFOP shall clearly define:

(a) The locations at the composting facility to be used for feedstock receiving and storage, active composting, curing, and compost storage; and

(b) The maximum throughput and capacity of the composting facility.

(2) No material shall be stored in excess of the capacity specified in the CFOP.

(3) The composting facility shall be of sufficient size to allow processing of materials as necessary to avoid nuisance conditions and shall have adequate space for material stockpiles, windrows, or piles of manageable dimensions for maintaining aerobic conditions, curing piles, staging of finished compost, and equipment.

(4) The maximum windrow or pile size and minimum windrow or pile spacing shall match the capability and requirements of the equipment used at the composting facility.

(5) Access to the composting facility shall be limited to authorized entrances, which shall be secured from public access when the composting facility is not in operation.

(6) The composting facility shall have a sign at its entrance that lists:

- (a) The name and address of the composting facility;
- (b) Days and hours of operation; and
- (c) Emergency contact information.

(7) The composting facility shall have all-weather access roads.

(8) Structures such as berms or ditches shall be used to prevent run-on to the feedstock receiving, feedstock storage, active composting, curing, and compost storage areas.

D. Distance to Groundwater.

(1) The composting facility shall be constructed and located to comply with the following minimum vertical distances between the seasonal high water table and any surfaces used for feedstock receiving, feedstock storage, active composting, curing, or compost storage:

(a) For a composting facility located outside the coastal plain province, as shown in COMAR 26.04.02.13, the minimum distance shall be 4 feet; and

(b) For a composting facility located within the coastal plain province, as shown in COMAR 26.04.02.13, the minimum distance shall be as follows:

(i) For a composting facility located in an area with an applicable groundwater protection report approved by the county health department under COMAR 26.04.02.04, the minimum distance shall be the distance specified in the report as the minimum soil treatment zone for an on-site sewage disposal system;

(ii) For a composting facility located in an area where no approved groundwater protection report applies, the minimum distance shall be 4 feet;

(iii) For a composting facility that will operate under the general Composting Facility Permit, the minimum distance shall be the distance specified in the general permit;

(iv) The Department may set another distance if necessary to adequately protect groundwater, as determined by the Department and based on factors such as whether the composting facility is located in a wellhead protection area, the permeability of the buffer zone between the surface and groundwater, the proportion of rock in the buffer zone, whether the composting facility is located near a sole source aquifer, and any other relevant hydrogeologic factors; and

(v) Notwithstanding §D(1)(b)(i)—(iv) of this regulation, the minimum distance shall in no case be less than 2 feet.

(2) The Department may specify the method to be used for determining the distance to the seasonal high water table.

(3) The Department may exempt an indoor composting facility from the requirement for distance to the seasonal high water table in §D(1) of this regulation.

E. Pad Requirements.

(1) Slope of surfaces. All surfaces used for feedstock receiving, feedstock storage, active composting, curing, and compost storage shall be sloped between 1 and 6 percent, as determined by site conditions and as sufficient to prevent ponding, except for areas located indoors, which shall have slope sufficient to prevent ponding and facilitate cleaning.

(2) Pad Requirements for Tier 1 Facilities. For Tier 1 Facilities, the surfaces used for feedstock receiving, feedstock storage, active composting, curing, and compost storage shall be composed of an all-weather pad.

(3) Pad Requirements for Tier 2 Small Facilities.

(a) For Tier 2 Small Facilities, the surfaces used for feedstock receiving, feedstock storage, curing, and compost storage shall be composed of an all-weather pad.

(b) Surfaces used for active composting shall be composed of:

(i) An all-weather pad with a 6-inch layer of carbon-rich substrate such as wood chips placed beneath each active composting pile or windrow, above the all-weather pad; or

(ii) A low-permeability pad constructed in accordance with the requirements for Tier 2 Large Facilities in §E(4)(b) of this regulation, if the requirements for management of contact water in §F(2) or F(3) of this regulation are also met.

(c) The 6-inch layer of carbon-rich substrate required under §E(3)(b)(i) of this regulation shall be placed under an active composting pile or windrow at the time it is initially formed, but the layer is not required to be replaced each time the pile is turned or consolidated.

(4) Pad Requirements for Tier 2 Large Facilities.

(a) For Tier 2 Large Facilities, surfaces used for curing and compost storage shall be composed of an all-weather pad.

(b) Surfaces used for feedstock receipt, feedstock storage, and active composting shall be constructed of a low-permeability pad that meets the following requirements:

(i) A pad constructed on the surface of the ground shall have a hydraulic conductivity of 1×10^{-5} cm/sec or less;

(ii) A pad that is buried shall have a hydraulic conductivity of 1×10^{-6} cm/sec or less;

(iii) A pad made of asphalt concrete or Portland cement concrete shall be designed to minimize the potential for cracking and allow equipment to operate without damage; and

(iv) A pad made of compacted clay shall have a minimum thickness of 1 foot and shall be protected from desiccation and installed in a manner such that the integrity of the pad will not be impaired by the operation of heavy equipment used on the pad.

(c) For Tier 2 Large Facilities in which the active composting piles are covered, the active composting area required to have a low-permeability pad under §E(4)(b) of this regulation is limited to the area directly underneath each covered pile and does not include the aisles between the covered piles.

F. Design Requirements for Management of Stormwater and Contact Water.

(1) The composting facility shall be designed to manage any stormwater discharges associated with industrial activity, as defined in 40 CFR §122.26(b)(14), in accordance with:

(a) The NPDES permit issued by the Department;

(b) State and local stormwater requirements; and

(c) State and local erosion and sediment control requirements.

(2) Uncovered Tier 2 Large Facilities.

(a) This subsection applies to Tier 2 Large Facilities in which the active composting piles are not covered.

(b) The feedstock receiving, feedstock storage, and active composting areas shall direct contact water to a collection basin, tank, or other containment system before:

(i) Reuse on feedstock storage or active composting piles in accordance with the CFOP and in a manner that prevents contamination of materials that have met the pathogen reduction requirements in Regulation .09B(10) of this chapter;

(ii) Transport off site for treatment at a permitted facility;

or (iii) Discharge under COMAR 26.08.01—.04.

(c) The collection basin, tank, or other containment system used to collect contact water shall:

(i) Be sized to handle at least a 24-hour, 25-year storm event;

(ii) For a basin, have a synthetic or compacted clay liner with a hydraulic conductivity of 1×10^{-7} cm/sec or less;

(iii) For a liner constructed of compacted clay, have a thickness of at least 1 foot; and

(iv) For a tank or other containment system, be constructed of impermeable material.

(3) Covered Tier 2 Large Facilities.

(a) This subsection applies to Tier 2 Large Facilities in which active composting piles are covered.

(b) The following are considered contact water at Covered Tier 2 Large Facilities and shall be collected and contained in accordance with the requirements of §F(3)(d) of this regulation:

(i) Liquid that drains from the bottom of a covered pile; and

(ii) Runoff from any uncovered feedstock receipt or feedstock storage areas.

(c) The following are not considered contact water at Covered Tier 2 Large Facilities and are not subject to the collection and containment requirements of §F(3)(d) of this regulation:

(i) Runoff from active composting areas that has contacted only covered piles, roofs, or empty aisles; and

(ii) Runoff from any feedstock receipt and feedstock storage areas covered by a roof, if the runoff has contacted only the roof or empty aisles.

(d) Contact water from Covered Tier 2 Large Facilities shall be collected and contained in a collection basin, tank, or other containment system before:

(i) Reuse on feedstock storage or active composting piles in accordance with the CFOP and in a manner that prevents contamination of materials that have met the pathogen reduction requirements in Regulation .09B(10) of this chapter;

(ii) Transport off site for treatment at a permitted facility;

or (iii) Discharge under to COMAR 26.08.01—.04.

(e) A collection basin, tank, or other containment system used to collect contact water shall:

(i) Be sized to contain all contact water generated by the composting facility;

(ii) For a basin, have a synthetic or compacted clay liner with a hydraulic conductivity of 1×10^{-7} cm/sec or less;

(iii) For a liner constructed of compacted clay, have a thickness of at least 1 foot; and

(iv) For a tank or other containment system, be constructed of impermeable material.

G. Monitoring Wells. The Department may require a composting facility to install monitoring wells and conduct groundwater monitoring if:

(1) The composting facility is located in karst terrain;

(2) The composting facility is located in a wellhead protection area; or

(3) The Department otherwise considers monitoring necessary to adequately protect groundwater because of the particular characteristics of the site.

.09 Composting Facility Operating Requirements.

A. This regulation:

(1) Applies to composting facilities that are required to obtain a Composting Facility Permit under this chapter, and

(2) Establishes requirements that the composting facility operator shall meet in operating a composting facility.

B. Basic Operating Requirements.

(1) Composting Facility Operations Plan (CFOP).

(a) A composting facility shall have and follow a Department-approved CFOP that contains:

(i) A description of the operational procedures for the composting facility in order to comply with the requirements of this chapter;

(ii) A description of the methods, equipment, and feedstocks to be used;

(iii) A description of the movement of materials throughout the composting process, including a description of the locations to be used at the composting facility for receipt, active composting, curing, and storage phases.

(iv) A maximum capacity and annual throughput for the composting facility;

(v) A plan to prevent creation of nuisances, including nuisance odors and litter, and to respond to complaints;

(vi) A plan to prevent harborage and infestation of vectors;

(vii) A description of methods used to control contact water and stormwater;

(viii) An emergency preparedness plan for responding to and minimizing the occurrence of fires, explosions, and releases;

(ix) A plan and procedure for monitoring temperature of each windrow or pile, including a procedure for demonstrating that the pathogen reduction requirements of §B(10) of this regulation are met;

(x) A plan and procedure for monitoring moisture during composting;

(xi) A plan for periodic inspection of the site by the facility operator or personnel, including inspection of the pad and any stormwater and contact water control measures;

(xii) A plan for periodic cleaning and maintenance;

(xiii) A description of the methods for handling unacceptable wastes delivered to the composting facility, including how they shall be identified, segregated, and handled before recycling or final disposal;

(xiv) Employee safety training requirements;

(xv) A description of procedures for recording and reporting incidents of noncompliance with this chapter;

(xvi) Methods used to prevent mud, soil, and debris from the composting facility from entering public roadways and a procedure for cleaning roads if necessary;

(xvii) A plan for disposal of product that does not meet quality or regulatory standards;

(xviii) For Tier 2 Facilities, a plan for determining whether the product is stable, meets the pathogen reduction requirements of §B(10) of this regulation, and is suitable for placement in the curing or compost storage area; and

(xix) A listing of the composting facility personnel that hold a composting operator certification issued by the Department of Agriculture under COMAR 15.18.04.03.

(b) The composting facility operator shall review the CFOP internally at least once per year and update the CFOP when there is a change in Certified Operators, procedures, or feedstocks.

(c) The composting facility operator shall ensure that a copy of the CFOP is available on site and shall make the CFOP available to the Department upon request.

(2) The composting facility operator shall complete and document training in the basics of composting facility operations in accordance with COMAR 15.18.04.03.

(3) The composting facility shall be maintained in a clean and sanitary condition, free of unsecured trash and non-compostable materials at the end of each operating day.

(4) The composting facility operator shall ensure that a copy of the current Composting Facility Permit is on site at all times.

(5) The composting facility, including the feedstock receipt, feedstock storage, active composting, curing, and compost storage areas, shall be maintained and repaired as needed.

(6) The composting facility operator shall ensure that the composting facility is in compliance with all local rules, regulations, and ordinances.

(7) Feedstocks shall be managed in a timeframe that prevents nuisance odors, unauthorized discharge of contact water, fire, and scavenging by vectors.

(8) Compost shall not be stored on site longer than 12 months, unless approved by the Department on a case-specific basis and addressed in the CFOP.

(9) Non-compostable waste shall be removed or stored in a waste container or containment area, and then disposed at a permitted solid waste facility or recycled:

(a) Within the timeframe provided in the approved CFOP;

(b) As required by local regulating authority; and

(c) Whenever the container is full.

(10) Pathogen Reduction and Vector Attraction Reduction.

(a) The material being composted shall undergo the composting Process to Further Reduce Pathogens under 40 CFR Part 503, Appendix B, §(B)(1); and

(b) A Tier 2 facility shall implement a method to control vector attraction, including:

(i) The Vector Attraction Reduction method in 40 CFR §503.33(b)(5); or

(ii) An alternative method specified in the CFOP, which may include a time and temperature combination or other management control.

(11) Any stormwater discharges associated with industrial activity, as defined in 40 CFR §122.26(b)(14), shall be managed in accordance with:

(a) A NPDES permit issued by the Department;

(b) State and local stormwater requirements; and

(c) State and local erosion and sediment control requirements.

C. Additional Operating Requirements for Tier 2 Small Facilities.

(1) Type 2 feedstocks with free liquid shall be promptly mixed with drier feedstocks, bulking material, or compost so that the liquid is absorbed and not allowed to flow from the compost piles or windrows.

(2) By the end of each operating day, Type 2 feedstocks shall be processed into an active composting pile, transferred to leak-proof containment, or mixed with carbon-rich bulking material and covered in a manner that prevents nuisance odors and scavenging by vectors.

(3) Except for covered piles, a 6-inch layer of compost or carbon-rich material shall be placed over active composting piles by the end of the operating day on which they are formed and again after each time the piles are turned.

D. Additional Operating Requirements for Tier 2 Large Facilities.

(1) Any Type 2 feedstocks with free liquid shall be mixed with drier feedstocks, bulking material, or compost so that the liquid is promptly absorbed and not allowed to flow from the compost piles or windrows.

(2) Free liquid that is not absorbed by drier feedstocks is contact water and shall be directed to a containment system and managed in accordance with §D(4) of this regulation.

(3) By the end of each operating day, Type 2 feedstocks shall be processed into an active composting pile, transferred to leak-proof containment, or mixed with bulking material and covered in a manner that prevents nuisance odors and scavenging by vectors.

(4) Contact water shall be collected and contained in a collection basin, tank, or other containment system designed in accordance with Regulation .08F of this chapter before:

(a) Reuse on feedstock storage or active composting piles in accordance with the CFOP and in a manner that prevents contamination of materials that have met the pathogen reduction requirements of §B(10) of this regulation;

(b) Transport off site for treatment at a permitted facility; or

(c) Discharge under COMAR 26.08.01—.04.

.10 Application for Individual Permit and Permit Review.

A. Requirements for Application.

(1) An applicant for an individual Composting Facility Permit shall submit a permit application on a form provided by the Department.

(2) An applicant for an individual Composting Facility Permit shall also apply for any air quality permits required under COMAR 26.11.02 and any discharge permits required under COMAR 26.04.02.09 and COMAR 26.08.04, including a permit for storm water discharges if required.

(3) *The application for an individual Composting Facility Permit shall include:*

- (a) *The name and address of the applicant;*
- (b) *The applicant's Social Security Number, if the applicant is an individual, or the applicant's federal tax identification number, if the applicant is not an individual;*
- (c) *A description of the composting facility for which the permit is requested, including an explanation of how the requirements of this chapter shall be met;*
- (d) *A listing of all other applicable permits required under local, State, or federal law and regulations, including permit numbers for those currently held;*
- (e) *A marketing plan and strategy for the compost produced at the composting facility;*
- (f) *Copies of plans and engineering reports as described in §B of this regulation; and*
- (g) *A description of any variances for which the applicant is applying at the time of application, in accordance with Regulation .14 of this chapter.*

B. Engineering Plans and Specifications.

(1) *The applicant shall submit engineering plans and specifications for the composting facility to the Department as part of the application.*

(2) *The information contained in these plans and specifications shall include:*

- (a) *A map showing the specific location of the composting facility and types of land uses, including any residential areas, schools, or other institutions located within 1/2 mile of the boundaries of the composting facility;*
- (b) *Drawings of on-site buildings and other composting facility structures, including any pads and contact water or stormwater containment systems, showing the type of construction, layout, and dimensions;*
- (c) *For facilities with any outdoor operations, including feedstock receipt or curing, a topographic map of the site that identifies slopes greater than 25 percent, floodplains, wetlands, streams, and aquifer recharge areas;*
- (d) *Drawings showing feedstock receipt and storage, compost storage, equipment storage, curing, and active composting areas;*
- (e) *A site plan designating the property boundaries, existing and proposed composting facility structures, and roads;*
- (f) *A descriptive statement of processes and technology to be used;*
- (g) *The distance to the seasonal high water table, demonstrating compliance with Regulation .08D of this chapter;*
- (h) *A description of the following:*
 - (i) *Major items of equipment including manufacturer, type, model, capacity, and number of units;*
 - (ii) *Types and anticipated quantities of feedstocks to be accepted and processed daily;*
 - (iii) *Types of feedstocks that are not accepted;*
 - (iv) *Means by which the quantities of materials entering the composting facility, processed at the composting facility, and leaving the composting facility are determined;*
 - (v) *Geographic areas expected to be served by the composting facility;*
 - (vi) *Measures that shall be taken to prevent or control ground or surface water pollution, fires, explosions, odors, noise, dust, litter, vectors, and other nuisances;*
 - (vii) *Methods of controlling contact water and stormwater from the composting facility;*
 - (viii) *Soil types and depths at the composting facility site;*

- (ix) *Employee safety and sanitary facilities including the location of on-site sewage disposal and water supply systems;*
- (x) *Number and positions of employees; and*
- (xi) *Hours of operation;*
- (i) *A copy of the CFOP required under Regulation .09 of this chapter;*
- (j) *If required, an erosion and sediment control plan that meets the requirements of COMAR 26.17.01 and has been approved by the local soil conservation district or appropriate approving authority;*
- (k) *A grading permit as required by the local jurisdiction;*
- (l) *A description of site security and access control; and*
- (m) *An approved and bonded stormwater management plan, if required by the local jurisdiction.*

C. *Term of License. A Composting Facility Permit shall be issued for a term of 5 years.*

D. *The Department shall distribute the applications submitted to the:*

- (1) *Governing body, the county executive, or both, of a county or municipality in which the activity is proposed;*
- (2) *Local operating agency responsible for solid waste and recycling management;*
- (3) *Local health or environmental official;*
- (4) *Department of Natural Resources;*
- (5) *Appropriate soil conservation district;*
- (6) *U.S. Army Corps of Engineers;*
- (7) *State Highway Administration;*
- (8) *State Fire Marshal's Office; and*
- (9) *Local fire marshal.*

E. *The Department shall invite each person receiving a copy of the application under §D of this regulation to:*

- (1) *Inspect the site that is the subject of the application during a joint inspection scheduled by the Department; and*
- (2) *Submit comments to the Department within 30 calendar days of receipt of the application and supporting information.*

F. Public Notice.

(1) *Upon an applicant's submission of a completed application for an individual Composting Facility Permit, the Department shall publish a notice of the application on the Department's website, including:*

- (a) *A statement of the location of the proposed facility and the type and quantity of feedstocks intended to be composted;*
- (b) *A statement that the Department shall allow 30 calendar days for public comment on the application before issuance of the permit;*
- (c) *The procedure and deadline for submitting comments on the application; and*
- (d) *Any other information related to the application that the Department considers relevant.*

(2) *The Department shall publish notice of issuance of an individual Composting Facility Permit on the Department's website.*

G. Contested Case Hearing.

(1) *The applicant shall have an opportunity for a hearing on a denial of an individual Composting Facility Permit or any condition of an individual Composting Facility Permit, if the applicant files a written request with the Department within 10 calendar days of receipt of the notice of denial or issuance of the permit with conditions.*

(2) *A hearing provided for in this regulation shall be conducted by the Department at a designated time and place in accordance with the provisions of State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.*

H. Permit Modification.

(1) *The Department may modify an individual Composting Facility Permit upon request by the permittee if all the following conditions are met:*

(a) *The permittee is in compliance with this chapter and all the conditions of the permit;*

(b) *The permittee submits to the Department a modification application, on a form provided by the Department, including:*

(i) *A description of the proposed modification and an explanation of why the modification is needed;*

(ii) *A revised version of any documentation listed in §B of this regulation that will change as a result of the modification, including a revised CFOP incorporating the proposed modifications; and*

(iii) *Any other information requested by the Department to evaluate the proposed modification; and*

(c) *The Department determines that the proposed modification is in compliance with this chapter and does not adversely affect the environment or public health.*

(2) *An application for a major permit modification shall be subject to the notice and comment opportunities provided in §§D—F of this regulation, except that only provisions of the permit subject to modification shall be open for comment.*

(3) *An application for a minor permit modification is not subject to the notice and comment opportunities provided in §§D—F of this regulation.*

.11 General Permit to Operate a Composting Facility.

A. Eligibility for the General Composting Facility Permit.

(1) *A person may construct and operate a Tier 1 or Tier 2 Facility under the general Composting Facility Permit issued under §H of this regulation if:*

(a) *Either:*

(i) *The operator of an existing composting facility for which a timely and complete Existing Facility Notification was filed under Regulation .07 of this chapter submits the documentation required under §§B—D of this regulation not later than January 1, 2017 and receives an acknowledgement from the Department under §G of this regulation; or*

(ii) *The operator of a new composting facility submits the documentation required under §§B—D of this regulation and receives an acknowledgement from the Department under §G of this regulation before beginning operations; and*

(b) *The composting facility is in compliance with:*

(i) *The terms of the general permit; and*

(ii) *All requirements of this chapter, without variances.*

(2) *If an existing composting facility has not filed a complete and timely Existing Facility Notification under Regulation .07 of this chapter, a person may not operate the existing composting facility under the general Composting Facility Permit until the operator submits the documentation required under §§B—D of this regulation and receives an acknowledgement from the Department under §G of this regulation.*

(3) *A proposed Tier 1 or 2 Facility that requests a variance from the requirements in this chapter or that would not comply with the terms of the general permit shall apply for an individual Composting Facility Permit under Regulation .10 of this chapter.*

B. A person intending to construct or operate a composting facility under the general permit shall submit to the Department:

(1) *A Notice of Intent (NOI); and*

(2) *A copy of the CFOP required by Regulation .09 of this chapter.*

C. The NOI shall be signed by a responsible party and shall be sent by certified mail.

D. A person signing an NOI shall certify that the composting facility will operate in compliance with the conditions of the general permit.

E. Becoming a permittee under the general permit obligates the person to comply with the terms and conditions of the general permit.

F. Duration of the Permit. The general Composting Facility Permit shall have a term of 5 years and may be reissued with or without changes at the discretion of the Department.

G. Dates of Coverage Under the Permit.

(1) *Authorization to operate a composting facility under the general Composting Facility Permit is effective on the date the Department acknowledges receipt of a complete NOI and a complete CFOP.*

(2) *Authorization under the general Composting Facility Permit ends when the earliest of the following events occurs:*

(a) *The permit term expires, unless the permittee submits to the Department a request for continuing coverage under §G(3) of this regulation at least 60 calendar days before the permit expires;*

(b) *The permittee permanently ceases operations after notifying the Department under §G(4) of this regulation;*

(c) *A change in ownership or control of the composting facility occurs; or*

(d) *The Department provides written notice to a permittee of suspension or revocation of the permittee's coverage under the general Composting Facility Permit, in accordance with Regulation .16A of this chapter.*

(3) *Request for Continuing Coverage.*

(a) *The request for continuing coverage under §G(2)(a) of this regulation may be fulfilled by submission of a renewal NOI and current CFOP.*

(b) *Once a request for continuing coverage has been filed, an expired general permit continues in force and effect until the general permit is reissued and any deadline for opportunity to register under the new permit is reached or the general permit is revoked or withdrawn.*

(4) *A permittee who intends to permanently cease operations shall notify the Department of the permittee's intent to do so and shall comply with the requirements in Regulation .13 of this chapter related to composting facility closure.*

H. General Permit—Public Notice, Public Meeting and Issuance.

(1) *Before issuance or reissuance of the general Composting Facility Permit, the Department shall prepare a draft permit.*

(2) *The Department shall publish a notice of the draft permit prepared under §H(1) of this regulation on the Department's website, and include in the notice:*

(a) *A copy of the draft permit;*

(b) *A statement that the Department shall allow a minimum of 30 calendar days for public comment on the draft permit before the issuance or reissuance of the permit; and*

(c) *The procedure and deadline for submitting comments on the draft permit.*

(3) *The Department shall schedule a public meeting on the draft general Composting Facility Permit when a written request is made within 20 calendar days of the publication of the notice of draft permit.*

(4) *The Department may, at its discretion, hold a public meeting on a draft general Composting Facility Permit if no request for a public meeting is received.*

(5) *A public meeting may be cancelled if all persons who made timely written request for the meeting withdraw their requests.*

(6) *If a public meeting is scheduled, the Department shall:*

(a) *Publish a notice of the public meeting on the Department's website a minimum of 30 calendar days prior to the meeting; and*

- (b) Include in the notice:
 - (i) The draft permit; and
 - (ii) The date, time, and location of the meeting.

(7) The Department shall:

- (a) Provide an opportunity at the public meeting for comments concerning the issuance of a general permit; and
 - (b) Accept written comments on the proposal to issue a general permit for at least 5 calendar days after a public meeting.
- (8) The Department shall publish notice of issuance or reissuance of the general Composting Facility Permit on the Department's website.

I. Transfer of Ownership.

(1) Participation in the general permit:

- (a) Is not transferable; and
 - (b) Authorizes only the signatory party to operate the permitted facility.
- (2) If there is a change in control or ownership of the property not caused by death of the permittee, the permittee shall:
- (a) Notify the succeeding owner by certified mail of:
 - (i) The existence of the permit; and
 - (ii) Any outstanding permit noncompliance; and
 - (b) Make the notification required by §I(2)(a) of this regulation a minimum of 60 calendar days before the change in control or ownership; and

(3) The permittee shall provide the Department with a copy of the notification required in §I(2) of this regulation at the same time that the notification is provided to the succeeding owner.

J. Submission of Revised NOI.

- (1) A permittee that is authorized under the general Composting Facility Permit shall submit a revised NOI a minimum of 60 calendar days before either of the following changes occurs:
 - (a) A permitted Tier 1 Facility becomes a Tier 2 Facility by beginning to accept Type 2 feedstocks; or
 - (b) A permitted Tier 2 Small Facility becomes a Tier 2 Large Facility by increasing production to greater than 10,000 cubic yards of compost per year.
- (2) The permittee shall submit with the revised NOI an updated CFOP required by Regulation .09B(1) of this chapter incorporating any proposed operational changes to be made in association with one of the events listed in §J(1) of this regulation.

(3) Upon submission of a revised NOI under §J(1) of this regulation, the permittee shall comply with all requirements of this chapter and of the general Composting Facility Permit applicable to the new facility tier.

K. Contested Case Hearing.

- (1) An applicant shall have the opportunity for a hearing on a denial of authorization to operate under the general Composting Facility Permit, if the applicant files a written request with the Department within 10 calendar days of receipt of a notice of denial.
- (2) A hearing provided for in this regulation shall be conducted by the Department at a designated time and place in accordance with the provisions of State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

.12 Recordkeeping and Reporting.

- A. This regulation applies to composting facilities required to obtain a Composting Facility Permit.
- B. Measurement for Recordkeeping and Reporting.
 - (1) For the purpose of the composting facility records required in §C of this regulation, quantities may be measured in either volume or weight.
 - (2) For the purpose of the annual report required in §D of this regulation, quantities shall be reported by:
 - (a) Weight, for Tier 1 Facilities; and
 - (b) Both weight and volume, for Tier 2 Facilities.

(3) For the purpose of the annual report required in §D of this regulation, a facility may calculate approximate weight or volume using a method for converting volume to weight or weight to volume that is described in its annual report and is reasonably accurate, as determined by the Department.

C. Beginning on the date a composting facility is issued an individual Composting Facility Permit or begins operating under the general Composting Facility Permit, the composting facility shall keep records for a minimum of 5 years from the date of each record, in a form suitable for submission to or inspection by the Department, including:

- (1) Source, type, and quantity of feedstocks received, including the county in which each quantity was generated;
- (2) Quantity and type of feedstocks processed into compost;
- (3) Quantity and classification of compost produced using the product classifications specified by the Department of Agriculture in COMAR 15.18.04.05;
- (4) Quantity and classification of compost distributed;
- (5) Quantity of residues produced and removed from the composting facility;
- (6) The results of any analytical testing required by the Department of Agriculture under COMAR 15.18.04.04—.05 and .11;
- (7) Results of temperature monitoring that demonstrate compliance with the pathogen reduction requirements in Regulation .09B(10) of this chapter; and
- (8) Results of moisture monitoring conducted in accordance with the CFOP required by Regulation .09B(1) of this chapter.

D. Annual Report.

- (1) A composting facility shall submit an annual report on a form provided by the Department.
- (2) The composting facility shall submit the annual report by January 31 of each year for the preceding calendar year's data.
- (3) The composting facility shall submit all required data on the form provided by the Department, and shall include, at a minimum, the following:
 - (a) Quantity and type of feedstocks received during the preceding calendar year, indicating the county in which each quantity of material was generated;
 - (b) Quantities of compost and residues produced by composting during the preceding calendar year; and
 - (c) Quantities of compost and residues removed from the composting facility during the preceding calendar year.

E. Annual Submission of the CFOP. A composting facility shall submit to the Department a current version of the CFOP, updated in accordance with Regulation .09B(1)(b) of this chapter, by January 31 of each year with the annual report required in §D of this regulation.

F. The Department may impose other recordkeeping and reporting requirements considered necessary.

.13 Closure.

- A. A composting facility required to obtain a Composting Facility Permit under this chapter shall submit to the Department a notice of final closure within 270 calendar days after receipt of the final load of feedstocks.
- B. Notice of final closure required under §A of this regulation shall include:
 - (1) The date of final feedstock receipt; and
 - (2) A site closure plan that provides for:
 - (a) Management of all feedstock and active, curing, and finished compost and compost-blended products remaining on site;
 - (b) Treatment or removal of contact water stored in containment structures or ponds;
 - (c) Removal of compost within 12 months from the time it is finished; and

(d) Removal of all other materials on site, including any solid wastes or feedstocks that are not being composted, within 12 months of receipt of the final load of feedstocks, unless the material is being used as part of site closure as described in the site closure plan.

C. A composting facility, other than one operated on a seasonal basis only, as specified in the CFOP, that does not receive material for 270 calendar days shall be deemed abandoned in violation of this regulation unless properly closed, and its permit shall be suspended.

.14 Variances.

A. A person proposing to construct or currently operating a composting facility may make written application to the Department for a variance from one or more of the provisions in this chapter.

B. The Department shall grant a variance when the design or method of operation proposed in the variance application shows, to the satisfaction of the Department, that the composting facility operations will conserve and protect the public health, natural resources, and environment of the State, prevent nuisances, and control air, water, and land pollution to at least the same extent as would be obtained by compliance with these regulations.

C. A person requesting a variance shall submit the information required by the Department, including:

- (1) The nature and location of the composting facility;
- (2) The reasons the variance is requested, including the economic, technological, or environmental justification; and
- (3) Other relevant information the Department may require in order to make a determination regarding the requested variance.

D. The Department shall make a determination, in writing, to either grant or deny the requested variance. If the variance request is denied, the Department shall inform the applicant in writing of the basis for the denial and the procedures for appeal of the determination.

E. Contested Case Hearing.

(1) An applicant shall have the opportunity for a hearing on a denial of a variance, if the applicant for the variance files a written request with the Department within 10 calendar days of receipt of the notice of denial.

(2) A hearing provided for in this regulation shall be conducted by the Department at a designated time and place in accordance with the provisions of State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

F. The variance shall become effective when:

- (1) The Department has issued a written determination granting the requested variance;
- (2) The composting facility for which the variance is requested has been issued an individual Composting Facility Permit; and
- (3) The composting facility for which the variance is requested has obtained any other permits or approvals required by State, local, or federal law or regulation.

G. A person operating under or proposing to operate under the general Composting Facility Permit of Regulation .11 of this chapter may not obtain a variance.

H. The Department may rescind a variance if it finds that the facility has violated any of the general restrictions listed in Regulation .04B of this chapter as a result of operating according to the variance or for other good cause.

.15 Pilot and Research Projects.

A. A person may apply for approval to conduct a pilot or research project at a composting facility permitted under this chapter if the project would require the composting facility to temporarily deviate from one or more provisions of this chapter, the general or individual Composting Facility Permit, or the Composting Facility Operations Plan submitted with the NOI or permit application.

B. Activities Eligible for Approval. To be eligible for pilot or research approval the project must be temporary and serve a pilot or research purpose, including to:

- (1) Plan for or assess the feasibility of establishing a Tier 2 Facility by accepting limited quantities of Type 2 feedstocks at a permitted Tier 1 Facility;
- (2) Perform academic research or conduct testing related to composting;
- (3) Address a one-time, seasonal, or temporary need for processing a specific material that the composting facility is not currently authorized to accept; or
- (4) Further any other valid pilot or research purpose, as determined by the Department.

C. Request for Approval.

(1) A request for approval for a pilot or research project may be made at the time of application for the Composting Facility Permit or at any time during the term of the permit.

(2) A person requesting pilot or research project approval shall submit the information required by the Department, including:

- (a) A description of the activity to be conducted, including the types and quantities of feedstocks to be used;
- (b) A statement identifying the provisions of this chapter, the Composting Facility Permit, or the CFOP from which the activity would require deviation;
- (c) The purpose of the proposed pilot or research project; and
- (d) The proposed length of time needed to conduct the activity.

D. The Department shall make a determination, in writing, to either grant or deny the requested approval. If the request is denied, the Department shall inform the applicant in writing of the basis for the denial and the procedures for appeal of the determination.

E. The Department may issue approval with conditions, including, but not limited, to additional monitoring, recordkeeping, and reporting requirements.

F. Contested Case Hearing.

(1) An applicant shall have an opportunity for a hearing on a denial of approval or any condition of approval, if the applicant files a written request with the Department within 10 calendar days of receipt of the notice of denial or approval with conditions.

(2) A hearing provided for in this regulation shall be conducted by the Department at a designated time and place in accordance with the provisions of State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

G. Duration of Approval.

(1) Approval for pilot or research activities shall be limited in duration, as specified in the approval issued by the Department, with a maximum duration of 1 year.

(2) The permittee may apply for extension of an approval for subsequent periods with a maximum duration of 1 year each.

(3) The approval shall become effective when:

- (a) The Department has issued a written determination granting the request for approval;
- (b) The composting facility for which the approval is requested has been issued a Composting Facility Permit or is covered under the general Composting Facility Permit; and
- (c) The composting facility for which the approval is requested has obtained any other permits or approvals required by State, local, or federal law.

H. Effect of Approval.

(1) The approval operates as a temporary variance from only those provisions of this chapter, the general or individual Composting Facility Permit, or the CFOP that are specified in the approval. The temporary variance does not affect the application of other local, State and federal laws.

(2) The approval does not otherwise change the effect or term of the Composting Facility Permit.

I. The Department may rescind the approval if it finds that the composting facility has violated any of the general restrictions listed in Regulation .04B of this chapter or for other good cause.

.16 Enforcement.

A. Suspension or Revocation of Permits.

(1) After written notification and an opportunity to request a hearing by the Department, the Department may suspend, revoke, or modify a Composting Facility Permit or authorization to operate under the general Composting Facility Permit if the Department finds that:

(a) False or inaccurate information was contained in:

(i) The Composting Facility Permit application or NOI to operate under the general Composting Facility Permit;

(ii) The information and forms, including the CFOP, required as part of the Composting Facility Permit application or NOI to operate under the general Composting Facility Permit; or

(iii) Information required to be submitted to the Department under this chapter or the Composting Facility Permit;

(b) As part of a regulated activity by a permittee, there is or has been a violation of:

(i) The Environment Article, Annotated Code of Maryland;

(ii) Applicable requirements of this chapter;

(iii) Any condition of the Composting Facility Permit;

(iv) Any condition of a State or NPDES discharge permit issued under COMAR 26.08.02.09 or COMAR 26.08.04; or

(v) Any condition of an air quality permit issued under COMAR 26.11.02.

(c) Substantial deviation from approved plans, specifications, or requirements, including the CFOP, has occurred, as determined by the Department;

(d) The Department or an authorized representative of the Department has been refused entry to the premises for the purpose of inspecting or sampling to ensure compliance with the terms and conditions of the Composting Facility Permit;

(e) Conditions exist which are causing or may cause an undue risk to the environment or public health, safety, or welfare as may be determined by the Department;

(f) The permittee has been negligent or incompetent in operating the composting facility; or

(g) Any other good cause exists for suspending, revoking, or modifying the Composting Facility permit or authorization under the general Composting Facility Permit.

(2) Immediate Suspension or Revocation.

(a) Notwithstanding other provisions of this chapter or the terms and conditions of the Composting Facility Permit, the Department may immediately suspend or revoke a Composting Facility Permit or authorization to operate under the general Composting Facility Permit if the Department determines there is an immediate and substantial threat to the environment, public health, safety, or welfare.

(b) The Department shall deliver written notice of an immediate suspension or revocation of a Composting Facility Permit or authorization to operate under the general Composting Facility Permit to the permittee, which:

(i) Informs the permittee of the emergency suspension or revocation;

(ii) Cites the regulations with which the permittee has failed to comply that are the basis for suspension or revocation;

(iii) Specifies the corrective action to be taken by the permittee and the time period within which the action shall be taken; and

(iv) Notifies the permittee of the right to request a hearing.

(c) The filing of a hearing request does not stay the revocation or suspension.

(3) An opportunity shall be provided for a hearing if the permittee files a written request with the Department within 10 calendar days of receipt of the notice of suspension, revocation, or modification.

(4) A hearing provided for in this regulation shall be conducted by the Department at a designated time and place in accordance with the provisions of State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

(5) Actions taken in accordance with this regulation do not preclude the Department from taking other administrative, civil, or criminal action for violations of State law, regulations, or terms and conditions of the Composting Facility Permit.

(6) Reinstatement of Suspended Permits or Authorization to Operate Under the General Permit. A person whose Composting Facility Permit or authorization to operate under the general Composting Facility Permit has been temporarily suspended may make application at any time for a reinspection for the purpose of reinstatement of the permit or authorization to operate under the general permit. Following receipt of a written request, including a statement signed by the permittee that the deficiencies which caused suspension have been corrected, the Department may make a reinspection. If the permittee is complying with the requirements of the permit and these regulations, the Department may reinstate the permit or authorization to operate under the general permit.

B. Inspections.

(1) General. The Department may inspect the composting facilities permitted under this chapter, and may make as many additional inspections and reinspections as are necessary for the enforcement of these regulations.

(2) Right of Entry. A composting facility shall allow an agent of the Department, after presenting proper identification and during normal operating hours of the composting facility, to enter the buildings, structures, and premises owned by a person supplying composting services, and to enter private property for the purpose of collecting samples, records, and information, and taking photographs to ascertain whether the regulations, orders, and permits of the Secretary of the Environment are being obeyed.

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

**Title 33
STATE BOARD OF
ELECTIONS**

Subtitle 13 CAMPAIGN FINANCING

33.13.10 Prohibitions

Authority: Election Law Article, §§2-102(b)(4), 13-218, 13-225, 13-235, 13-236, 13-237, 13-239, and 13-245, Annotated Code of Maryland

Notice of Proposed Action

[14-376-P]

The State Board of Elections proposes to amend Regulations .01 — .03, under **COMAR 33.13.10 Prohibitions**. This action was considered by the State Board of Elections at its October 30, 2014, meeting, notice of which was given in accordance with State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to provide clarity regarding prohibited and permissible activities during a regular Legislative Session for covered officials. Notably, it would prohibit activities of promoting fund-raising event during session but would still permit the necessary preparatory work for them. Additionally, the prohibited expenditures of a political committee were expanded to include recent inquiries such as travel overseas. Finally, the proposed regulations would permit the use of campaign funds for attending inauguration events.

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 Erin Perrone, Administrative Assistant, State Board of Elections, PO Box 6486, Annapolis, MD 21401, or call 410-269-2845, or email to erin.perrone@maryland.gov, or fax to 410-974-2019. Comments will be accepted through January 12, 2015. A public hearing has not been scheduled.

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) "Covered official" means:

(a) The Governor;

(b) The Lieutenant Governor;

(c) The Attorney General;

(d) The Comptroller; and

(e) A member of the General Assembly.

(3) Electoral Purpose.

(a) "Electoral purpose" means to directly influence or participate in an election or future election while promoting or assisting in the promotion of a candidate, political party, or question.

(b) "Electoral purpose" includes an act of support that will result in the ultimate electoral benefit of the political committee making the expenditure.

[(2)] (4) — [(3)] (5) (text unchanged)

.02 Prohibited Contributions.

A — E. (text unchanged)

F. *During General Assembly Session. During a regular session of the General Assembly, except as provided under Election Law Article, §13-236(c) and (d), Annotated Code of Maryland, a covered official or a person acting on behalf of or as an agent for the covered official may not for the benefit of any candidate or political committee set forth in §G of this Regulation:*

(1) Receive or take possession of a contribution;

(2) Hold or conduct a fund-raising event;

(3) Provide information or notice to the general public or a defined group of persons regarding a fund-raising event to be held after session including:

(a) Time, date, or location of the fund-raising event such as a "Save the Date" notice;

(b) Suggested contribution amounts of the fund-raising event; or

(c) Suggested fund-raising activities such as raffles, paddle wheels, or spins;

(4) Directly or indirectly solicit a contribution or sell tickets to a fund-raising event by any means;

(5) Have an active contribution or solicitation link or page on the Internet; or

(6) Deposit or use any contribution of money that was not deposited prior to the regular session of the General Assembly except as provided in §H of this regulation.

G. *Benefiting Persons or Entities. A covered official may not engage in actions described in §F of this regulation for the benefit of:*

(1) Any candidate for federal, State, or local office;

(2) An authorized candidate campaign committee;

(3) A slate that a candidate has joined; or

(4) The legislative party caucus committee with which the covered official is affiliated.

H. *Permissible Activities During Legislative Session by a Covered Official. During a regular legislative session of the General Assembly, a covered official or a person acting on behalf of or as an agent for the covered official may:*

(1) Receive a loan and deposit its proceeds subject to the requirements of Election Law Article, §13-230, Annotated Code of Maryland;

(2) Make limited expenditures for a fund-raising event not held during a regular session for the purposes of securing a location and food or printing invitations;

(3) Solicit contributions or donations for:

(a) An out-of-State nonfederal candidate and any authorized entity established to elect out-of-State nonfederal candidates;

(b) A ballot issue committee organized under Election Law Article, Title 13, Annotated Code of Maryland; or

(c) A charitable organization; and

(4) Hold a contribution that was received and reported but not deposited prior to the start of the legislative session or return within 30 business days of start of the legislative session the contribution that was received and reported but not deposited prior to the start of the legislative session to the contributor.

I. *Anonymous Contributions Prohibited.*

(1) A political committee may not receive or use a contribution from an anonymous source.

(2) A contribution is considered anonymous if the political committee does not know the identity and address of the contributor.

.03 Prohibited Expenditures.

A. (text unchanged)

B. *Prohibited Expenditures. Except as provided in §C of this regulation, a political committee may not make an expenditure of campaign funds, directly or indirectly, in any amount for:*

(1) — (3) (text unchanged)

(4) Expenses relating to the necessary and ordinary course of holding political office, except if related to legislative newsletters pursuant to Election Law Article, §13-408, Annotated Code of Maryland; [or]

(5) Expenses not relating to the electoral purposes of the political committee, except if permissible under Election Law Article, §13-247, Annotated Code of Maryland[.];

(6) Legal defense costs or expenses, except those relating to investigations or legal actions resulting from the conduct of the campaign or election;

(7) Expenses relating to travel outside the country;

(8) Tuition and any other associated costs for educational programs or schooling; or

(9) Administrative accounts of the political party central committee or legislative party caucus committee.

C. [Permissive] *Permissible* Expenditures. A political committee may make a direct expenditure to a political or advocacy committee or organization not regulated by Election Law Article, Title 13, Annotated Code of Maryland, only if:

- (1) — (2) (text unchanged)
- (3) The recipient of the expenditure is a:
 - (a) — (b) (text unchanged)
 - (c) Political club; [or]
 - (d) Federal candidate[.];*or*
 - (e) *Inauguration or transition committee organization for a newly elected candidate in the State.*

LINDA H. LAMONE
State Administrator of Elections

Title 36

MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY

Subtitle 03 GAMING PROVISIONS

36.03.10 Video Lottery Facility Minimum Internal Control Standards

Authority: 36.03.10: State Government Article, §§9-1A-04(d) and 9-1A-24(b),(d), and (f), Annotated Code of Maryland

Notice of Proposed Action [14-370-P]

The Maryland Lottery and Gaming Control Agency proposes to amend Regulations **.07—, .09, .18, .20, .24, .26—, .28, .30, .32, .34, .35, .38, .41—, .43, and .49** under **COMAR 36.03.10 Video Lottery Facility Minimum Internal Control Standards**. This action was considered at the Maryland Lottery and Gaming Control Commission open meeting held on September 25, 2014, notice of which was given pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to incorporate provisions that better refine the internal control standards for all video lottery facilities.

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 James B. Butler, Director of Legislative and Policy Affairs, Maryland Lottery and Gaming Control Agency, 1800 Washington Blvd, Suite 330, 1800 Washington Blvd, Suite 330, or call (410) 230-8781, or email to jbutler@maryland.gov, or fax to (410) 230-8727. Comments will be accepted through January 12, 2015. A public hearing has not been scheduled.

.07 Annual Audit and Other Regulatory Reports.

A.—E. (text unchanged)

F. A facility operator shall require the independent certified public accountant auditing its financial statements to render the following additional reports:

- (1) A report identifying:
 - (a) (text unchanged)
 - (b) Recommendations as to how to eliminate each material weakness or significant deficiency identified; [and]
- (2) A report expressing an opinion as to the adequacy of the facility operator’s Commission-approved internal controls over financial reporting[.]; *and*
- (3) *A report expressing an opinion as to the adequacy and effectiveness of the facility operator’s information technology security controls.*

G.—M. (text unchanged)

N. No later than [2] 7 days after the date of filing with the applicable agency, a facility operator shall file with the Commission a copy of each Suspicious Activity Report-Casino filed under 31 CFR §103.21.

O. (text unchanged)

P. No later than [2] 7 days after the date of filing with the applicable agency, a facility operator shall file with the Commission a copy of each Currency Transaction Report by Casino filed under 31 CFR §103.22.

Q.—R. (text unchanged)

.08 Record Retention.

A.—E. (text unchanged)

F. The following exceptions apply to the retention period in §D of this regulation:

- (1)—(2) (text unchanged)
 - (3) A minimum retention period of [6 months] *30 days* shall apply to:
 - (a)—(c) (text unchanged)
 - (4) A minimum retention period of [30] 7 days shall apply to gaming tickets redeemed at a video lottery terminal or ticket redemption unit.
- G.—N. (text unchanged)

.09 Complimentary Services.

A. (text unchanged)

[C.] B.—[E.] D. (text unchanged)

[F.] *E. Report.*

(1) A facility operator shall submit to the Commission [an annual report] *a quarterly report* summarizing complimentary services provided during the [calendar year] reporting period.

(2) *The report shall include year-to-date totals of complimentary services provided.*

(3) *The report must be submitted:*

- (i) *On or before the 15th day of the month following the end of each quarter; or*
- (ii) *At the request of the Commission.*

[G.] F. The report required under §F of this regulation shall:

(1) Be submitted no later than March 31 of the following year;]

[(2)] (1) —[(3)] (2) (text unchanged)

[H.] G. (text unchanged)

[I.] H. The report required by §[H] G of this regulation shall:

- (1)—(2) (text unchanged)
- (3) Disclose the total amount, *including year-to-date totals*, provided in complimentary services separated into the following categories:
 - (a)—(e) (text unchanged)

(4) Be submitted:

(a) *At least quarterly*, by the 15th day of the month following the [month in which the complimentary services were provided] *end of each quarter*; or

(b) *At the request of the Commission.*

.18 Cashiers' Cage Design Standards.

A. (text unchanged)

B. A cashiers' cage shall include the following design features:

(1) A manually triggered silent alarm system connected:

(a) Directly to the security department; [and] *or*

(b) (text unchanged)

(2)—(3) (text unchanged)

C.—D. (text unchanged)

.20 Checks Accepted from a Player.

A.—E. (text unchanged)

F. A facility operator may not:

(1) (text unchanged)

(2) Except for a check issued under §E of this regulation, accept from a player under this regulation a check or multiple checks which in the aggregate exceed [\$2,500] \$5,000 during a gaming day; or

(3) (text unchanged)

G.—H. (text unchanged)

I. A facility operator's internal controls shall require a check accepted from a player by a general cashier to be:

(1) [Restrictively] *If a personal check other than an electronic check, the check shall be restrictively endorsed "for deposit only" to the bank account designated for this purpose by the facility operator[;]:*

[(2)] (a) Initialed by the accepting general cashier;

[(3)] (b) Date and time stamped;

(c) *Documented on the face of the check the number on the player's government-issued photographic identification; and*

(d) *If a personal check equaling or exceeding \$500, confirmed for availability of funds under §G of this regulation;*

[(4)] (2) Verified for signature authenticity by a general cashier who shall:

(a) Obtain from the player one form of identification that is a valid, unexpired government-issued photographic identification; *and*

(b) Satisfactorily compare the:

(i) (text unchanged)

(ii) Player's physical appearance with the photograph contained on the valid, unexpired government-issued photographic identification presented by the player; [and]

[(c) Document on the face of the check the number on the player's government-issued photographic identification;]

[(5)] (3) If presented by a player as a payroll or payout check under §E of this regulation, confirmed to have been issued as employment compensation or as a payout in connection with gaming activity; *and*

[(6) If a personal check equaling or exceeding \$500, confirmed for availability of funds under §G of this regulation; and]

[(7)] (4) (text unchanged)

.24 Credit Authorization.

A.—C. (text unchanged)

D. A facility operator shall accept a credit application submitted by a player:

(1) (text unchanged)

(2) By mail[.]; *and*

(3) *By electronic submission.*

E. (text unchanged)

F. A credit file shall:

(1) (text unchanged)

(2) Contain the credit application submitted by the player documenting, at a minimum, the following:

(a)—(c) (text unchanged)

(d) Personal checking account information including:

(i) Name and [address] *routing number* of a bank, savings and loan or credit union subject to federal or State banking regulation on which a counter check is to be drawn;

(ii)—(iii) (text unchanged)

(e)—(g) (text unchanged)

(3) (text unchanged)

G.—M. (text unchanged)

N. A facility operator may approve a "this trip only" increase in a credit limit after performing the verifications required by §L of this regulation if:

(1) *The increase:*

(a) *Is in effect for a single trip to the facility consisting of consecutive gaming days; and*

(b) *Exceeds 25 percent of the currently authorized credit limit; and*

(2) *The increase is documented in the player's credit file including the signature or authorization code of the employee approving the "this trip only" credit limit increase.*

[N.] O.—[R.] S. (text unchanged)

.26 Counter Check Issuance at the Cashiers' Cage.

A.—B. (text unchanged)

C. A facility operator's internal controls shall include:

(1) (text unchanged)

(2) Procedures and controls addressing the identification of a player which include:

(a) A requirement that a [player complete a] one-part request for counter check document *be prepared* which includes:

(i)—(iii) (text unchanged)

(b) A requirement that a general cashier obtain from the player [two forms of identification, at least one of which is] a valid *form of* [,]unexpired government-issued photographic identification;

(c) A requirement that a general cashier satisfactorily compare the:

(i) Signature of the player on the counter check request document with the [signatures] *signature* on [both] *the* identification [credentials] *credential*; and

(ii) (text unchanged)

(d) A requirement that a general cashier record on the counter check request document the:

(i) Number on the player's government-issued photographic identification; *and*

[(ii) Type and number of the second identification credential presented and reviewed; and]

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

(e)—(g) (text unchanged)

(3)—(5) (text unchanged)

(6) Procedures and controls over the counter check issuance process which require:

(a)—(c) (text unchanged)

(d) A general cashier to distribute the copies of the counter check as follows

(i)—(ii) (text unchanged)

(iii) The accounting copy of the counter check shall be attached by the general cashier to the counter check request document and [deposited into a locked accounting box for forwarding] *forwarded* to the accounting department;

(7)—(9) (text unchanged)

- (10) Procedures utilized to issue a manual counter check which:
- (a)—(d) (text unchanged)
 - (e) Require the key to the cabinet in §C(10)(d) of this regulation to be:
 - (i) Controlled by the security department or the [accounting] cage department employees responsible for the control of and accounting for the unused supply of counter checks; and
 - (ii) (text unchanged)

.27 Counter Check Issuance at a Table Game or Video Lottery Terminal.

- A.—B. (text unchanged)
- [C.] (proposed for repeal)
- C. A facility operator's internal controls for a counter check exchanged for value chips or plaques at a gaming table shall include:
 - (1) Use of a player signature file which shall:
 - (a) Be established prior to the completion by a player of a request for counter check document at the table game; and
 - (b) Require an identification credential review in accordance with Regulation .26C(2) of this chapter;
 - (2) Procedures and controls addressing the identification of the player which include:
 - (a) A requirement that a floorperson satisfactorily compare the:
 - (i) Signature of the player on a form with the signature on the identification credential; and
 - (ii) Player's physical appearance with the photograph contained on the valid form of unexpired government-issued photographic identification presented by the player;
 - (b) A requirement that a floorperson record on the form the:
 - (i) Number on the player's government-issued photographic identification; and
 - (ii) Signature of the floorperson;
 - (3) A requirement that a floorperson or above shall:
 - (i) Obtain the player's signature, on a form, which shall be compared to the signature contained within a player signature file;
 - (ii) Sign the form indicating that the signature of the player on the form matches the signature in the player signature file; and
 - (iii) Attach the form to the accounting copy of the counter check exchanged by the player prior to forwarding it to the accounting department;
 - (d) A requirement that after the player's identity has been verified by the floorperson or above, staff shall:
 - (i) Ensure that subsequent verification of the player's identity during the same shift and in the same gaming pit is satisfied by the employee who performed the initial verification signing a form attesting to the player's identity before each subsequent counter check is exchanged;
 - (ii) Ensure that the form includes the player's name and the serial number of the initial counter check exchanged by the player; and
 - (iii) Ensure that the form attaches to the accounting copy of the subsequent counter check prior to forwarding the accounting copy to the accounting department;
 - (e) A requirement that a floorperson or above attest to the identity of the player which includes:
 - (i) The floorperson or above record the floorperson's or above's gaming license number and sign a form or the counter check attesting to the player's identity; and
 - (ii) If used, the form is attached to the accounting copy of the counter check exchanged by the player prior to forwarding it to the accounting department.

- (3) A requirement that prior to issuing a counter check, the floorperson or above determines the player's remaining credit limit from the cage or casino management system.
- (4) A requirement that all copies of a computer-generated counter check include the following information:
 - (a) Name of the player;
 - (b) Name of the bank, savings and loan, or credit union on which the counter check is to be drawn;
 - (c) Date and time;
 - (d) Amount of the counter check;
 - (e) Location of preparation of the counter check;
 - (f) Signature of a gaming operations department supervisor;
- and
 - (g) Signature or identification code of the preparer of the counter check.
- (5) A requirement that the floorperson or above present the original and all duplicate copies of the counter check to the player for signature.
- (6) A requirement that the back of the original copy of the counter check contain a restrictive endorsement "for deposit only" to the facility operator's designated bank account after being transferred to the check bank; and
- (7) Procedures and controls over the counter check issuance process which require:
 - (a) A floorperson to receive the signed counter check directly from the player;
 - (b) The issuance copy of the counter check to be immediately given to the dealer or boxperson to be exchanged for value chips or gaming plaques;
 - (c) The issuance copy of the counter check to be deposited by the dealer or boxperson in the drop box;
 - (d) The original, redemption and, if applicable, the acknowledgement copies of the counter check to be expeditiously transported to the cage where the original and redemption copies shall be maintained and controlled by the cage cashier designated to act as the check bank; and
 - (e) The accounting copy of the counter check to be maintained and controlled by the pit clerk or above until forwarded to the accounting department.
- D. A facility operator's internal controls for a counter check exchanged for cash or gaming ticket directly at a video lottery terminal shall include:
 - (1) Use of a player signature file which shall:
 - (a) Be established prior to the completion by a player of a request for counter check document at the video lottery terminal; and
 - (b) Require an identification credential review in accordance with Regulation .26C(2) of this chapter;
 - (2) Procedures and controls addressing the identification of the player which include:
 - (a) A slot attendant to obtain the amount of the requested Counter Check and the player's signature on a two-part Counter Check Request Form and transport the Counter Check Request Form directly to the cage cashier; and
 - (b) A cage cashier to compare the signature on the two-part counter check request form to the signature contained within a player signature file;
 - (3) Procedures and controls over the counter check issuance process which require:
 - (a) A general cashier to:
 - (i) Prepare the counter check in accordance with this regulation;
 - (ii) Summon to the cashiers' cage a verifying employee from the security department or gaming operations department provided the verifying employee is not the gaming operations

department supervisor who transported the counter check request document to the cashiers' cage;

(iii) Present the original and duplicate copy of the counter check request document, all copies of the counter check and the cash, gaming ticket, chip, or plaque to the gaming operations department supervisor and the verifying employee;

(iv) Obtain the signature of the gaming operations department supervisor on all copies of the counter check confirming that the amount of the counter check agrees with the amount on the counter check request document;

(v) Obtain the signature of the verifying employee on the original and duplicate copy of the request for counter check document confirming that the amount of cash, gaming ticket, chip, or plaque to be transported to the player agrees with the amount on the counter check and on the counter check request document;

(vi) Retain the duplicate copy of the request for counter check document; and

(vii) Release to the verifying employee the original of the request for counter check document, all copies of the counter check, and the cash, gaming ticket, chip, or plaque for transportation, in the presence of the gaming operations department supervisor who transported the counter check request to the cashiers' cage, to the player;

(b) A verifying employee to present all copies of the counter check to the player for signature in the presence of the gaming operations department supervisor;

(c) A gaming operations department supervisor to compare the player's signature on the counter check to the signature on the request for counter check document;

(d) A verifying employee to immediately exchange the counter check for:

(i) Cash; or

(ii) If a facility operator has the capability, a gaming ticket;

(e) A gaming operations department supervisor to:

(i) Sign the back of the accounting copy confirming the exchange with the player; and

(ii) Drop the accounting copy of the counter check and the original request for counter check document into an accounting drop box for forwarding to accounting;

(f) A verifying employee to immediately return the original, redemption, and issuance copies of the counter check to a general cashier; and

(g) A general cashier to:

(i) Expeditiously transfer the original and redemption copies of the counter check to the check bank directly or to a security department employee for transportation to the cashiers' cage if the counter check is issued in a satellite cage; and

(ii) Attach the duplicate copy of the request for counter check document to the accounting copy of the counter check to serve as documentation supporting the exchange of cash, gaming ticket, for the counter check.

.28 Counter Check Substitution, Consolidation, and Redemption.

A. (text unchanged)

B. A personal check accepted by a facility operator in a substitution, consolidation, or redemption transaction shall:

(1) (text unchanged)

(2) [Comply] Except as provided in §C of this regulation, comply with the requirements of Regulation .20 of this chapter; and

(3) (text unchanged)

C. If a personal check is accepted in an amount less than or equal to the amount of a counter check being partially or fully redeemed, the \$5,000 limitation on acceptance of personal checks in Regulation .20F of this chapter does not apply.

[C.] D.—[H.] I. (text unchanged)

.30 Returned Checks.

A. (text unchanged)

[B. A facility operator shall immediately redeposit a returned check unless there is a reasonable basis for concluding that the check will not be honored a second time.]

[C.] B.—[D.] C. (text unchanged)

.32 Player Request for Suspension of Credit Privileges.

A. A player may voluntarily suspend [his] the player's credit privileges at [all] a Maryland [facilities] facility by submitting a written request to the [Commission] facility in a form specified by the [Commission] facility.

B. A request for suspension of credit privileges shall be made:

(1) In person at [locations specified by the Commission] a facility; or

(2) (text unchanged)

C. The [Commission] facility receiving a player's request for suspension of credit privileges shall[:

(1) Maintain] maintain a master list of all individuals who have requested suspension of credit privileges under this regulation [; and

(2) Expeditiously notify a facility operator in writing of any additions to or deletions from the master list].

D. A facility operator shall suspend the credit privileges of an individual requesting suspension within 24 hours of receipt of notice that the individual's name has been added to the [Commission's] facility's master list.

E. A facility operator shall:

(1) Maintain the most current [Commission] master list in its cashiers' cage; and

(2) (text unchanged)

F. No less than 60 days after the request for suspension of credit privileges, a player whose credit privileges have been suspended under this regulation may request reinstatement of credit privileges by submitting a written request to the [Commission in a form specified by the Commission] facility.

G. The [Commission] facility shall on receipt of a request for reinstatement[:

(1) Update] update its master list of individuals to document the request for reinstatement[; and

(2) Notify a facility operator in writing of an individual's removal from the Commission's master list].

H. A facility operator may not reinstate the credit privileges of a player removed from [the Commission's] facility's master list without performing the verifications required by Regulation .25 of this chapter.

[I. A facility operator shall notice the Commission in a form specified by the Commission as to its decision with respect to restoration of the player's counter check privileges at the facility.]

[J.] I. Information furnished to or obtained by the [Commission] facility under this regulation shall be deemed confidential and may not be disclosed except to facility personnel whose duties and functions require access to the information.

[K.] J. (text unchanged)

.34 Player Tracking System.

A.—C. (text unchanged)

D. A facility operator shall provide a player with a record of video lottery terminal and table game spending levels if:

(1) The player:

(a) (text unchanged)

(b) Submits a signed request for the spending level documentation at [the cashiers' cage; and]:

(i) The cashiers' cage; or

(ii) *Other location at the facility approved by the Commission; and*

(2) The identification of the player *and the authenticity of the player's signature on the request* is established [including the authenticity of the player's signature on the request in accordance with the signature authentication procedures in Regulation .20I(4) of this chapter.] *by an employee satisfactorily comparing the:*

(a) *Player's information recorded on the spending level request documentation with the information contained on the valid, unexpired government-issued photographic identification presented by the player; and*

(b) *Player's physical appearance with the photograph contained on the valid, unexpired government-issued photographic identification presented by the player.*

.35 Gaming Ticket.

A. (text unchanged)

B. A facility operator shall:

(1)—(3) (text unchanged)

(4) Redeem at its cashiers' cage a gaming ticket of[:

(a)] \$5,000 or more by [check; and

(b) Less than \$5,000 by]:

[i)] (a) Cash or check; or

[ii)] (b) Check on the request of a player.

C.—E. (text unchanged)

.38 Jackpot Payout.

A.—C. (text unchanged)

D. A facility operator shall pay a jackpot or credit meter payout of:

(1) [\$5,000] \$25,000 or more by check; and

(2) Less than [\$5,000] \$25,000 by:

(a)—(b) (text unchanged)

E.—F. (text unchanged)

.41 Automated Jackpot Payout Machine.

A.—B. (text unchanged)

C. A facility operator shall, in accordance with Regulation .39D of this chapter, configure an automated jackpot payout machine to only process a jackpot or credit meter payout of less than [\$5,000] \$10,000.

D.—E. (text unchanged)

.42 Access to Bill Validators, Cash Storage, and Table Game Drop Boxes.

A. Access.

(1) (text unchanged)

(2) Access to a bill validator shall be controlled by:

(a) (text unchanged)

(b) Requiring the key to the lock to be maintained by the [gaming operations] security department.

(3) The cash storage box shall be secured to a bill validator by two separate locks, the keys to which are different from each other, and, for the lock on the belly door or main door of the video lottery terminal:

(a) The key shall be controlled by the [gaming operations] security department[.]; in:

(i) *a manual key box; or*

(ii) *an automated key tracking system;*

(b) Immediately prior to the commencement of the drop, the [operations] security department may[,] issue its belly door or main door key to the accounting department;

(c) A key transferred from the [gaming operations] security department to the accounting department shall be returned immediately following the conclusion of the drop; [and]

(d) The facility operator shall establish sign in and sign out procedures in its internal controls documenting the transfers[.]; *and*

(e) *If an automated key tracking system is used, a facility operator shall require dual access from the security department and accounting department to obtain keys.*

(4)—(5) (text unchanged)

B.—D. (text unchanged)

E. Table Game Drop Box.

(1) (text unchanged)

(2) A table game drop box shall have:

(a) [Two separate locks] *One lock* securing the contents deposited into it[, the keys to which must be different from each other];

(b) A separate lock securing the table game drop box to the gaming table, the key to which must be different from [each of] the keys to the locks securing the contents of the table game drop box;

(c)—(e) (text unchanged)

(3) (text unchanged)

(4) The security department shall control the key used to release a table game drop box from a table game[, and:] *in a manual key box or an automated key tracking system.*

(a) Immediately prior to the commencement of the table game count process, the security department may issue its release key to the count room supervisor for the purpose of resetting the release mechanism on empty table game drop boxes;

(b) A key transferred by the security department shall be immediately returned after the conclusion of the table game drop box count; [and]

(c) In its internal controls, a facility operator shall establish sign-in and sign-out procedures governing key transfers and control of a key during breaks taken by count room personnel[.]; *and*

(d) *If an automated key tracking system is used, a facility operator shall require dual access from the security department and accounting department to obtain keys.*

(5) The keys to the [two] table game drop box locks required under §E(2) of this regulation shall be [separately] controlled[:

(a) One] by the [accounting] security department[.]; and

(b) One by Commission compliance personnel].

(6) (text unchanged)

.43 Collection of Cash Storage and Table Game Drop Boxes.

A.—F. (text unchanged)

G. A facility operator shall store cash storage and table game drop boxes not attached to a bill validator, including emergency cash storage and table game drop boxes that are not actively in use, in a *locked* cabinet or trolley:

(1) In the count room; [or]

(2) A trolley storage area approved by the Commission under COMAR 36.03.11[.]; *or*

(3) *Other location at the facility approved by the Commission.*

H. The cabinet or trolley used for storage under §G of this regulation shall be secured by one lock that has a key which is controlled by the security department[.] in:

(1) *a manual key box; or*

(2) *an automated key tracking system.*

I. (text unchanged)

J. A trolley storage area utilized to store cash storage or table game drop boxes prior to the count process shall meet the design standards for a count room under Regulation [.45] .44 of this chapter.

.49 Acceptance of Tips or Gratuities.

A. Except as otherwise provided in this regulation:

(1)—(2) (text unchanged)

(3) A facility operator may permit an employee who is authorized to accept a gratuity from a player to accept a gaming ticket if the gaming ticket is redeemed:

(a) (text unchanged)

(b) With approval of [a cashiers' cage supervisor] *the employee's department supervisor*, if the amount of the gaming ticket exceeds \$100.

B.—D. (text unchanged)

E. (text unchanged)

[(a)] (1) —[(b)] (2) (text unchanged)

F.—I. (text unchanged)

STEPHEN L. MARTINO

Director

Maryland State Lottery and Gaming Control Agency

Errata

COMAR 09.03.12

At 41:24 Md. R. 1426 (December 1, 2014), column 2, line 10 from the bottom:

For: **Effective Date: December 11, 2014.**

Read: **Effective Date: February 1, 2015.**

[14-25-30]

COMAR 13.01.02.06

At 41:20 Md. R. 1173 (October 3, 2014), column 1, lines 2 — 7 from the top:

For: (i) *A description of the scope and purpose of the proposed program;*

(ii) *A business plan that includes the estimated total cost of the proposed program; and*

(iii) *Any other information required by the Department in grant application guidelines or forms.*

Read: (a) *A description of the scope and purpose of the proposed program;*

(b) *A business plan that includes the estimated total cost of the proposed program; and*

(c) *Any other information required by the Department in grant application guidelines or forms.*

[14-25-29]

COMAR 26.11.06.06E(1)

For:

(1) A person who proposes to construct an installation that is not subject to NSR Source requirements in COMAR 26.11.17 and who is unable to comply with the requirements of §B(2) of this regulation, may request an exception from the Department.

Read:

(1) A person who proposes to construct an installation that is not subject to NSR Source requirements in COMAR 26.11.17 and who is unable to comply with the requirements of §§ B(1)(b) or B(2)(c) of this regulation, may request an exception from the Department.

COMAR 26.11.06.06E(2)(d)

For:

(d) A description of the air pollution control methods or equipment that may be available to achieve compliance with §B(2) of this regulation, the cost of the equipment or control methods, and information showing why the control methods are not reasonable for this installation;

Read:

(d) A description of the air pollution control methods or equipment that may be available to achieve compliance with §§ B(1)(b) or B(2)(c) of this regulation, the cost of the equipment or control methods, and information showing why the control methods are not reasonable for this installation;

COMAR 26.11.06.06E(2)(f)

For:

(f) Other information that is requested by the Department and that relates to the Department's determination to grant or deny an exception to the requirements of §B(2) of this regulation.

Read:

(f) Other information that is requested by the Department and that relates to the Department's determination to grant or deny an exception to the requirements of §§ B(1)(b) or B(2)(c) of this regulation.

COMAR 26.11.06.06E(3)

For:

(3) The Department may grant an exception to §B(2) of this regulation if it determines that:

(a) Control methods, if any, necessary to meet the requirements of §B(2) are not reasonable for the installation;

(b) The applicant has the ability to operate and maintain the equipment and has the production controls necessary to meet the alternative VOC emission standard established by the Department instead of the requirements of §B(2); and

(c) Emissions from the installation will not interfere with reasonable further progress as defined in Regulation .11A(2) of this regulation if the exception is granted.

Read:

(3) The Department may grant an exception to §§ B(1)(b) or B(2)(c) of this regulation if it determines that:

(a) Control methods, if any, necessary to meet the requirements of §§ B(1)(b) or B(2)(c) are not reasonable for the installation;

(b) The applicant has the ability to operate and maintain the equipment and has the production controls necessary to meet the alternative VOC emission standard established by the Department instead of the requirements of §§ B(1)(b) or B(2)(c); and

(c) Emissions from the installation will not interfere with reasonable further progress if the exception is granted.

[14-25-25]

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.

ATHLETIC COMMISSION

Subject: Public Meeting
Date and Time: December 17, 2014, 2 — 4 p.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Patrick Pannella (410) 230-6223
 [14-25-08]

CORRECTIONAL TRAINING COMMISSION

Subject: Public Meeting
Date and Time: January 28, 2015, 10 a.m. — 12 p.m.
Place: Public Safety Education and Training Center, 6852 4th St., Sykesville, MD
Add'l. Info: A portion of this meeting may be held in closed session.
Contact: Thomas C. Smith (410) 875-3605
 [14-25-22]

GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

Subject: Public Meeting
Date and Time: January 12, 2015, 1 — 3 p.m.
Place: 300 E. Joppa Rd., 4th Fl., Baltimore, MD
Add'l. Info: Juvenile Council Meetings
Contact: Jessica Wheeler (410) 821-2824
 [14-25-02]

GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

Subject: Public Meeting
Date and Time: January 15, 2015, 1 — 3 p.m.
Place: 300 E. Joppa Rd., Ste. 1105, Baltimore, MD
Contact: Jessica Wheeler (410) 821-2828
 [14-25-17]

GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

Subject: Public Meeting
Date and Time: January 12, 2015, 1 — 3 p.m.
Place: 300 E. Joppa Rd., Ste. 1105, Baltimore, MD
Add'l. Info: Juvenile Council Meetings
Contact: Jessica Wheeler (410) 821-2828
 [14-25-18]

DEPARTMENT OF INFORMATION TECHNOLOGY

Subject: Public Meeting
Date and Time: December 18, 2014, 1 — 3 p.m.
Place: State House, 2nd Fl., Governor's Reception Rm., Annapolis, MD
Add'l. Info: Maryland Council on Open Data
Contact: Betsy Jackson (410) 260-6614
 [14-25-14]

DEPARTMENT OF INFORMATION TECHNOLOGY

Subject: Public Meeting
Date and Time: December 18, 2014, 1 — 3 p.m.
Place: Governor's Reception Room, 2nd Fl., State House, Annapolis, MD
Add'l. Info: Maryland Council on Open Data
Contact: Betsy Jackson (410) 260-6614
 [14-25-24]

FACILITIES ADVISORY BOARD — JUVENILE SERVICES

Subject: Public Meeting
Date and Time: January 19, 2015, 6 — 8 p.m.
Place: Western Maryland Childrens' Center, 18420 Roxbury Rd., Hagerstown, MD
Contact: Mark Bishop (301) 745-6071
 [14-25-07]

STATE ADVISORY BOARD FOR JUVENILE SERVICES

Subject: No Meeting Notice
Date and Time: December 15, 2014, 2 — 4 p.m.
Place: DJS Annapolis Office, 49 Old Solomons Island Rd., Annapolis, MD
Add'l. Info: This meeting is canceled.
Contact: Tim Gilbert (410) 230-3488
 [14-25-03]

MARYLAND HEALTH CARE COMMISSION

Subject: Public Meeting
Date and Time: December 18, 2014, 1 p.m.

Place: Maryland Health Care Commission, 4160 Patterson Ave., Conf. Rm. 100, Baltimore, MD
Contact: Valerie Wooding (410) 764-3460
 [14-25-01]

MARYLAND AUTOMOBILE INSURANCE FUND

Subject: Public Meeting
Date and Time: December 18, 2014, 9 a.m. — 12 p.m.
Place: Gaylord National Resort and Convention Center, 201 Waterfront St., National Harbor, MD
Contact: Susan Leese (410) 269-8626
 [14-25-10]

MARYLAND HEALTH CARE COMMISSION

Subject: Public Meeting
Date and Time: January 15, 2015, 1 p.m.
Place: Maryland Health Care Commission, 4160 Patterson Ave., Conf. Rm. 100, Baltimore, MD
Contact: Valerie Wooding (410) 764-3460
 [14-25-26]

GOVERNOR'S COMMISSION ON MARYLAND MILITARY MONUMENTS

Subject: Public Meeting
Date and Time: January 7, 2015, 10 a.m. — 12 p.m.
Place: War Memorial Building, 101 North Gay Street, Baltimore, MD
Add'l. Info: In the case of weather delay, this meeting will be held January 14, 2015, at the same time and location.
Contact: Denise Nooe (410) 260-3840
 [14-25-15]

BOARD OF PODIATRIC MEDICAL EXAMINERS

Subject: Public Meeting
Date and Time: January 8, 2015, 1 p.m.
Place: 4201 Patterson Ave., Rm. 110, Baltimore, MD
Contact: Sheri Henderson (410) 764-4785
 [14-25-04]

GENERAL NOTICES

1554

BOARD OF PODIATRIC MEDICAL EXAMINERS

Subject: Public Meeting

Date and Time: February 12, 2015, 1 p.m.

Place: 4201 Patterson Ave., Rm. 110, Baltimore, MD

Contact: Sheri Henderson (410) 764-4785
[14-25-05]

POLICE TRAINING COMMISSION

Subject: Public Meeting

Date and Time: January 7, 2015, 10 a.m. — 12 p.m.

Place: Public Safety Education and Training Center, 6852 4th St., Sykesville, MD

Add'l. Info: A portion of this meeting may be held in closed session.

Contact: Thomas C. Smith (410) 875-3605
[14-25-21]

BOARD OF PUBLIC ACCOUNTANCY

Subject: Public Meeting

Date and Time: January 6, 2015, 9 a.m. — 12 p.m.

Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD

Contact: Linda Rhew (410) 230-6258
[14-25-23]

STATE TREASURER'S OFFICE

Subject: Announcement

Add'l. Info: The Board of Public Works hereby gives notice of the automatic terminations of State debt authorizations listed in Sections A and B below, and grants a 1-year temporary exception for the authorization listed in Section C below (Authority: State Finance and Procurement Article, §8-128, Maryland Code).

A. The following authorizations for State projects were not encumbered within the 7-year time period and have terminated by operation of law on June 1, 2014:

(1) Authorization pursuant to Maryland Consolidated Capital Bond Loan of 2003, Ch. 204, Acts of 2003, as amended: Asbestos Abatement Program: Amount Terminated: \$1.58; Original Authorization: \$2,000,000

(2) Authorization pursuant to Maryland Consolidated Capital Bond Loan of 2004, Ch. 432, Acts of 2004, as amended: St. Mary's College of Maryland New Academic Building: Amount Terminated: \$10,129; Original Authorization: \$18,576,000

(3) Authorizations pursuant to Maryland Consolidated Capital Bond Loan of 2005, Ch. 445, Acts of 2005, as amended: Facilities Renewal Fund:

Amount Terminated: \$7,990.42; Original Authorization: \$10,732,000

(4) Authorizations pursuant to Maryland Consolidated Capital Bond Loan of 2006, Ch. 46, Acts of 2006, as amended:

(a) 2100 Guilford Avenue — Addition: Amount Terminated: \$1,375; Original Authorization: \$1,800,000

(b) Gang-Related Activity Prevention Grants: Amount Terminated: \$54,515; Original Authorization: \$647,414

(5) Authorizations pursuant to Maryland Consolidated Capital Bond Loan of 2007, Ch. 488, Acts of 2007, as amended:

(a) Facilities Renewal Fund: Amount Terminated: \$760; Original Authorization: \$9,000,000

(b) 192-Cell Medium Security Housing Unit and Support Space: Amount Terminated: \$7,217.68; Original Authorization: \$25,000,000

(c) Community Health Facilities Grant Program: Amount Terminated: \$7,020; Original Authorization: \$7,510,000

B. The following grant authorizations were not encumbered within the 7-year time period and have terminated by operation of law on June 1, 2014:

(1) Authorizations pursuant to Maryland Consolidated Capital Bond Loan of 2006, Ch. 46, Acts of 2006, as amended:

(a) Waxter Center for Senior Citizens: Amount Terminated: \$150,971.49; Original Authorization: \$250,000

(b) Family Life and Wellness Intergenerational Center: Amount Terminated: \$38,110; Original Authorization: \$150,000

(c) Chesapeake Children's Museum: Amount Terminated: \$115,000; Original Authorization: \$115,000

(2) Authorizations pursuant to Maryland Consolidated Capital Bond Loan of 2007, Ch. 488, Acts of 2007, as amended:

(a) Little Bennett Regional Park — Day Use Area: Amount Terminated: \$100,000; Original Authorization: \$100,000

(b) Little Bennett Regional Park — Day Use Area: Amount Terminated: \$100,000; Original Authorization: \$100,000

(c) Alpha Phi Alpha Fraternity Corporate Headquarters: Amount Terminated: \$100,000; Original Authorization: \$100,000

(d) Duvall Field Renovation: Amount Terminated: \$1,026.37; Original Authorization: \$75,000

(e) Ernest Everett Just Monument: Amount Terminated: \$11,600; Original Authorization: \$75,000

(f) Forbush School: Amount Terminated: \$150,000; Original Authorization: \$150,000

(g) Germantown Boys & Girls Club: Amount Terminated: \$303,625.43; Original Authorization: \$350,000

(h) Northeast Skate Park: Amount Terminated: \$100,000; Original Authorization: \$100,000

(i) St. Mary's College Fairgrounds: Amount Terminated: \$10,683.40; Original Authorization: \$75,000

(j) MacDonald Knolls Center: Amount Terminated: \$150,000; Original Authorization: \$150,000

(k) MacDonald Knolls Center: Amount Terminated: \$100,000; Original Authorization: \$100,000

(l) MacDonald Knolls Center: Amount Terminated: \$100,000; Original Authorization: \$100,000

(m) MacDonald Knolls Center: Amount Terminated: \$100,000; Original Authorization: \$100,000

C. The following authorization was not encumbered within the 7-year time period, but the agency or Grantee has requested a 1-year exception to June 1, 2015:

(1) Authorizations pursuant to Maryland Consolidated Capital Bond Loan of 2007, Ch. 488, Acts of 2007, as amended: LSI Old Waldorf School Community Loan: Amount Extended: \$90,736.75; Original Authorization: \$100,000

Contact: Nikki Griffith (410) 260-7920
[14-25-20]

DEPARTMENT OF VETERANS AFFAIRS/MARYLAND VETERANS COMMISSION

Subject: Public Meeting

Date and Time: January 20, 2015, 10:30 a.m. — 1 p.m.

Place: Maryland Dept. of Transportation, 7201 Corporate Center Drive, First Floor Conference Room, Hanover, MD

Add'l. Info: In the case of weather delay, this meeting will be held January 27, 2015, at the same time and location.

Contact: Denise Nooe (410) 260-3840
[14-25-16]

**BOARD OF WATERWORKS AND
WASTE SYSTEMS OPERATORS**

Subject: Public Meeting
Date and Time: February 19, 2015, 10
a.m. — 4 p.m.
Place: WSSC, Hocevar Bldg., 14501
Sweitzer Ln., Laurel, MD
Add'l. Info: A portion of this meeting may
be held in closed session.
Contact: Pat Kratochvil (410) 537-3167
[14-25-09]

BOARD OF WELL DRILLERS

Subject: Public Meeting
Date and Time: January 21, 2015, 9 a.m.
— 4 p.m.
Place: MDE, 1800 Washington Blvd.,
Gwynn Falls Conf. Rm. 4500, Baltimore,
MD
Add'l. Info: A portion of this meeting may
be held in closed session.
Contact: Willie Everett (410) 537-3644
[14-25-19]

**WORKERS' COMPENSATION
COMMISSION**

Subject: Public Meeting
Date and Time: January 8, 2015, 9 — 11
a.m.
Place: 10 E. Baltimore St., Baltimore, MD
Add'l. Info: Portions of this meeting may
be held in closed session.
Contact: Amy Lackington (410) 864-5300
[14-25-06]

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Title 10	Part 3 **	\$75	\$50	_____	_____
Title 10	Part 4 **	\$50	\$35	_____	_____
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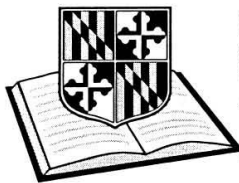
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