Maryland Register

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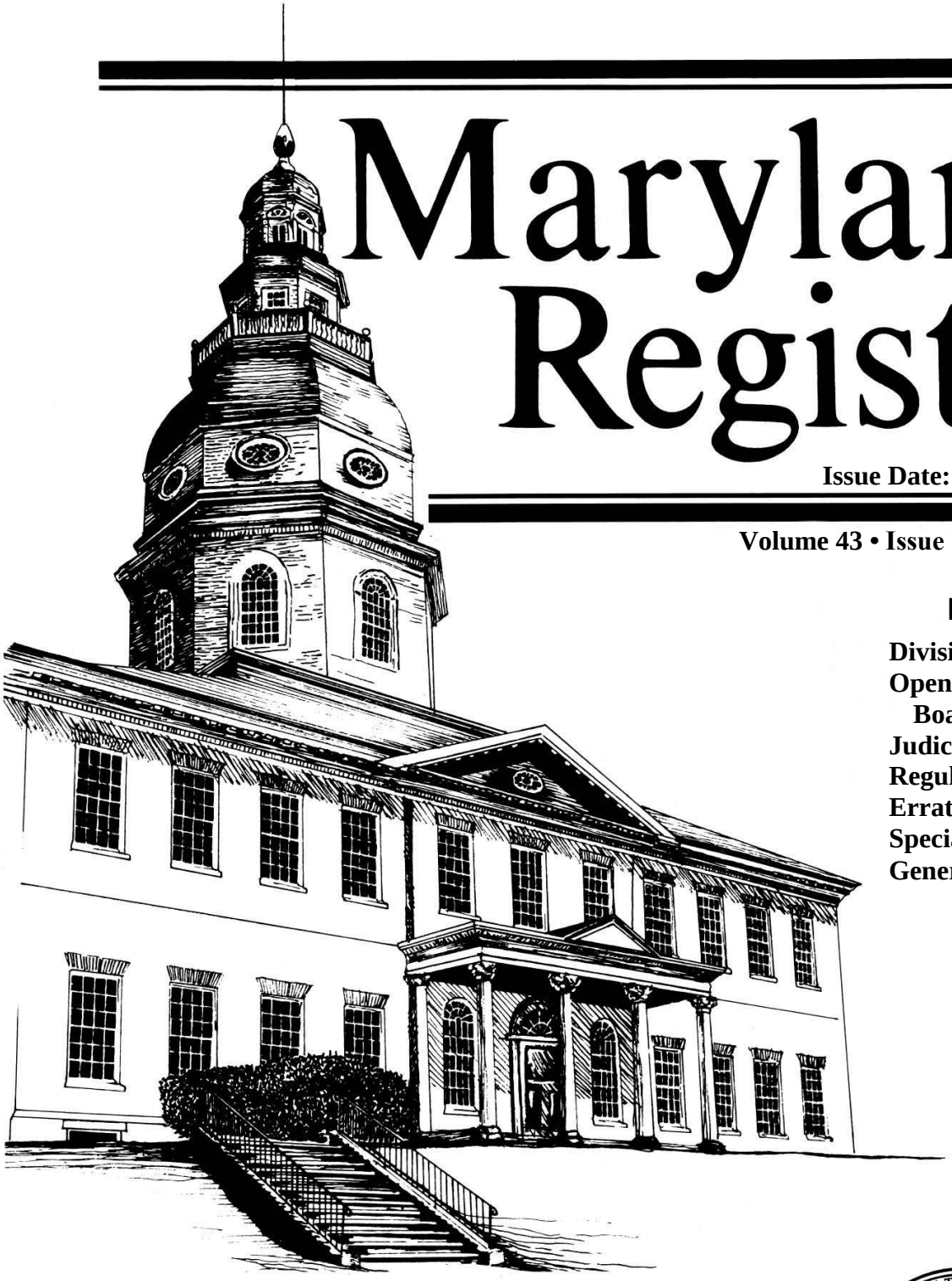

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Open Meetings Compliance Board
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Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before December 18, 2015, 5 p.m.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 December 18, 2015.

Brian Morris
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 http://www.dsd.state.md.us/PDF/CumulativeTable.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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Lawrence J. Hogan, Jr., Governor; **John C. Wobensmith**, Secretary of State; **Brian Morris**, 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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Illustrations by Carolyn Anderson, Dept. of General Services

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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.dsd.state.md.us, Division of State Documents, or call us at (410) 974-2486 or 1 (800) 633-9657.

Availability of Monthly List of Maryland Documents

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

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

CLOSING DATES AND ISSUE DATES through JULY 22, 2016

Issue Date	Emergency and Proposed Regulations 5 p.m.*	Final Regulations 10:30 a.m.	Notices, etc. 10:30 a.m.
January 22	January 4	January 13	January 11
February 5**	January 15	January 27	January 25
February 19	February 1	February 10	February 8
March 4**	February 12	February 24	February 22
March 18	February 29	March 9	March 7
April 1	March 14	March 23	March 21
April 15	March 28	April 6	April 4
April 29	April 11	April 20	April 18
May 13	April 25	May 4	May 2
May 27	May 9	May 18	May 16
June 10**	May 23	June 1	May 27
June 24	June 6	June 15	June 13
July 8	June 20	June 29	June 27
July 22**	July 1	July 13	July 11

* Due date for documents containing 8 to 18 pages — 48 hours before date shown; due date for documents exceeding 18 pages — 1 week before date shown

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

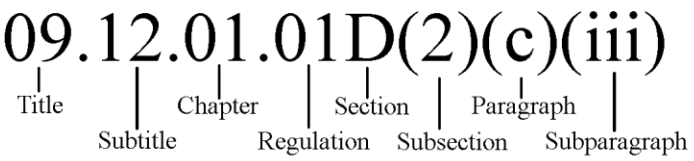
** Note closing date changes

*** Note issue date and closing date changes

The regular closing date for Proposals and Emergencies is Monday.

REGULATIONS CODIFICATION SYSTEM

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



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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11.15.33.08 • 42:21 Md. R. 1326 (10-16-15)
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The Division of State Documents

DEPOSITORIES FOR DOCUMENTS INCORPORATED BY REFERENCE

Depositories for Documents Incorporated by Reference into the Code of Maryland Regulations (COMAR)

Annapolis
MD Department of Legislative Services
90 State Circle (21401)
Contact: Cynthia Stiverson
410-946-5400, 301-970-5400,
800-492-7111 x5400 (MD only)
FAX 410-946-5405

MD State Archives
350 Rowe Blvd. (21401)
Contact: Christine Alvey
410-260-6438
FAX 410-974-3895

MD State Law Library
Robert C. Murphy Courts of Appeal
Bldg. 361 Rowe Blvd. (21401)
Contact: Mary Jo Lazun
410-260-1430, 888-216-8156
FAX 410-974-2063

Baltimore
State Library Resource Center
Enoch Pratt Free Library
400 Cathedral St. (21201)
Contact: State Depository and Distribution Program
410-396-1789
FAX 410-396-4570

Law Library
University of Baltimore
1401 North Charles Street
(21201)
Contact: Patricia Behles
410-837-4559
FAX 410-837-4570

Thurgood Marshall Law Library
University of Md. Francis King Carey School of Law
501 W. Fayette Street (21201)
Contact: Stephanie Bowe
410-706-2736
FAX 410-706-2372

Charlotte Hall
Southern MD Regional Library
37600 New Market Rd. (20622)
P.O. Box 459 (20622)
Contact: Pat Ward
301-934-9442
FAX 301-884-0438

College Park
Hornbake Library
University of MD
Marylandia and Rare Books Department (20742)
Contact: Ann Hudak
301-405-9210
FAX 301-314-2709

Frostburg
Frostburg State University
Lewis J. Ort Library
1 Stadium Drive (21532)
Contact: Lisa Hartman
301-687-4734
FAX 301-687-7069

Hagerstown
Government Reference Service of Washington County Free Library
100 South Potomac Street (21740)
Contact: Harry Sachs
301-739-3250 x 149
FAX 301-739-5839

Princess Anne
Frederick Douglass Library
University of MD Eastern Shore
(21853)
Contact: Cynthia Nyirenda
410-651-7540
FAX 410-651-6269

Rockville
Montgomery County Public Library
Rockville Branch 21
Maryland Avenue (20850)
Contact: Caren Genison-Perilman
240-777-0170
FAX 240-777-0155

Salisbury
Salisbury University
Blackwell Library
College and Camden Avenues (21801)
Contact: Martha Zimmerman
410-543-6234
FAX 410-543-6203

Towson
Albert S. Cook Library
Towson University
8000 York Road (21252)
Contact: Carl Olson
410-704-3267
FAX 410-704-3829

Washington, D.C.
Library of Congress
Anglo-American Acquisitions Division
Government Documents Section
101 Independence Ave., S.E. (20540)
Contact: Richard Yarnall
202-707-9470
FAX 202-707-0380

Open Meetings Compliance Board

SUMMARY OF OPINIONS ISSUED FROM OCTOBER 1 — DECEMBER 31, 2015

9 *Official Opinions of the Compliance Board* 283 (2015)
Re: Frederick County Board of Appeals (Douglas S. Kaplan, Complainant)
October 2, 2015
Topics discussed: Applicability of Open Meetings Act when the public body called a recess in the middle of deliberating on a matter, retired from public view, and returned to open session with a consensus on that matter

9 *Official Opinions of the Compliance Board* 290 (2015)
Re: Mayor and Council of Pocomoke City (Deborah A. Jeon, Complainant, on behalf of the ACLU of Maryland, Stephen Janis, and The Real News Network, Complainants) (consolidated)
October 19, 2015
Topics discussed: Impermissibility of excluding press in order to admit members of the public; applicability of administrative function exclusion to some personnel matters

9 *Official Opinions of the Compliance Board* 296 (2015)
Re: Handgun Permit Review Board, (Byron C. Black, Esq., on behalf of Daniel J. Carlin-Weber, and Brook Powers, Complainants) (consolidated)
October 19, 2015
Topics discussed: Open-meeting logistics (generally, permissibility of asking public to comply with the public body's usual security procedures, of asking public to indicate interest in attending the meeting so that adequate seating can be arranged, and of not providing parking); scope of quasi-judicial function exclusion

9 *Official Opinions of the Compliance Board* 302 (2015)
Re: Maryland Department of Natural Resources, (Carl Kirk, Complainant)
October 21, 2015
Topics discussed: Definition of "public body"; inapplicability of Act to agency employees holding settlement conference for permit applicant and protestants

9 *Official Opinions of the Compliance Board* 304 (2015)
Re: Heroin and Opioid Task Force (Michele J. Fluss, Complainant)
October 30, 2015
Topics discussed: Public body's discretion as to method of complying with training requirement; desirability of limiting complaints to events that the Compliance Board has not already addressed

9 *Official Opinions of the Compliance Board* 307 (2015)
Re: Montgomery County Board of Elections, (Paul M. Bessel, Complainant)
December 3, 2015
Topics discussed: Applicability of common law rules for calculating a "quorum" when the Act's definition is silent on some details; general permissibility of delegating to counsel the public body's response to an Open Meetings Act complaint; elements of a useful response

9 *Official Opinions of the Compliance Board* 314 (2015)
Re: University of Maryland College Park Facilities Naming Committee, (Colin Byrd, Complainant)
December 10, 2015
Topics discussed: Definition of "public body"; inapplicability of Act to committee created by college president but not comprised of at least two members of the public

*The full text of these opinions can be found at http://www.oag.state.md.us/Opengov/Openmeetings/index.htm, through the link for "Opinions."

The Judiciary

COURT OF APPEALS OF MARYLAND

DISCIPLINARY PROCEEDINGS

This is to certify that by a Per Curiam Order of the Court of Appeals dated December 3, 2015, **GARRETT VINCENT WILLIAMS**, 22 Park Vista Court, Silver Spring, Maryland 20906, has been disbarred, effective immediately, from the further practice of law in this State, and his name as an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 16-760(e)).

* * * * * * * * * *

This is to certify that by an Order of the Court of Appeals dated October 20, 2015, **THEODORE N. NKWENTI**, 11120 New Hampshire Avenue, Suite 506, Silver Spring, Maryland 20904, has been indefinitely suspended by consent, effective December 4, 2015, from the further practice of law in this State, and his name as an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 16-7772(d)).

* * * * * * * * * *

This is to certify that by an Order of the Court of Appeals dated December 16, 2015, **MARK R. GALBRAITH**, 11160C1 South Lakes Drive, Suite 176, Reston, Virginia 20191, has been disbarred, effective immediately, from the further practice of law in this State, and his name as an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 16-760(e)).

* * * * * * * * * *

This is to certify that by an Opinion and Order of the Court of Appeals dated December 22, 2015, **CHARLES STEPHEN RAND**, 751 Rockville Pike, Suite 7, Rockville, Maryland 20852, has been indefinitely suspended, effective immediately, from the further practice of law in this State, and his name as an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 16-760(e)).

[16-01-32]

Final Action on Regulations

Symbol Key

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

Title 08
DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.11 Fishing in Nontidal Waters

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

Notice of Final Action

[15-374-F]

On December 29, 2015, the Secretary of Natural Resources adopted amendments to Regulations **.01** and **.04** and adopted new Regulation **.06** under **COMAR 08.02.11 Fishing in Nontidal Waters**. This action, which was proposed for adoption in 42:23 Md. R. 1438—1440 (November 13, 2015), has been adopted as proposed.

Effective Date: January 18, 2016.

MARK J. BELTON
Secretary of Natural Resources

Title 10
DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 03 HEALTH STATISTICS

10.03.01 Vital Records

Authority: Health-General Article, §4-211(b), Annotated Code of Maryland

Notice of Final Action

[15-334-F]

On December 22, 2015, the Secretary of Health and Mental Hygiene adopted amendments to Regulation **.03** under **COMAR 10.03.01 Vital Records**. This action, which was proposed for adoption in 42:22 Md. R. 1382—1383 (October 30, 2015), has been adopted as proposed.

Effective Date: January 18, 2016.

VAN T. MITCHELL
Secretary of Health and Mental Hygiene

Subtitle 27 BOARD OF NURSING

10.27.21 Registered Nurse — Forensic Nurse Examiner

Authority: Health Occupations Article, §§8-205(a)(2) and (5) *and 8-312*, Annotated Code of Maryland

Notice of Final Action

[15-372-F]

On December 29, 2015, the Secretary of Health and Mental Hygiene adopted amendments to Regulation **.07** under **COMAR 10.27.21 Registered Nurse — Forensic Nurse Examiner**. This action, which was proposed for adoption in 42:23 Md. R. 1452-1453 (November 13, 2015), has been adopted as proposed.

Effective Date: January 18, 2016.

VAN T. MITCHELL
Secretary of Health and Mental Hygiene

Subtitle 27 BOARD OF NURSING

10.27.22 Multistate Licensure Compact Regulations

Authority: Health Occupations Article, §§*8-205(a)(1) and* 8-7A-01—8-7A-05, Annotated Code of Maryland

Notice of Final Action

[15-371-F]

On December 29, 2015, the Secretary of Health and Mental Hygiene adopted amendments to Regulation **.02** under **COMAR 10.27.22 Multistate Licensure Compact Regulations**. This action, which was proposed for adoption in 42:23 Md. R. 1453 (November 13, 2015), has been adopted as proposed.

Effective Date: January 18, 2016.

VAN T. MITCHELL
Secretary of Health and Mental Hygiene

Subtitle 32 BOARD OF PHYSICIANS

10.32.03 Delegation of Duties by a Licensed Physician — Physician Assistant

Authority: Health Occupations Article, §§15-301 and 15-302, Annotated Code of Maryland

Notice of Final Action

[15-342-F]

On December 29, 2015, the Secretary of Health and Mental Hygiene adopted amendments to Regulations **.05** and **.07** under **COMAR 10.32.03 Delegation of Duties by a Licensed Physician — Physician Assistant**. This action, which was proposed for adoption in 42:23 Md. R. 1453—1454 (November 13, 2015), has been adopted as proposed.

Effective Date: January 18, 2016.

VAN T. MITCHELL
Secretary of Health and Mental Hygiene

Title 14
INDEPENDENT AGENCIES

Subtitle 22 COMMISSION ON CRIMINAL SENTENCING POLICY

14.22.02 Criminal Offenses and Seriousness Categories

Authority: Criminal Procedure Article, §6-211, Annotated Code of Maryland.

Notice of Final Action

[15-359-F]

On December 29, 2015, the Maryland State Commission on Criminal Sentencing Policy adopted revisions to Regulation **.02** under **COMAR 14.22.02 Criminal Offenses and Seriousness Categories**. This action, which was proposed for adoption in 42:23 Md. R. 1462—1465 (November 13, 2015), has been adopted as proposed.

Effective Date: February 1, 2016.

DAVID SOULE
Executive Director

Title 26
DEPARTMENT OF THE ENVIRONMENT

Subtitle 13 DISPOSAL OF CONTROLLED HAZARDOUS SUBSTANCES

Notice of Final Action

[15-074-F]

On December 20, 2015, the Secretary of the Environment adopted:

(1) Amendments to Regulations **.03** and **.05** under **COMAR 26.13.01 Hazardous Waste Management System: General**;

(2) Amendments to Regulations **.03**, **.04**, **.16**, and **.17**, and new Regulations **.04-6**, **.19-6**, **.19-7**, **.19-8**, and **.25** under **COMAR 26.13.02 Identification and Listing of Hazardous Waste**; and

(3) Amendments to Regulation **.11** under **COMAR 26.13.10 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities**.

This action, which was proposed for adoption in 42:2 Md. R. 247 — 254 (January 23, 2015), has been adopted as proposed.

Effective Date: January 18, 2016.

BENJAMIN H. GRUMBLES
Secretary of the Environment

Withdrawal of Regulations

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 Withdrawal
[14-363-W]

Pursuant to State Government Article, §10-116(b), Annotated Code of Maryland, notice is given that the proposal to amend Regulation **.04** under **COMAR 10.01.08 Procedures for Access to Records**, which was published in 41:25 Md. R. 1504—1505 (December 12, 2014), has been withdrawn by operation of law.

BRIAN MORRIS
Administrator
Division of State Documents

Title 14
INDEPENDENT AGENCIES

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 Withdrawal
[14-378-W]

Pursuant to State Government Article, §10-116(b), Annotated Code of Maryland, notice is given that the proposal to adopt new Regulations **.01—.08** under a new chapter, **COMAR 14.31.10 Maryland After-School and Summer Opportunity Fund Program**, which was published in 41:25 Md. R 1523—1527 (December 12, 2014), has been withdrawn by operation of law.

BRIAN MORRIS
Administrator
Division of State Documents

Proposed Action on Regulations

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

Symbol Key

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

Promulgation of Regulations

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

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

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

Title 08
DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.05 Fish

Authority: Natural Resources Article, §§4-215 and 4-736, Annotated Code of Maryland

Notice of Proposed Action

[16-008-P]

The Secretary of Natural Resources proposes to amend Regulation **.08** under **COMAR 08.02.05 Fish**.

Statement of Purpose

The purpose of this action is to implement Addendum IV to the Interstate Fishery Management Plan for American Eel. The 2012 American Eel Benchmark Stock Assessment indicated the American eel population in U.S. waters is depleted. The ASMFC American Eel Management Board approved Draft Addendum IV to the Interstate Fishery Management Plan (FMP) for American Eel with a goal to reduce overall mortality and increase conservation of American eel stocks. Addendum IV established a coast wide catch cap for the commercial yellow eel fishery starting in 2015. The following two management triggers were established: if the harvest cap is exceeded by more than 10% in any one year or if the harvest cap is exceeded for two consecutive years, then an individual state quota is allocated and required to be managed in the following year. Therefore, if the coast wide American eel harvest exceeds the coast wide cap by more than 10% in 2015, Maryland must have the ability to manage their quota (pre-determined in Addendum IV) starting in 2016.

The proposed action establishes an eel harvester permit that will be required for all commercial eel harvesters, this includes commercial finfish and crab license holders. Crab license holders are included because they are allowed to harvest eels for bait. If a state quota is implemented, all eel permit holders will be subject to daily reporting requirements. These reporting requirements will comply with Addendum IV. In order to effectively manage the eel quota, the proposed action includes a provision to allow the Department to modify, open or close the season or modify catch limits by public notice.

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 American Eel 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 February 8, 2016. A public hearing has not been scheduled.

.08 Eels.

A. Commercial.

(1) Except as permitted under COMAR 08.02.14, a person may not catch, possess, land, or sell eels for commercial purposes which are less than 9 inches total length.

(2) The annual quota for the commercial fishery is set by the Atlantic States Marine Fisheries Commission.

(3) American Eel Harvest Permit.

(a) An individual who is authorized to commercially catch finfish or crabs shall:

(i) Obtain an American eel harvest permit prior to catching eels; and

(ii) Have the American eel harvest permit in possession while harvesting or transporting American eels.

(b) American eel harvest permits shall be issued to all licensees who have met all reporting requirements as required by Natural Resources Article, §4-206, Annotated Code of Maryland, and this regulation.

(c) An individual may be issued only one American eel harvest permit.

(d) American eel harvest permits may not be transferred.

(4) Reporting and Penalties.

(a) In addition to the requirements of Natural Resources Article, §4-206, Annotated Code of Maryland, an American eel harvest permittee shall report in the manner specified by the Department.

(b) In addition to any other penalty established in COMAR 08.02.13, failure to comply with this regulation may result in the suspension of the current permit or the denial of a subsequent permit.

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

B.—G. (text unchanged)

[H. A person may not sell or attempt to sell eels without an appropriate license issued by the Department, unless the person is:

(1) Licensed by the Department to catch finfish for sale;

(2) A retail market, restaurant, or other establishment where finfish are sold or served to ultimate consumers, and not for resale; or

(3) Buying finfish for personal use or consumption.**]**

H. General.

(1) The Secretary may establish or modify catch limits, size limits, and seasons for American eel in order to implement the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for American Eel, by issuing a public notice on the Fisheries Service website.

(2) The public notice shall state its effective hour and date and shall be published on the Fisheries Service website at least 48 hours in advance of the effective hour and date.

(3) The Secretary shall make a reasonable effort to disseminate a public notice issued under this section through various other media so that an affected individual has a reasonable opportunity to be informed.

(4) A violation of the restrictions set by the Secretary in accordance with section is a violation of this regulation.

MARK J. BELTON
Secretary of Natural Resources

Title 10
DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 06 DISEASES

Notice of Proposed Action

[16-021-P]

The Secretary of Health and Mental Hygiene proposes to:

(1) Amend Regulation **.02** and repeal Regulation **.17-1** under **COMAR 10.06.01 Communicable Diseases and Related Conditions of Public Health Importance**; and

(2) Adopt new Regulations **.01—.08** under a new chapter, **COMAR 10.06.07 Sexually Transmitted Infections — Expedited Partner Therapy for Chlamydia and Gonorrhea**.

Statement of Purpose

The purpose of this action is to repeal regulations related to the Expedited Partner Therapy (EPT) Pilot Program in Baltimore City Health Department under COMAR 10.06.01, and add a new chapter of regulations for EPT for chlamydia and gonorrhea in Maryland under COMAR 10.06.07. Pursuant to Health-General Article, §18-214.1, Annotated Code of Maryland, Ch. 183, Acts of 2015, this proposal creates regulations for certain health care providers and pharmacists, within their existing scopes of practice, to prescribe or dispense antibiotic therapy to any partner of a patient diagnosed with chlamydia or gonorrhea without making a personal physical assessment of the partner, and without having a previous provider-patient relationship with the partner. This proposal expands EPT permissibility throughout Maryland in order to help reduce the likelihood of repeat infection in a patient diagnosed with chlamydia or gonorrhea. Specifically, this proposal outlines eligibility, prescribing and dispensing authority, counseling and educational requirements, documentation, and reporting. This proposal also expands EPT permissibility throughout Maryland and helps to reduce the likelihood of repeat infection in a diagnosed patient.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. This proposal will result in an indeterminable impact to the Department of Health and Mental Hygiene (Department), local health departments (LHDs), pharmacists, insurers, and health care providers. As permitted in statute, EPT is a voluntary practice of treating chlamydia or gonorrhea in a sex partner or partners of an infected patient; therefore, there is no way to determine how many: health care providers (including LHDs) will offer EPT to their patients or need training from the Department; patients will accept EPT for their sex partner or partners; sex partners will accept EPT medication or fill their prescription for the medication; pharmacists will fill EPT prescriptions; and repeat infections will be avoided. The impact of this proposal on insurers, including Medicaid, is indeterminable because of the unknown number of EPT prescriptions that will be given to an insured sex partner or partners.

It is anticipated that the Department, LHDs, insurers, health care providers, and the public will benefit from a reduction in repeat infections. Pharmacists will incur minor costs associated with providing educational information to accompany EPT medications and health care providers who provide EPT will likewise incur minor costs associated with counseling patients and providing educational information for their partner or partners. Insurers will incur reimbursement costs for EPT medications given to a sex partner or partners who are their enrollees, but will also benefit from a reduction in costs associated with untreated infections in their enrollees.

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

	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
(1) Pharmacies	(-)	Indeterminable
(2) Insurers	(-)	Indeterminable
(3) Health care providers	(-)	Indeterminable
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	(+)	Indeterminable

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

A. The Department will incur operational costs as a result of start-up costs during the first year, including maintaining newly developed regulations, developing the EPT website, and providing technical assistance and educational materials. Additionally, the Department will expend existing federal funding to educate pharmacists and health care providers about EPT. This funding amount is indeterminable because the number of health care providers who will need training from the Department is unknown.

C. LHD Sexually Transmitted Infection (STI) and Family Planning programs may incur the cost of prescribing or dispensing medications and providing educational information for the patient's sex partner or partners. LHDs may also see a reduction in costs associated with providing services for repeat infection in a patient.

D(1). Pharmacies will incur minor operational costs associated with filling EPT prescriptions and providing educational information for the patient's sex partner or partners. Additionally, pharmacies will generate revenue by filling EPT prescriptions at an indeterminable amount as it will depend on the insurance plan coverage of the patient and the patient's partner or partners, along with the varying reimbursement rates.

D(2). Insurers will incur the cost of EPT medications for patient's partner or partners enrolled in their insurance plan. This may also result in lower costs overall if patients experience lower rates of repeat infections and fewer patients seek care.

D(3). Health care providers will incur costs associated with counseling patients and providing educational information for a patient's sex partner or partners and possibly for adapting electronic medical records software to accommodate EPT documentation. Health care providers may also see a reduction in costs associated with providing fewer clinical services once their patients' partner or partners are treated.

F. It is anticipated that the public will benefit from reduced rates of chlamydia and gonorrhea and costs associated with repeat infection.

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 that could be potentially be impacted by this proposal include independent pharmacists and small health care practices who provide EPT. Health care providers will incur costs associated with providing counseling and educational information, and can anticipate a reduction in costs associated with providing services for repeat infection in a patient. Additionally, independent pharmacists will incur costs associated with providing educational information and will generate revenue with each prescription filled. However, the actual impact of this proposal on independent pharmacists and small health care practices cannot be determined at this time, so it is unclear whether this proposal will have a meaningful impact on small businesses or not.

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 February 8, 2016. A public hearing has not been scheduled.

10.06.01 Communicable Diseases and Related Conditions of Public Health Importance

Authority: Health-General Article, §§2-104(b), 18-102, 18-105, 18-201, 18-202, 18-205, 18-214.1, 18-307, and 24-101—24-110, Annotated Code of Maryland

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(9) (text unchanged)

[(10) "Expedited partner therapy" means the treatment under the Expedited Partner Therapy Pilot Program of a sex partner of a patient with a sexually transmitted infection of gonorrhea or chlamydia without previous medical evaluation or prevention counseling of the sex partner.

(11) "Expedited Partner Therapy Pilot Program" means a program to conduct and evaluate expedited partner therapy in the Baltimore City Health Department pursuant to Health-General Article, §18-214.1, Annotated Code of Maryland.**]**

[(12)**]** *(10)*—**[**(31)**]** *(29)* (text unchanged)

10.06.07 Sexually Transmitted Infections — Expedited Partner Therapy for Chlamydia and Gonorrhea

Authority: Health General Article, §§2-104(b), 18-102, 18-201, 18-202, and 18-214.1, Annotated Code of Maryland

.01 Purpose and Scope.

A. The purpose of expedited partner therapy in Maryland is to:

(1) Provide antibiotic therapy to any partner of a patient diagnosed with chlamydia or gonorrhea without a personal physical assessment of the partner, and without having a previous provider-patient relationship with the partner;

(2) Contain and stop the further spread of chlamydia and gonorrhea; and

(3) Reduce the likelihood of reinfection in the diagnosed patient.

B. This chapter applies to the provision of expedited partner therapy, as described in §A of this regulation, in public and private health care settings.

.02 Definitions.

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

B. Terms Defined.

(1) "Antibiotic therapy" means the oral antibiotic drug regimens currently recommended by the Centers for Disease Control

and Prevention for the treatment of chlamydia and gonorrhea through expedited partner therapy.

(2) "Department" means the Department of Health and Mental Hygiene.

(3) "Expedited partner therapy (EPT)" means the prescribing or dispensing of antibiotic therapy to any partner of a patient diagnosed with chlamydia or gonorrhea by certain health care providers without making a personal physical assessment of the partner, and without having a previous provider-patient relationship with the partner, in order to contain and stop the further spread of the infection and reduce the likelihood of reinfection in the diagnosed patient.

(4) "Health officer" means the health officer in each of the 23 counties and the Commissioner of Health in Baltimore City, or the duly designated representative of the health officer, or both.

(5) "Partner" means an individual with whom one has, or has had, oral, anal or vaginal sexual contact.

.03 Partners Eligible for EPT.

Partners eligible for EPT are:

A. Any partner within 60 calendar days of the patient's diagnosis; or

B. The most recent partner of a patient if the patient has not had sex in the 60 days before diagnosis.

.04 Health Care Providers Authorized to Prescribe and Dispense EPT.

Notwithstanding any other provision of law, and only in accordance with their current scope of practice, EPT may be prescribed or dispensed by the following health care providers:

A. A physician licensed under Health Occupations Article, Title 14, Annotated Code of Maryland;

B. An authorized physician assistant licensed under Health Occupations Article, Title 15, Annotated Code of Maryland, acting in accordance with Health Occupations Article, §15-302.2, Annotated Code of Maryland;

C. An advanced practice registered nurse with prescriptive authority licensed under Health Occupations Article, Title 8, Annotated Code of Maryland, acting in accordance with Health Occupations Article, §8–508, Annotated Code of Maryland; and

D. A registered nurse employed by a local health department who complies with:

(1) The formulary developed and approved under Health-General Article, §3-403(b), Annotated Code of Maryland; and

(2) The requirements established under Health Occupations Article, §8-512, Annotated Code of Maryland.

.05 Prescribing and Dispensing EPT Medications.

A. Antibiotic therapy prescribed or dispensed for EPT shall be in accordance with recommendations from the Centers for Disease Control and Prevention.

B. Prescribing.

(1) A separate prescription shall be issued for each partner;

(2) The designation "EPT" or "Expedited Partner Therapy" shall be included on the face of the prescription for each prescription issued;

(3) If the partner's name is known, the prescription shall be issued in the partner's name;

(4) If the partner's name is unknown, the written designation "EPT" or "expedited partner therapy" shall be sufficient for the pharmacist to fill the prescription; and

(5) An EPT prescription may not be refilled.

C. Dispensing. Each EPT medication label shall:

(1) Include:

(a) The designation "EPT" or "Expedited Partner Therapy"; and

(b) The partner's name, if known; and

(2) Comply with Health Occupations Article, §12-505, Annotated Code of Maryland.

.06 Counseling and Educational Information Requirements.

A. A health care provider prescribing or dispensing EPT to a patient shall:

(1) Counsel the patient to encourage each partner to seek a personal physical assessment; and

(2) Provide the patient with educational information for each partner, in accordance with §C of this regulation.

B. A pharmacist dispensing EPT shall provide educational information for each partner, in accordance with §C of this regulation.

C. The educational information, that is available or comparable to that available on the Department's website, shall include:

(1) Advice for the partner to seek a medical evaluation;

(2) Information about chlamydia and gonorrhea;

(3) Medication instructions;

(4) Warnings about adverse drug or allergic reactions; and

(5) Advice to abstain from sexual activity as required during treatment.

.07 Documenting EPT in a Medical Chart.

A. A health care provider prescribing or dispensing EPT shall document the provision of EPT in the patient's chart.

B. Documentation shall include the:

(1) Number of EPT prescriptions or medications provided to the patient for each partner; and

(2) Medication and dosage being provided to the patient for each partner.

.08 Reporting of Chlamydia and Gonorrhea by a Health Care Provider or Institution.

A. This chapter may not affect the obligation of a health care provider or institution to report to a health officer cases of chlamydia and gonorrhea and the treatment provided to those cases in accordance with COMAR 10.06.01.04.

B. When reporting a case of chlamydia or gonorrhea for which EPT was prescribed or dispensed, a health care provider or institution shall report the number of partners for whom:

(1) Prescriptions were provided; and

(2) Medications were dispensed.

VAN T. MITCHELL
Secretary of Health and Mental Hygiene

Subtitle 07 HOSPITALS

10.07.05 Residential Service Agencies

Authority: Health-General Article, Title 19, Subtitle 4A, Annotated Code of Maryland

Notice of Proposed Action

[16-020-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation **.04** under **COMAR 10.07.05 Residential Service Agencies**.

Statement of Purpose

The purpose of this action is to remove the requirement that a background check be submitted with the licensure application for a residential service agency.

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 February 8, 2016. A public hearing has not been scheduled.

.04 Licensing Procedures.

A. Application for License.

(1) (text unchanged)

(2) An applicant shall submit:

(a)—(d) (text unchanged)

[(e) A current criminal background check and documentationof any conviction of the applicant or person identified in §A(2)(d) of this regulation;**]**

[(f)**]** *(e)*—**[**(l)**]** *(k)* (text unchanged)

B.—K. (text unchanged)

VAN T. MITCHELL
Secretary of Health and Mental Hygiene

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.24 Medical Assistance Eligibility

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

Notice of Proposed Action

[16-002-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation **.04** under **COMAR 10.09.24 Medical Assistance Eligibility**.

Statement of Purpose

The purpose of this action is to remove obsolete text from current Medicaid application signature requirements permitting an applicant to sign an application through an authorized representative without regard to the applicant's physical or mental condition.

Comparison to Federal Standards

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

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has an impact on individuals with disabilities as follows:

Disabled individuals will be able to use their authorized representative to sign a Medicaid application without furnishing medical certification of incapacity to sign.

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 February 8, 2016. A public hearing has not been scheduled.

.04 Application — General Requirements.

A.—E. (text unchanged)

F. Application Filing and Signature Requirements.

(1)—(4) (text unchanged)

(5) For the purpose of establishing eligibility, the applicant **[**shall sign the application form. If the applicant is physically or mentally unable to sign the form, an authorized representative shall complete and sign it. In the case of a child applicant younger than 18 years old, a parent of the child shall sign the application form, except in the following situations:**]** *or an authorized representative shall complete and sign the application.*

(6) In the case of a child applicant younger than 18 years old, a parent of the child shall sign the application, except in the following situations:

(a)—(b) (text unchanged)

[(6)**]** *(7)* (text unchanged)

G. —S. (text unchanged)

VAN T. MITCHELL
Secretary of Health and Mental Hygiene

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.49 Telehealth Services

Authority: Health-General Article, §§2-104(b) and 15-105.2(b), Annotated Code of Maryland; Ch. 280, Acts of 2013

Notice of Proposed Action

[16-015-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations **.02**, **.05**, and **.07** under **COMAR 10.09.49 Telehealth Services**.

Statement of Purpose

The purpose of this action is to clarify that certain substance use disorder treatment providers are included as originating sites.

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 February 8, 2016. A public hearing has not been scheduled.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(2) (text unchanged)

(3) "Community-based substance use disorder provider" means a provider licensed by the Department as a community-based substance use disorder provider in accordance with COMAR 10.09.80.

[(3)**]** *(4)*—**[**(7)**]** *(8)* (text unchanged)

(9) "Opioid treatment program" means a program licensed by the Department in accordance with COMAR 10.09.80.

[(8)**]** *(10)*—**[**20**]** *(22)* (text unchanged)

.05 Covered Services.

Under the Telehealth Program, the Department shall cover:

A. (text unchanged)

B. Medically necessary **[**consultation**]** services covered by the Maryland Medical Assistance Program rendered by an approved distant site provider that can be delivered using technology-assisted communication.

C. (text unchanged)

D. The professional fee for an approved distant site provider for initial telehealth **[**consultation for**]** services furnished before, during, and after communicating with the Medical Assistance participant presenting in a hospital emergency department setting if:

(1) (text unchanged)

(2) The initial telehealth **[**consultation**]** *service* is distinct from the care provided by the physician of record or the attending physician;

E. (text unchanged)

.07 Provider Conditions for Participation.

A. (text unchanged)

B. Approved Originating Site. The following sites may be approved as an originating site for Telehealth Program service delivery:

(1) (text unchanged)

(2) A community-based substance use disorder provider;

[(2)**]** *(3)*—**[**(7)**]** *(8)* (text unchanged)

(9) An opioid treatment program;

[(8)**]** *(10)*—**[**(10)**]** *(12)* (text unchanged)

C. (text unchanged)

VAN T. MITCHELL
Secretary of Health and Mental Hygiene

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.52 Service Coordination for Children with Disabilities

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

Notice of Proposed Action

[16-003-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations **.01—.04-2** and **.06** under **COMAR 10.09.52 Service Coordination for Children with Disabilities**.

Statement of Purpose

The purpose of this action is to update regulations to reflect changes in the waiver authority approved by the Centers for Medicare and Medicaid Services (CMS). The proposed amendments update the conditions for participation for service coordinators and establish the risk assessment as a part of the waiver reassessment for all waiver participants. Additionally, references to 504 Written Individualized Plan (WIP) have been removed from the chapter, because this is no longer a requirement.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has an impact on individuals with disabilities as follows:

The risk assessment will ensure that the waiver applicant can be safely maintained in a home and community-based setting.

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 February 8, 2016. A public hearing has not been scheduled.

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) "Autism" has the meaning stated in COMAR **[**10.09.56.01B**]** *10.09.56.01C*.

(2)—(6) (text unchanged)

(7) "Individualized education program (IEP) team" means a multidisciplinary team convened by a provider in accordance with COMAR 13A.05.01 to review a participant's needs and develop the participant's IEP **[**or 504 WIP**]**.

(8)—(16) (text unchanged)

(17) "Qualified diagnostician" means an individual whose license or certification permits diagnosis of Autism Spectrum Disorder.

[(17)**]** *(18)*—**[**(18)**]** *(19)* (text unchanged)

[(19)**]** *(20)* "Service coordination" means case management services which assist participants in gaining access to the services recommended in a participant's IEP**[**, 504 WIP,**]** or waiver plan of care.

[(20)**]** *(21)*—**[**(25)**]** *(26)* (text unchanged)

[(26) "504 Written Individualized Plan (504 WIP)" means a plan which describes the services that are provided to accommodate a child's disability, as defined under §504 of the Rehabilitation Act of 1973.**]**

.02 Participant Eligibility.

A recipient is eligible to participate in Service Coordination for Children with Disabilities if:

A. (text unchanged)

B. The following requirements are met:

(1) The recipient, for whom free and appropriate education is provided under the Individuals with Disabilities Education Act **[**or §504 of the Rehabilitation Act of 1973**]**, is 2 through 20 years old;

(2) An IEP team determines that the recipient is a child with disabilities who:

(a) (text unchanged)

(b) Needs an IEP **[**or 504 WIP**]**;

(3)—(5) (text unchanged)

.03 Conditions for Participation.

A. (text unchanged)

B. Specific requirements for participation in the Program as a provider of Service Coordination for Children with Disabilities are that a provider shall:

(1) (text unchanged)

(2) Convene or participate on an IEP team or teams, in accordance with COMAR 13A.05.01, which shall:

(a)—(c) (text unchanged)

(d) Develop an IEP **[**or 504 WIP**]** for a participant in accordance with COMAR 13A.05.01 within 30 calendar days of the determination of eligibility for the services covered under this chapter;

(e) Review the IEP **[**or 504 WIP**]** and progress of each participant who is receiving the special education and related services recommended in the IEP **[**or 504 WIP**]**, upon request of the parent or parents;

(f) Meet and conduct an annual review of each participant's IEP **[**or 504 WIP**]** and, if appropriate, revise the IEPs **[**or 504 WIPs**]** provisions; and

(g) Reconvene the IEP team to conduct an interim IEP **[**or 504 WIP**]** review and modify the existing IEP **[**or 504 WIP**]** at any time upon request of the professionals included on the team or the parent or parents, as considered necessary pursuant to the participant's progress;

(3)—(4) (text unchanged)

(5) Maintain a file on each participant which meets the Program's requirements and which shall include:

(a) Copies of the participant's IEP **[**or 504 WIP**]** with any revisions;

(b)—(c) (text unchanged)

(d) Approval from a participant's parent of the participant's service coordinator and the participant's IEP **[**or 504 WIP**]** before implementation of the service coordination; and

(e) The following documentation for a waiver participant:

(i) Diagnosis of autism *spectrum disorder every 3 years or more often as requested by MSDE, by a qualified diagnostician using an evaluation methodology considered sufficient by the multidisciplinary team*;

(ii)—(vii) (text unchanged)

(6) Employ or have under contract qualified personnel who convene or participate on IEP teams, convene or participate on waiver multidisciplinary teams as necessary, develop participants' IEPs**[**, 504 WIPs,**]** or waiver plans of care, and perform as service coordinators for participants; and

(7) (text unchanged)

C. Service Coordinator Requirements.

(1) A service coordinator shall:

(a) (text unchanged)

(b) Be chosen by the IEP team or waiver multidisciplinary team, with the approval of the participant's parent or parents, taking into consideration the:

(i)—(ii) (text unchanged)

(iii) Services recommended in the IEP**[**, 504 WIP,**]** or waiver plan of care;

(c) Participate with the IEP team or waiver multidisciplinary team in the development or revision of a participant's IEP**[**, 504 WIP,**]** or waiver plan of care and in the IEP**[**, 504 WIP,**]** or waiver plan of care review;

(d) Assist the participant in gaining access to the services recommended in the IEP**[**, 504 WIP,**]** or waiver plan of care; and

(e) (text unchanged)

(2)—(5) (text unchanged)

(6) Service coordinators for waiver participants shall complete at least 5 hours of *initial* training on the Autism Waiver, offered by the Department and MSDE, before rendering Autism Waiver service coordination covered under Regulations .04-1 and .04-2 of this chapter.

(7) Service coordinators for waiver participants must attend one statewide training for Autism Waiver service coordinators per fiscal year.

.04 Covered Services.

A. (text unchanged)

B. Initial IEP **[**or 504 WIP**]**.

(1) Definition. "Unit of service" means:

(a) A completed initial IEP **[**or 504 WIP**]**, signed by all members of the IEP team; and

(b) At least one contact by the participant's service coordinator or IEP team in person or by telephone with the participant or the participant's parent, on the participant's behalf relating to development of the IEP **[**or 504 WIP**]**.

(2) The covered services include convening and conducting an IEP team to:

(a) (text unchanged)

(b) Develop an initial IEP **[**or 504 WIP**]**.

C. Ongoing Service Coordination.

(1)—(2) (text unchanged)

(3) As necessary, the Program shall include as covered services the following:

(a) Acting as a central point of contact relating to IEP **[**or 504 WIP**]** services for a participant;

(b) (text unchanged)

(c) Implementing the IEP **[**or 504 WIP**]** by referring the participant to direct service providers, assisting the participant in gaining access to services specified in the IEP **[**or 504 WIP**]**, and providing linkage to agreed-upon direct service providers of services;

(d) Discussing with direct service providers the services needed and available for the participant, assessing the quality and quantity of services being provided, following up to identify any obstacles to a participant's utilization of services, coordinating the service delivery, and performing ongoing monitoring to determine whether the services are being delivered in an integrated fashion as recommended in the IEP **[**or 504 WIP**]** and meet the participant's current needs;

(e) Providing a participant and the participant's parent with information and direction that will assist them in successfully accessing and using the services recommended in the IEP **[**or 504 WIP**]**;

(f) Informing a participant's parent of the participant's and the family's rights and responsibilities in regard to specific programs and resources recommended in the IEP **[**or 504 WIP**]**;

(g) Conducting, with a participant's parent at a meeting or by other means acceptable to the parent and the service coordinator, a periodic review of the participant's IEP **[**or 504 WIP**]** every 6 months, or more frequently if warranted or the parent requests a review; and

(h) Reviewing at least annually at a meeting or by other means acceptable to the participant's parent and others involved in the review process:

(i) The degree of a participant's progress toward achieving the goals established in the IEP **[**or 504 WIP**]**; and

(ii) (text unchanged)

(4) (text unchanged)

D. IEP **[**or 504 WIP**]** Review.

(1) Definition. "Unit of service" means:

(a) A completed initial 60-day, interim, or annual IEP **[**or 504 WIP**]** review as evidenced by a signed revised IEP or, if a revised IEP was not done, IEP team records documenting a meeting in which there is participation by at least two different disciplines; and

(b) (text unchanged)

(2) The covered services include convening and conducting an IEP team to:

(a) (text unchanged)

(b) Review and revise, as necessary, the participant's IEP **[**or 504 WIP**]**.

.04-1 Covered Services—Autism Waiver Service Coordination — General Requirements.

A.—C. (text unchanged)

D. Waiver Plan of Care.

(1)—(4) (text unchanged)

(5) A waiver participant's initial or revised waiver plan of care shall be documented on the waiver plan of care form **[**included in the Autism Waiver proposal, which specifies for each Autism Waiver service which is preauthorized for the waiver participant the**]** *that includes the* :

(a) Description of **[**the**]** *each* specific *preauthorized* service to be delivered;

(b)—(c) (text unchanged)

(d) Approved frequency and units of services to be delivered; *and*

(e) Provider**[**; and**]**.

[(f) Estimated unit costs and monthly costs, for evaluating waiver services.**]**

E. (text unchanged)

.04-2 Covered Services — Autism Waiver Service Coordination — Specific Requirements.

A. Waiver Initial Assessment.

(1) Definition. For the purposes of this section, "unit of service" means:

(a) A completed initial waiver plan of care, approved by MSDE and signed by the service coordinator, the waiver participant or the parent or parents of a minor child, and all other members of the waiver multidisciplinary team; **[**and**]** *or*

(b) (text unchanged)

(2) The covered services shall include:

(a)—(b) (text unchanged)

(c) **[**On behalf of the waiver multidisciplinary team, providing written notification to the waiver participant or the parent or parents of a minor child of MSDE's approval of the waiver participant's waiver enrollment and the effective date of enrollment;**]** *Informing the representative of the MSDE of the applicant's ineligibility for the Autism Waiver.*

(d)—(f) (text unchanged)

B. Waiver Ongoing Service Coordination.

(1) (text unchanged)

(2) The covered services shall include, as necessary:

(a)—(c) (text unchanged)

(d) Assisting the waiver participant with gaining access to the Autism Waiver services preauthorized in the waiver plan of care according to the type, level, amount, frequency, *and* duration**[**, and cost specified**]**;

(e)—(m) (text unchanged)

C. Waiver Reassessment.

(1) (text unchanged)

(2) The covered services shall include:

(a)—(d) (text unchanged)

[(e) On behalf of the waiver multidisciplinary team, providing written notification to the waiver participant or the parent or parents of a minor child of DHMH's approval or denial of the waiver participant's continued waiver enrollment;

(f) If continued enrollment is denied by DHMH providing written notification to the waiver participant or the parent or parents of a minor child of the effective date for the waiver participant's termination from the waiver, the reason or reasons for ineligibility, and the right to appeal and request a fair hearing under COMAR 10.01.04 and 42 CFR Part 431, Subpart E.**]**

(e) Completing a risk assessment within 45 days of receiving notification of eligibility by the Department using the Autism Waiver Risk Assessment form;

(f) Completing a risk assessment if the participant's status changes, to ensure the applicant can be safely maintained in a home and community-based setting utilizing Autism Waiver services; and

(g) Providing written notice to a MSDE representative of the participant's ineligibility for the Autism Waiver.

.06 Payment Procedures.

A.—B. (text unchanged)

C. The Program shall make payment only to one qualified provider for covered services rendered on a particular date of service to a participant and according to the following fee-for-services schedule covered under this chapter:

Description Fee Per Unit of Service

(1) Initial IEP **[**or 504 WIP**]**: no more than one unit of service may be reimbursed per participant ... $500;

(2) (text unchanged)

(3) IEP **[**or 504 WIP**]** review: at most, three units of service may be reimbursed for a participant in a 12-month period ... $275;

(4)—(6) (text unchanged)

D. The Program may not make payment for ongoing service coordination when, for the same month, payment is made to the provider for furnishing to the participant:

(1) An initial IEP **[**or 504 WIP**]** service; or

(2) An IEP **[**or 504 WIP**]** review service.

E. The Program may not make payment for more than one IEP **[**or 504 WIP**]** review in the same month, unless a subsequent review is documented as an emergency.

F. The Program may not make payment for an initial IEP **[**or 504 WIP**]** and an IEP **[**or 504 WIP**]** review in the same month, unless a review is documented as an emergency.

G. If an IEP **[**or 504 WIP**]** review takes more than one meeting to complete, the Program shall only make payment for the meeting during which the review was signed.

[H. Providers may not bill the program for services which are provided at no charge to the general public, except for service coordination related to an IEP or IFSP.

I. If providers are to bill the Medical Assistance Program for service coordination related to a 504 WIP, which is a service provided at no charge to the general public, they shall bill the third-party payors for all children who received 504 WIP services.**]**

H. A provider shall be paid the lesser of:

(1) The provider's usual and customary charge to the general public unless the service is free to individuals not covered by Medicaid; or

(2) The rate established under §C of this regulation.

VAN T. MITCHELL
Secretary of Health and Mental Hygiene

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.56 Home and Community-Based Services Waiver for Children with Autism Spectrum Disorder

Authority: Health-General Article, §§2-104(b), 15-103, 15-105 and 15-130, Annotated Code of Maryland

Notice of Proposed Action

[16-004-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations **.01**, **.02**, **.04—.08**, **.11**, **.14—.17**, **.19**, **.21**, and **.22**, and adopt new Regulations **.06-2** and **.14-1** under **COMAR 10.09.56 Home and Community-Based Services Waiver for Children with Autism Spectrum Disorder**.

Statement of Purpose

The purpose of this action is to update regulations to reflect changes in the waiver authority approved by the Centers for Medicare and Medicaid Services. The proposed amendments will establish intensive therapeutic integration as a new waiver service and increase the reimbursement limit for environmental accessibility adaptations. Additionally, the autism spectrum disorder participant eligibility requirements, staff training, and staffing for residential habilitation service are updated.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The addition intensive therapeutic service (ITI) and the increased reimbursement limit for environmental accessibility adaptations (EAA) will result in increased Program expenditures of $168,245.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(E+)	$168,245
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(+)	$168,245
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

A. and D. The new ITI service is expected to be used by 52 participants, averaging four units of service per week, 50 weeks per year, at $15.28 per unit. This service will result in increased Program expenditures, and provider revenues, of $158,912 annually. (52 participants x 4 units x 50 weeks x $15.28)

The reimbursement limit for environmental accessibility adaptations will increase from $1,500 to $2,000 to be utilized over a 3 year period. An average of 56 participants utilized this service in the past 3 years. Historically, all users of the service used the maximum allowed. Therefore, the new reimbursement limit will result in an expected increase of $9,333 ($500 increase/3 years = $166.67 x 56 users).

The total increased expenditure for the Program, and revenue for Autism Waiver providers, for both services is $168,245.

Economic Impact on Small Businesses

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

Most providers rendering ITI and EAA are small businesses. Autism Waiver providers' revenue will increase by $168,245.

Impact on Individuals with Disabilities

The proposed action has an impact on individuals with disabilities as follows:

Autism Waiver program participants who require a higher level of support will have access to ITI, which may improve their social skills and safety in home and community settings. The increase in the EAA reimbursement limit will allow participants to access additional funds for physical adaptations, as well as, assistive and augmentative devices.

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 February 8, 2016. A public hearing has not been scheduled.

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(10) (text unchanged)

(11) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996 developed to improve portability of health insurance coverage, reduce healthcare fraud and abuse, and protect individual privacy of personal health records.

[(11)**]** *(12)*—**[**(22)**]** *(23)* (text unchanged)

(24) "Positive behavior intervention" means a range of intervention strategies that are designed to prevent problem behaviors while teaching socially appropriate alternative behaviors.

[(23)**]** *(25)*—**[**(25)**]** *(27)* (text unchanged)

(28) "Qualified diagnostician" means an individual whose license or certification permits diagnosis of Autism Spectrum Disorder.

[(26)**]** *(29)* (text unchanged)

(30) "Reportable event policy" means a process developed to protect the health and safety of waiver participants in the community by identifying, documenting, and resolving complaints and incidents.

(31) "Retainer payment" means payment made to providers of residential habilitation services while the participant is hospitalized or absent from the residential habilitation program.

[(27)**]** *(32)*—**[**(30)**]** *(35)* (text unchanged)

(36) "State fiscal year" means the 12-month period of July 1 through June 30 over which the State budgets its spending.

[(31)**]** *(37)*—**[**(32)**]** *(38)* (text unchanged)

C. (text unchanged)

.02 Participant Eligibility.

A. Medical Eligibility for the Autism Waiver.

(1) To be medically eligible for the services covered under the chapter, an applicant shall be certified by the licensed psychologist or certified school psychologist, who is a member of the participant's multidisciplinary team and is employed by the local Infants and Toddlers Program **[**or**]** *, the* local school system, *the Program, or the Program's designee,* to need ICF-ID level of care**[**, as part of the multidisciplinary team process and**]** using the **[**form**]** s*tandardized process* for determination of eligibility for level of care in an **[**intermediate care facility for the intellectually disabled and persons with related conditions (ICF-ID)**]** *ICF-ID.*

(2)—(3) (text unchanged)

B. Technical Eligibility for the Autism Waiver. An applicant or participant shall be determined by the multidisciplinary team to meet the waiver's technical eligibility-criteria if the individual:

(1) (text unchanged)

(2) Is determined to be developmentally disabled and is diagnosed with autism spectrum disorder, *every 3 years or more often as requested by MSDE,* by a qualified diagnostician using an evaluation methodology considered sufficient by the multidisciplinary team;

(3) (text unchanged)

(4) Uses at least one waiver service monthly, not including family **[**training**]** *consultation*, unless otherwise authorized by the **[**Maryland**]** State Department of Education;

(5) (text unchanged)

(6) If the child has an IEP, receives **[**more than 12 hours**]** *15 hours or more* per week of special education and related services and requires a more intensive therapeutic program than other students or is currently participating in an approved Home and Hospital Program pursuant to the procedures of COMAR 13A.03.05 and 13A.05.01;

(7)—(10) (text unchanged)

C. (text unchanged)

D. Autism Waiver Eligibility.

(1) If an applicant is verified by the multidisciplinary team and the State Department of Education:

(a) To meet all of the criteria specified in §§A—C of this regulation, the participant's service coordinator, the representative of the local school system or local lead agency, **[**and**]** the representative of the State Department of Education, *and the Program* shall certify Autism Waiver eligibility and *the Program shall* establish the effective date for **[**Waiver**]** enrollment; or

(b) (text unchanged)

(2) (text unchanged)

.04 Conditions for Participation — General.

To provide Autism Waiver services, the provider:

A.—D. (text unchanged)

E. Shall assure that direct care workers who render services under this chapter:

(1) (text unchanged)

(2) Receive adequate and appropriate training, within 60 days of employment and annually thereafter, pertaining to care for children with autism spectrum disorder including:

(a) Training concerning abuse, neglect, and exploitation; **[**and**]**

(b) Positive behavioral interventions and restraints *rendered by a MSDE approved trainer*;

(c) Reportable event policy; and

(d) HIPAA;

(3) Work under the ongoing supervision of **[**an appropriately**]** *a* qualified professional employee of the provider who has *annual* training in:

(a) Abuse, neglect, exploitation; **[**and**]**

(b) Positive behavioral interventions and appropriate use of restraints *rendered by a MSDE-approved trainer*;

(c)Reportable event policy; and

(d) HIPAA;

(4)—(5) (text unchanged)

(6) Have volunteer or employment experience working with children with autism spectrum disorder or other developmental disabilities as a service provider or as a family member for a minimum of 100 hours**[**.**]**, *that may include:*

(a) Internships;

(b) Post high school educational experience with developmental disabilities;

(c) Shadowing experienced staff;

(d) Employment with a developmental disabilities agency; or

(e) Fulfilling the community service requirement through volunteering with a child with autism or another developmental disability;

F.—H. (text unchanged)

I. Shall maintain current, written, and signed contracts with all contractors providing waiver services on behalf of the provider that include:

(1)—(2) (text unchanged)

(3) **[**Written**]** *The requirement to complete and maintain written* documentation of service delivery **[**expectations;**]**, *individualized for each participant on each day that the participant receives services;*

(4)—(5) (text unchanged)

J.—M. (text unchanged)

N. If self-employed, shall:

(1)—(4) (text unchanged)

(5) Submit monthly Criminal Justice Information System's update reports to the **[**Maryland**]** State Department of Education.

O. Shall have the option to request the Department to waive the provisions of §§L(3) and N(4) of this regulation if the applicant demonstrates that:

(1) The conviction, probation before judgment, or plea of nolo contendere for a felony or any crime involving moral turpitude or theft was entered more than 10 years before the date of the **[**provider**]** *provider's or prospective employee's* application; and

(2) (text unchanged)

P.—R. (text unchanged)

S. Shall agree to maintain and have available to the Department or the **[**Maryland**]** State Department of Education personnel records and written documentation describing waiver services rendered, including dates and hours of services provided to participants, for a period of 6 years, in a manner approved by the Department or its designee;

T. (text unchanged)

U. Shall agree not to terminate services for a participant without **[**appropriate**]** *30 days written* notice to the **[**family**]** *participant, parent or guardian,* and service coordinator *unless a risk to health and safety exists*;

V.—W. (text unchanged)

X. Shall maintain *written quarterly* records documenting *face-to-face* supervision of direct care employees**[**;**]** *and direct observation of the participant that includes:*

(1) Date and location of supervision;

(2) Review, feedback, and oversight of the implementation of treatment plan goals;

(3) Review, feedback, and oversight of the implementation of positive behavior intervention;

(4) Review, feedback, and oversight of the scope of activities during service;

(5) Review, feedback, and oversight of data collection;

(6) Date and name of supervisor, name of employee, and name of the participant; and

(7) Signature of supervisor;

Y.—FF. (text unchanged)

GG. Shall have status as a Maryland Medicaid Autism Waiver provider, including the Medicaid provider number, terminated if no services have been provided for 24 consecutive months; **[**and**]**

HH. Shall, when transportation is provided:

(1) Implement the provider's transportation policy;

(2) Identify the driver in daily contact notes or a transportation log;

(3) Document the start and stop times transportation is provided for each day that a participant is transported;

(4) Maintain a copy of the current automobile liability coverage and documentation of payment for the vehicle transporting a participant; and

(5) Maintain a current copy of the valid State driver's license and driving record for staff transporting a waiver participant; and

[HH.**]** II. (text unchanged)

.05 Specific Conditions for Participation — Residential Habilitation Services.

To provide the services covered under Regulation .11 of this chapter, the provider agency shall:

A. Provide services in a facility that meets the following requirements:

(1) (text unchanged)

(2) Has eight or fewer beds, unless approved by the **[**Maryland**]** State Department of Education to have up to 16 beds due to special needs of children;

(3)—(7) (text unchanged)

B.—C. (text unchanged)

D. Provide round-the-clock staffing which:

(1) (text unchanged)

(2) **[**May be less than 7 days a week, such as without weekend services;**]** *Unless the provider designates that it does not provide residential habilitation on weekends, is for 365 days a year,*

E.—H. (text unchanged)

I. Demonstrate the capability and capacity of providing Autism Waiver residential habilitation services by submitting documentation of experience and a written implementation plan which includes at a minimum policies and procedures regarding:

(1)—(3) (text unchanged)

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

[(7)**]** *(6)* Training and supervision of staff; **[**and**]**

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

(8) Emergency back-up plans; and

(9) HIPAA;

J. (text unchanged)

K. Provide documented evidence of integration of the residential habilitation program with **[**IEP or IFSP, education, and other waiver and**]** other community-based services received by Autism Waiver participants;

L.—O. (text unchanged)

P. Maintain daily contact logs completed on the same day the service is provided and reflective of the individual plan's goals and *community-based* activities *from Regulation .11F of this chapter*; and

Q. (text unchanged)

.06 Specific Conditions for Participation — Intensive Individual Support Services.

To provide the service covered under Regulation .15 of this chapter, the provider shall:

A.—F. (text unchanged)

G. Demonstrate the capability and capacity of providing intensive individual support services by submitting documentation of experience and a written implementation plan which includes at a minimum policies and procedures regarding:

(1)—(6) (text unchanged)

(7) Training and supervision of staff; **[**and**]**

(8) Quality assurance; *and*

(9) HIPAA;

H. (text unchanged)

I. Provide documented evidence of integration of the covered services with **[**residential habilitation, IEP or IFSP, education, and**]** other community-based services received by Autism Waiver participants;

J.—K. (text unchanged)

L. Document goals related to transportation and the participant's needs on the treatment plan when transportation will be provided;

[L.**]** M.—**[**M.**]** N. (text unchanged)

.06-1 Specific Conditions for Participation — Therapeutic Integration Services.

To provide one or more of the services covered under Regulation .14 of this chapter, the provider shall:

A.—C. (text unchanged)

D. Have on site at least one direct care worker for every three **[**children**]** *participants* on the waiver, with more staffing as necessary based on participants' needs;

E.—G. (text unchanged)

H. Demonstrate the capability and capacity of providing therapeutic integration services by submitting documentation of experience and a written implementation plan which includes at a minimum policies and procedures regarding:

(1)—(6) (text unchanged)

(7) Training and supervision of staff; **[**and**]**

(8) Quality assurance; *and*

(9) HIPAA;

I. (text unchanged)

J. Provide documented evidence of integration of the covered services with **[**residential habilitation, IEP or IFSP, education, and other waiver and**]** *other* community-based services received by participants;

K. (text unchanged)

L. For initial approval and as a condition of occupancy of any facility used by the program

[, submit**]** *:*

(1) Submit written documentation from responsible **[**approval] *agency* or licensing authorities verifying that the facility is in compliance with applicable health, fire safety, and zoning regulations; *and*

(2) Allow an on-site review by the MSDE;

M.—P. (text unchanged)

.06-2 Specific Conditions for Participation — Intensive Therapeutic Integration Services.

To provide one or more of the services covered under Regulation .14-1 of this chapter, the provider shall:

A. Meet all the conditions of Regulation .06-1 of this chapter; and

B. Have an on-site direct care worker for every participant receiving one-to-one intervention for intensive therapeutic integration;

.07 Specific Conditions for Participation — Respite Care.

A. (text unchanged)

B. A professional who provides respite care services or supervises a direct care worker rendering the services shall be:

(1) (text unchanged)

(2) Licensed as a psychologist, social worker, *registered* nurse, professional counselor, or occupational therapist; or

(3)—(5) (text unchanged)

C. (text unchanged)

D. A respite care provider shall demonstrate the capability and capacity of providing respite care services by submitting

documentation of experience and a written implementation plan which includes at a minimum policies and procedures regarding:

(1)—(5) (text unchanged)

(6) Training and supervision of staff; **[**and**]**

(7) Quality assurance**[.]** *; and*

(8) HIPAA.

E. Documentation of Service.

(1) Maintain daily contact logs completed on the same day the service is provided and reflective of interventions; and

(2) Make documentation of services available for review by the State, when requested.

.08 Specific Conditions for Participation — Family [Training] *Consultation*.

A. To provide the services covered under Regulation .17 of this chapter, a **[**trainer**]** *consultant* shall be:

(1)—(4) (text unchanged)

B. The provider shall have training and at least 2 years of experience, which:

(1) Is relevant to the family's **[**training**]** needs;

(2)—(3) (text unchanged)

C. The provider shall develop a plan with goals and interventions and submit the plan to the participant's service coordinator within 30 calendar days of initiation of service delivery, and at least annually thereafter, or more frequently if the **[**training**]** instructional plan changes.

D. The provider shall demonstrate the capability and capacity of providing family **[**training**]** *consultation* services by submitting documentation of experience and a written implementation plan.

E. The provider shall maintain family **[**training**]** contact logs completed on the same day the service is provided that are reflective of the family **[**training**]** plan, goals and activities.

F. The provider shall maintain and make available for review by the State, documentation of the 6-month review and update the status relative to each goal in the family **[**training**]** plan.

.11 Covered Services — Residential Habilitation Services.

A.—D. (text unchanged)

E. Intensity Levels.

(1) (text unchanged)

(2) To be approved by the multidisciplinary team for the intensive level of residential habilitation services, the participant must need:

(a) Awake overnight staffing; **[**or**]** *and*

(b) (text unchanged)

F. (text unchanged)

G. A supervisor who has been trained in accordance with Regulation .04E(3) of this chapter shall:

(1) Train and provide ongoing supervision to the direct care worker rendering residential habilitation services;

(2) Supervise the direct care worker when crisis intervention services are rendered to evaluate the nature of the crisis and intervene to reduce the likelihood of reoccurrence;

(3) Plan and regularly review the participant's therapeutic activities and behavior plan;

(4) Meet regularly with the participant and family and observe the participant in the residential habilitation setting; and

(5) Develop and identify on the individualized treatment plan, the goals, interventions, and tasks that the residential habilitation direct care worker is implementing.

H. A unit of service for residential habilitation shall be on a per diem basis.

.14 Covered Services — Therapeutic Integration Services.

A. Therapeutic integration services under this regulation:

[A. Shall last a minimum of 2 hours, not including transportation time, and a maximum of 4 hours, which may include transportation time, for participants identified by the multidisciplinary team as needing these services;**]**

[B.**]** *(1)*—**[**J.**]** *(8)* (text unchanged)

[K.**]** *(9)* Shall be based on an individualized written plan that identifies goals of the specific therapeutic activities provided; **[**and**]**

[L.**]** *(10)* Shall provide:

[(1)**]***(a)*—**[**(4)**]***(d)* (text unchanged)

[(5)**]***(e)* One or more of art, music, dance, or activity therapies, as appropriate for participants**[.]***;*

(11) Shall have a supervisor who has been trained in accordance with Regulation .04E(3) of this chapter that:

(a) Trains and provides ongoing supervision to the direct care worker rendering therapeutic integration services;

(b) Supervises the direct care worker when crisis intervention services are rendered to evaluate the nature of the crisis and intervenes to reduce the likelihood of reoccurrence;

(c) Plans and regularly reviews the participant's therapeutic activities and behavior plan;

(d) Meets regularly with the participant and family and observes the participant in the community setting; and

(e) Develops and identifies, on the individualized treatment plan, the goals, interventions, and tasks that the therapeutic integration direct care worker is implementing;

(12) Shall, when transportation is provided:

(a) Have individualized goals for transportation for the participant on the participant's treatment plan; and

(b) Document the start and stop times transportation is provided for each day that a participant is transported;

B. A unit of service is a 30-minute increment of service rendered to a participant by a qualified provider in the community setting.

.14-1 Covered Services — Intensive Therapeutic Integration Services.

A. Intensive therapeutic integration services under this regulation:

(1) Are provided at a nonresidential setting separate from the home or facility where the participant lives;

(2) Shall have an on-site direct care worker for every participant receiving one-to-one interventions for intensive therapeutic integration;

(3) Shall include expressive therapies and therapeutic recreational activities;

(4) Shall include the development of socialization skills, enhancement of self-esteem, and behavior management;

(5) Are for participants who require one-to-one interventions and also have problems with socialization, isolation, hyperactivity, impulse control, and behavioral or other related disorders;

(6) Are not solely educational or recreational in nature, but have a therapeutic habilitative orientation, as evidenced in written progress notes;

(7) Shall be culturally competent and congruent with the participant's cultural norms;

(8) Shall assure coordination with the participant's other service providers, service coordinator, and multidisciplinary team;

(9) Shall be based on the participant's individualized written treatment plan that identifies goals of the specific therapeutic activities provided;

(10) Shall provide:

(a) General therapeutic and therapeutic recreational services;

(b) Behavioral management;

(*c) Planning for crises with the participant during a session;*

(d) Socialization groups; and

(e) One or more of art, music, dance, or activity therapies, as appropriate for participants;

(11) Shall have a supervisor who has been trained in accordance with Regulation .04E(3) of this chapter that:

(a) Trains and provides ongoing supervision to the direct care worker rendering therapeutic integration services;

(b) Supervises the direct care worker when crisis intervention services are rendered to evaluate the nature of the crisis and intervenes to reduce the likelihood of reoccurrence;

(c) Plans and regularly reviews the participant's therapeutic activities and behavior plan;

(d) Meets regularly with the participant and family and observes the participant in the community setting;

(e) Develops intervention on an individualized basis and identifies the interventions on an individualized treatment plan; and

(f) Identifies, in the treatment plan, the goals and tasks that the intensive therapeutic integration direct care worker is implementing; and

(12) Shall, when transportation is provided:

(a) Have individualized goals for transportation for the participant on the participant's treatment plan; and

(b) Document the start and stop times transportation is provided for each day that a participant is transported.

B. A unit of service is a 30-minute increment of service rendered to a participant by a qualified provider in the community setting.

.15 Covered Services — Intensive Individual Support Services.

A. Intensive individual support services:

(1)—(8) (text unchanged)

(9) **[**Include providing transportation and accompanying the participant to non-Medicaid services, as necessary and consistent with the individualized treatment plan;**]** *Shall, when transportation is provided:*

(a)—(b) (text unchanged)

(10)—(11) (text unchanged)

B. (text unchanged)

C. A professional who meets the provider qualifications of Regulation .04G(1)(a)—(f) of this chapter shall:

(1) Train and provide **[**general**]** *ongoing* supervision to the direct care worker rendering intensive individual support services;

(2)—(6) (text unchanged)

D. A unit of service is a 30-minute increment of service rendered to a participant by a qualified provider in the participant's home or a community setting.

.16 Covered Services — Respite Care.

A.—B. (text unchanged)

C. A unit of service is a 30-minute increment of service rendered to a participant by a qualified provider in the participant's home or a community setting.

.17 Covered Services — Family [Training] *Consultation*.

A. Family **[**training**]** *consultation* shall be provided as specified in the family **[**training**]** *consultation* plan, and:

(1)—(4) (text unchanged)

B. A participant's family:

(1)—(3) (text unchanged)

(4) Shall be present to receive family **[**training**]** *consultation* services.

C. Services.

(1) A participant's family shall receive in-person, individualized**[**, hands-on training in**]** *consultation when* providing the habilitation services listed in §C(2)—(8) of this regulation, as necessary for the participant.

(2) Habilitation. The participant's family shall receive **[**training**]** *consultation* to assist the participant to acquire, retain, or improve skills in a wide variety of areas that directly affect the participant's development and ability to reside as independently as possible, including communication skills.

(3) Self-Direction. The participant's family shall receive **[**training**]** *consultation* to assist the participant in:

(a)—(c) (text unchanged)

(4) Behavior Shaping and Management. The participant's family shall receive **[**training**]** *consultation* to assist the participant with appropriate expression of emotions and desires, compliance, assertiveness, acquisition of socially appropriate behaviors, and the reduction of inappropriate behaviors.

(5) Daily Living Skills. The participant's family shall receive **[**training**]** *consultation* to assist the participant, as appropriate, in:

(a)—(h) (text unchanged)

(6) Socialization. The participant's family shall receive **[**training**]** *consultation* which facilitates the participant's involvement in family and community activities and establishing relationships with siblings and peers, which may include:

(a)—(b) (text unchanged)

(c) Identifying specific **[**training activities**]** *interventions* necessary to assist the participant's involvement in those activities on an ongoing basis.

(7) Mobility. The participant's family shall receive **[**training**]** *consultation* to assist the participant with:

(a)—(c) (text unchanged)

(8) Money Management. The participant's family shall receive **[**training**]** *consultation* to assist the participant with:

(a)—(c) (text unchanged)

D. Family **[**training**]** *consultation* does not include activities **[**with family members**]** that are not covered under §C of this regulation.

E. A unit of service is a 30-minute increment of service rendered to a participant by a qualified provider in the participant's home or a community setting.

.19 Covered Services — Adult Life Planning Services.

A. (text unchanged)

B. Adult life planning services shall:

(1)—(2) (text unchanged)

(3) Be provided only to participants age **[**18**]** *16* years old or older.

C. A unit of service is a 30-minute increment of service rendered to a participant by a qualified provider in the participant's home or a community setting.

.21 Limitations.

A. (text unchanged)

B. Residential habilitation services may not be reimbursed for the same date of service as intensive individual support services, therapeutic integration services, *intensive therapeutic integration services,* or respite care.

C. Therapeutic integration services, *intensive therapeutic integration services,* and intensive individual support services under this chapter and school health-related services under COMAR 10.09.50 may not be reimbursed for the same period of the same day.

D. Therapeutic integration and intensive therapeutic integration services may not be rendered during the same week to a participant.

E. Therapeutic integration and intensive therapeutic integration services may include transportation time when at least 4 units of service have been provided on-site, and the maximum units of service billed may not exceed 8 units.

[D.**]** *F.*—**[**E.**]** *G.* (text unchanged)

[F.**]** *H.* The Program may reimburse for a participant not more than:

(1) (text unchanged)

(2) **[**20 hours**]** *40 units* of therapeutic integration services per week;

(3) 30 units of intensive therapeutic integration services per week;

[(3)**]** *(4)* Eight units or less than four units of therapeutic integration *or intensive therapeutic integration* services for a date of service;

[(4)**]***(5)* **[**25 hours**]** *50 units* of intensive individual support services per week;

[(5)**]***(6)* **[**24 hours**]** *48 units* of respite care for a date of service;

[(6) 168 hours of respite care between January 1 and June 30, and 168 hours between July 1 and December 31 of each calendar year;**]**

(7) 672 units of respite care per State fiscal year;

[(7)**]***(8)* **[**Six units of family training**]** *12 units of family consultation* for a date of service;

[(8) 40 units of family training per calendar year;**]**

(9) 80 units of family consultation per State fiscal year;

[(9)**]** *(10)* A total of **[**$1,500**]** *$2,000* for environmental accessibility adaptations over a 36-month period;

[(10)**]***(11)* **[**8 hours**]** *16 units* of intensive individual support services per day;

[(11)**]***(12)* **[**15 hours**]** *30 units* of adult life planning services per **[**calendar year**]** *State fiscal year*, for participants **[**18**]** *16* years old or older;

[(12)**]** *(13)* A lifetime maximum of **[**45 hours**]** *90 units* of adult life planning services per participant, for participants **[**18**]** *16* years old or older; and

[(13)**]** *(14)* 15 units of **[**residential habilitation services**]** *retainer payment* per calendar year at either the regular or intensive level when the participant is absent *from the residential habilitation program* for the purposes of family visitation, hospitalization, or other overnight stays.

[G.**]** *I.* Respite services may not be reimbursed for the same period of the same day as:

(1)—(2) (text unchanged)

(3) Family **[**training**]** *consultation;*

(4) Therapeutic integration; **[**or**]**

(5) Intensive therapeutic integration; or

[(5)**]** *(6)* Adult life planning services.

[H.**]** *J.*—**[**J.**]** *L.* (text unchanged)

.22 Payment Procedures.

A.—C. (text unchanged)

D. Payments.

(1) (text unchanged)

(2) The Program shall pay according to the following fee-for-service schedule:

(a) Residential habilitation services *and retainer payments*: reimbursed at one of the following all-inclusive, maximum rates for a participant:

(i) **[**$191.14 per day**]** *$201.70 per unit* for the regular level of service; or

(ii) **[**$382.30 per day**]** *$403.42 per unit* for the intensive level of service;

(b) Therapeutic integration services: reimbursed at the maximum rate of **[**$11.59 per 30 minutes**]** *$12.23 per unit*;

(c) Intensive therapeutic integration services: reimbursed at the maximum rate of $15.28 per unit;

[(c)**]** *(d)* Intensive individual support services: reimbursed at the maximum rate of **[**$28.99 per hour**]** *$15.28 per unit*;

[(d)**]** *(e)* Respite care: reimbursed at the maximum rate of **[**$22.63 per hour**]** *$11.94 per unit*;

[(e)**]** *(f)* Family **[**training**]** *consultation*: reimbursed at the maximum rate of **[**$95.10 per hour**]** *$50.17 per unit*;

[(f)**]** *(g)* Adult life planning services: reimbursed at the maximum rate of **[**$95.53 per hour**]** *$50.17 per unit*;

[(g)**]** *(h)* (text unchanged)

(3) (text unchanged)

(4) The Program's rates as specified in **[**§D(2)(a)—(f)**]** *§D(2)(a)—(g)* of this regulation shall be effective **[**July 1, 2008 through September 30, 2009. The rates shall be reduced by 2 percent effective October 1, 2009, and the resulting rates shall increase on July 1 of each year beginning July 1, 2010,**]** *January 1, 2015 and shall increase on July 1 of each year*, subject to the limitations of the State budget, by the lesser of:

(a)—(b) (text unchanged)

VAN T. MITCHELL
Secretary of Health and Mental Hygiene

Subtitle 11 MATERNAL AND CHILD HEALTH

10.11.04 Lead Poisoning Screening Program

Authority: Education Article, §7-403; Environment Article, §6-303; and Health-General Article, §18-106; Annotated Code of Maryland

Notice of Proposed Action

[16-005-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations **.02**, and **.04—.06** under **COMAR 10.11.04 Lead Poisoning Screening Program**.

Statement of Purpose

The purpose of this action is to improve lead testing rates in Maryland and align regulations with the new Center for Disease Control and Prevention (CDC) guidelines. As the profile of lead exposure changes across the State, and lower levels of lead exposure are recommended by the CDC, relatively fewer children are exposed to lead in the traditional at-risk areas of older rental housing, and a higher proportion are being exposed in owner-occupied homes and from other sources of lead in the environment. Lead-exposed children can be found in every jurisdiction in the State. This proposal expands the definition of at-risk areas to include the entire State, amends lead poisoning blood testing requirements, allows the submission of alternative blood lead analysis documentation for children under certain circumstances, amends certain documentation reporting requirements, and makes general updates.

These amendments, together with the Department's new Targeting Plan, will expand the definition of at-risk area of lead poisoning to include the entire State, thus increasing the number of children tested for lead at ages 12 and 24 months. This will likely lead to an increase in the number of children tested for lead, and likely also lead to an increase in the number of children identified as having some lead exposure in an effort to prevent a number of children from ongoing lead exposure.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. This proposal will increase the number of children tested for lead in Maryland. The Department, the Maryland Department of the Environment (MDE), and local health departments (LHDs) will experience an indeterminable increase in expenditures related to outreach, investigation, and case management of lead-exposed children. Health care providers may experience an increase in expenditures related to the testing and case management of children, depending on reimbursement by health care insurers.

Homeowners and apartment building owners could experience an increase in expenditures for investigation and abatement of lead in their properties. Health care insurers will experience an increase in expenditures related to testing and care of children who may be found to be lead-exposed. Homeowners and apartment building owners and health care insurers could also experience cost savings by addressing lead exposures before they become lead poisoning cases and avoiding more expensive medical care. According to 2014 MDE data, the number of children 12 or 24 months of age in Maryland was 177,841, of whom 68,881 (38.7%) were tested for lead. The number untested who would require lead testing under this proposal would be approximately 108,960 children. However, ultimately the public will benefit from reduced exposure to lead hazards and earlier detection of elevated blood lead levels.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(E+)	Indeterminable
B. On other State agencies:	(E+)	Indeterminable
C. On local governments:	(E+)	Indeterminable
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(-)	Indeterminable
E. On other industries or trade groups:		
(1) Homeowners and apartment building owners	(-)	Indeterminable
(2) Insurers	(-)	Indeterminable
F. Direct and indirect effects on public:	(+)	Indeterminable

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

A. Medicaid will experience an increase in the number of children tested for lead and a smaller increase in the number of children identified with elevated blood lead levels. However, some of these children might have developed more severe lead poisoning except for the mandated early testing, and the costs of treating more severely lead-poisoned children would then be avoided by Medicaid due to the earlier testing.

In addition, the Environmental Health Bureau will experience a significant increase in referral calls, from parents, providers, and LHDs. In most cases, these calls will be addressed by existing staff and referred to LHDs or to MDE. There will also be an increase in outreach by the Environmental Health Bureau that will likely continue throughout State Fiscal Year 16.

B. MDE will almost certainly experience an increase in the number of referrals related to lead exposure, primarily referrals for affected rental properties built before 1978 will require investigation and administrative follow-up for compliance with lead and rental property laws. In addition, the Childhood Lead Registry will experience an increase in the number of blood lead testing results.

C. LHDs may see a significant increase in the number of lead-exposed children and may experience an increase in the number of related inquiries. A few LHDs currently account for the bulk of the cases of lead-exposed children identified, but when the proposed changes go into effect, it is anticipated that many or all LHDs will see significantly increased numbers of lead-exposed children, especially children with low lead levels (5 – 9 micrograms/deciliter). The Department is working with LHDs to minimize an increase in expenditures, while some LHDs have agreed to funnel questions related to new cases.

D. Blood lead testing will likely increase across the Maryland population, both for children enrolled in Medicaid, and for children covered by private insurance. The increased expenditures by health care providers will likely be greater for children enrolled in private health insurance since Medicaid children are all supposed to be tested at ages 12 and 24 months already (current testing rates are probably in the 60% range for this population). By contrast, many children enrolled in private health insurance will not be living in areas previously defined as at-risk, so they would not previously have been tested. It is anticipated that testing will be covered by health insurance in virtually all locations and practices. There will be costs associated with follow-up of positive tests.

E(1). Homeowners and apartment building owners may see an increase in expenses if additional homes and/or rental units are identified with lead hazards. Homeowners and apartment building owners would experience additional expenditures in order to abate the lead hazard. However, some cases of lead exposure will be identified and addressed before they become lead poisoning cases, which will result in savings by avoiding more expensive medical care.

E(2). As testing increases, health care insurers will experience an increase in expenditures related to testing and care of children who may be found to be lead-exposed. It is anticipated that some cases of lead exposure will be identified and addressed before they become lead poisoning cases, which will also result in savings to insurers by avoiding more expensive medical care.

F. Members of the public will benefit from earlier recognition of lead poisoning and follow-up. There will, however, be some cases in which the initial results may be elevated, then drop after the elevated tests are confirmed with venous testing.

Economic Impact on Small Businesses

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

Some property owners who meet the criteria of small businesses could be affected if children in their properties are identified as having lead exposure. This could result in additional expenditures to investigate and abate lead sources in their properties.

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 February 8, 2016. A public hearing has not been scheduled.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) "At-risk area" means, *effective January 1, 2016,* any geographic area within the State that has been designated **[**as high-risk, moderate-risk, or low-risk for lead poisoning by the Department

in the current Targeting Plan.**]** *by the Department as at-risk for lead exposure:*

(a) For individuals born on January 1, 2015 or later in the 2015 Targeting Plan for Areas at Risk for Childhood Lead Poisoning; or

(b) For individuals born before January 1, 2015 in the 2004 Targeting Plan for Areas at Risk for Childhood Lead Poisoning.

(3)—(5) (text unchanged)

(6) "Child at high-risk" means a child who resides, or has previously resided, in an area within the State that has been designated as high-risk for lead poisoning by the Department in the **[**current **]** *2015* Targeting Plan.

(7) (text unchanged)

(8) "Elevated blood lead level" means:

(a) A blood lead level of **[**10**]** *5* micrograms per deciliter or greater; or

(b) (text unchanged)

(9) "EPSDT " means the Early and Periodic Screening Diagnosis and Treatment program governed by COMAR 10.09.23.

(10) (text unchanged)

(11) "High-risk area" is an area within the State that has been designated by the Department as high-risk for lead poisoning according to the **[**current**]** *2015* Targeting Plan.

(12)—(16) (text unchanged)

(17) Prekindergarten Program.

(a) (text unchanged)

(b) "Prekindergarten program" includes:

(i)—(v) (text unchanged)

(vi) Judith P. Hoyer Early Child Care and Education Centers established by Education Article, **[**§5-215**]** *§5-217*, Annotated Code of Maryland; and

(vii) (text unchanged)

(18)—(19) (text unchanged)

(20) "Targeting Plan" means the **[**current**]** *2015* Targeting Plan for Areas at Risk for Childhood Lead Poisoning developed by the Department that includes but is not limited to:

(a)—(d) (text unchanged)

(21)—(23) (text unchanged)

.04 Blood Tests for Lead Poisoning.

A. **[**A**]** *Effective January 1, 2016, a* primary care provider for a child who resides, or who is known to have previously resided, in an at-risk area shall administer a blood test for lead poisoning **[**:

(1) During**]** *during* the 12-month visit and again during the 24-month visit **[**; and.

(2) To a child who is 24 months old or older and younger than 6 years old, if:**]**.

B. Effective January 1, 2016, a primary care provider for a child who is 24 months old or older and younger than 6 years old who resides, or who is known to have previously resided, in an at-risk area as defined in the 2004 Targeting Plan for Areas at Risk for Childhood Lead Poisoning, shall administer a blood test for lead poisoning if the:

(a) **[**The child**]** *Child* has not previously received a blood test for lead poisoning;

(b) **[**The child's**]** *Child*'s parent or guardian fails to provide documentation that the child has previously received a blood test for lead poisoning; or

(c) **[**The provider**]** *Provider* is unable to obtain the results of a previous blood lead analysis.

[B.**]** *C.*—**[**F.**]** *G.* (text unchanged)

[G.**]** *H.* Bona Fide Religious Beliefs — At Risk.

(1) (text unchanged)

(2) If an affirmative response to the questionnaire under **[**§G(1)(b)**]** *§H(1)(b)* of this regulation, or a response indicating that the parent or guardian does not know the answer, is entered for any question on the lead exposure risk questionnaire for the child, the provider shall:

(a)—(d) (text unchanged)

(3) If all the responses to the lead exposure risk questionnaire are negative, the provider shall:

(a) Follow procedures set forth in **[**§G(2)(b)**]** *§H(2)(b)* of this regulation; and

(b) (text unchanged)

[H.**]** *I.* Bona Fide Religious Beliefs — High Risk.

(1) If the parent or guardian of a child at high risk refuses to consent to a blood test for lead poisoning due to the parent or guardian's stated bona fide religious beliefs and practices, a primary care provider shall:

(a) Follow the procedures set forth in **[**§G(1)**]** *§H(1)* and (2) of this regulation; and

(b) **[**Make a determination whether the child**]** *If a provider determines that a child* is at a substantial risk of harm from lead exposure **[**and**]**, *the provider shall* follow applicable law if the child's parent or guardian continues to refuse to have the child tested.

(2) (text unchanged)

[I.**]** *J.*—[J.] *K.* (text unchanged)

.05 Documentation Requirements on Entry into a Prekindergarten Program, Kindergarten Program, or First Grade.

A. **[**Beginning not later than September 2003, the**]** *The* parent or guardian of a child who currently resides, or has previously resided, in an at-risk area shall provide to the administrator of the child's school or program, or the administrator's designee, certified documentation of the child's blood lead analysis, as specified in **[**§F**]** *§G* of this regulation, on first entry into a:

(1)—(2) (text unchanged)

B. An electronic report of the child's blood lead analysis from a health care provider to the administrator of the child's school or program, or the administrator's designee, may serve as an acceptable alternative to the documentation required in §A of this regulation.

[B.**]** *C.* A health care provider shall:

(1) (text unchanged)

(2) Upon request by the child's public school or program administrator, or the administrator's designee, for a child who resides or has previously resided in an at-risk area, provide to the school or program the certified documentation of the child's blood lead analysis, as specified in **[**§F**]** *§G* of this regulation, in order to facilitate the Department's public health surveillance activities relating to lead poisoning.

[C.**]** *D.* The child's parent or guardian shall provide certified documentation of the child's blood lead analysis, as specified in **[**§F**]** *§G* of this regulation, administered in connection with the 12-month visit and 24-month visit to a Maryland public prekindergarten program **[**or Maryland public school**]** not later than:

(1)—(2) (text unchanged)

[D.**]** *E.* Pursuant to Regulation .04A of this chapter, if the child's first blood test for lead poisoning was administered after the child is 24 months old, then only certified documentation of the most recent blood lead analysis is required to be reported pursuant to **[**§B**]** *§C* of this regulation.

[E.**]** *F.* (text unchanged)

[F**]** *G.* The information sent to or received by a program or school pursuant to §A of this regulation shall be recorded and certified by a health care provider's signature on a form issued by the Department that includes the following:

(1) (text unchanged)

(2) Date *and result* of the blood lead analysis; and

(3) (text unchanged)

[G.**]** *H.* (text unchanged)

[H.**]** *I.* If a parent or guardian does not consent to a blood test for lead poisoning pursuant to Regulation **[**.04F**]** *.04H* of this chapter, the child's parent or guardian shall:

(1)—(2) (text unchanged)

[I.**]** *J.* Notice Required.

(1) The program or school shall give notice in accordance with **[**§I(2)**]** *§J(2)* of this regulation to the parent or guardian of a child who resides or has resided in an at-risk area who does not provide:

(a) The certified documentation of the child's blood lead analysis, as specified in **[**§F**]** *§G* of this regulation; or

(b) (text unchanged)

(2) The notice required under this section shall state that the parent or guardian is required by law to provide the information under **[**§I(1)(a) or (b)**]** *§J(1)* of this regulation at the time of enrollment.

.06 Blood Lead Analysis Reporting Requirements.

[A. Beginning not later than September 2003, for a child for whom certified documentation of blood lead analysis is not provided in accordance with Regulation .05A of this chapter, an administrator of a school or program, or the administrator's designee, shall report to the local health department in the jurisdiction in which the child resides:

(1) The child's name;

(2) The child's last known address; and

(3) The name and phone number of child's parent or guardian.**]**

[B.**]** *A.* Notwithstanding **[**§C**]** *§B* of this regulation, a medical laboratory shall report, to the Department of the Environment, the information required under Environment Article, §6-303, Annotated Code of Maryland.

[C.**]** *B.* (text unchanged)

[D.**]** *C.* The Commissioner of the Baltimore City Health Department may report the information received under **[**§C**]** *§B* of this regulation to the Baltimore Immunization Registry Program.

[E.**]** *D.*—**[**F.**]** *E.* (text unchanged)

VAN T. MITCHELL
Secretary of Health and Mental Hygiene

Subtitle 15 FOOD

10.15.08 Pilot Farmstead Cheese Program

Authority: Health-General Article, §§21-211, 21-234, 21-406, 21-416.1, 21-417, 21-418, 21-419, 21-428, [and] 21-434, 21-252— 21-256, 21-1202, 21-1203, and 21-1215, Annotated Code of Maryland

Notice of Proposed Action

[16-006-P-I]

The Secretary of Health and Mental Hygiene proposes to amend Regulations **.01**, **.03** and **.05**, repeal existing Regulations **.02**, **.04**, and **.06—.10**, and adopt new Regulations **.02**, **.04**, and **.06—.21** under **COMAR 10.15.08 Pilot Farmstead Cheese Program**.

Statement of Purpose

The purpose of this action is to update regulations to reflect statutory changes, clarify certain existing producer requirements, and establishes an enforcement process. This proposal will expand Maryland's Pilot Farmstead Cheese Program by removing the "pilot" restrictions. This proposal expands the type of species that fall under these farmstead cheese permits and removes the limitations on the:

(1) Number of milk processor-farmstead cheese producer permits that the Department of Health and Mental Hygiene (DHMH) may issue;

(2) Permissible number of animals in the herd or flock; and

(3) Number of times a milk processor-farmstead cheese producer permit may be renewed.

Additionally, this proposal clarifies and provides additional details related to the following requirements:

(1) Sanitation inspections and reports;

(2) Standards for raw milk;

(3) Farmstead cheese finished products and water supplies;

(4) Labeling;

(5) Plan review and approval process;

(6) Plant construction submissions; and

(7) Personnel health.

This proposal also sets forth the enforcement process and penalties to milk processor-farmstead cheese producer who violate these regulations.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to 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 February 8, 2016. 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 Food and Drug Administration Compliance Program Guidance Manual, Program 7303.803 (November 9, 2008) and Grade "A" Pasteurized Milk Ordinance, 2013 Revision (U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration), Section 8, Appendix D, Appendix G, Section I, Appendix H Section II, and Appendix N only have been declared a documents generally available to the public and appropriate for incorporation by reference. For this reason, they will not be printed in the Maryland Register or the Code of Maryland Regulations (COMAR). Copies of these documents are filed in special public depositories located throughout the State. A list of these depositories is published on page 10 of this issue of the Maryland Register, 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 Scope.

This chapter:

A. Establishes a **[**pilot**]** farmstead cheese program; and

B. Sets forth the **[**standards**]** *regulation and enforcement process* for:

(1) **[**Plan**]** *The plan* review **[**of**]** *process for* facilities and equipment;

(2) The permitting process for the manufacture of cheese made from raw milk; **[**and**]**

(3) (text unchanged)

(a)—(c) (text unchanged)

(d) Inspections;

(e) Packaging;

(f) Distribution;

(g) Sale;

[(d)**]** *(h)* Sampling; **[**and**]**

[(e)**]** *(i)* Testing**[**.**]***; and*

(4) Assessment of the penalties pursuant Health-General Article, §§21-211, 21-252— 21-256, 21-418, 21-419, 21-428, 21-1202, 21-1203, and 21-1215, Annotated Code of Maryland.

.02 Definitions.

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

B. Terms Defined.

(1) "Aging of cheese" means the storing and maturing of cheese under controlled conditions of temperature and humidity.

(2) "Aging period" means the aging of raw milk cheese for at least 60 calendar days at a temperature of not less than 35°F.

(3) "Aging room" means the area where the aging of cheese takes place.

(4) "Dairy farm" means a place or premises:

(a) Where one or more lactating animals, including cows, goats, sheep, water buffaloes, or other hooved mammals, are kept for milking purposes; and

(b) From which the milk is sold or offered for sale.

(5) "Department" means the Department of Health and Mental Hygiene.

(6) "Departmental inspection area" means the area in which the Department routinely makes inspections under Health-General Article, Title 21, Subtitle 4, Annotated Code of Maryland.

(7) "Drug residue" means a substance that prevents the growth of bacteria in milk products.

(8) "Farmstead cheese" means a cheese made on a dairy farm:

(a) Using only the raw milk produced by the herd or flock on the dairy farm; and

(b) That meets the definitions and standards of a hard cheese, as set forth in 21 CFR Part 133.

(9) "Industry plant sampler" means:

(a) An individual responsible for the collection of official samples for regulatory purposes at a plant as outlined in the Grade "A" Pasteurized Milk Ordinance, Appendix N; and

(b) An employee of the plant who is evaluated a least once every 2-year period by a sampling surveillance officer or a properly delegated sampling surveillance official.

(10) "Milk" means the milk of a cow, goat, or other hooved mammals.

(11) "Official laboratory" means a laboratory that is a biological, chemical, or physical laboratory, which is under the direct supervision of the Department.

(12) "Officially designated laboratory" means a laboratory that is a:

(a) Commercial laboratory authorized to do official work by the Department; or

(b) Milk industry laboratory officially designated by the Department for the examination of producer samples of raw milk for drug residue.

(13) "Plant" means any place, premise. or establishment where milk or milk products are collected, handled, processed, stored, packaged or otherwise prepared for distribution as a farmstead cheese.

(14) "Raw milk" means unpasteurized milk.

(15) "Sanitation inspection" means an evaluation of the milk plant and associated processes in accordance with this chapter.

(16) "Sanitization" means:

(a) The application of any effective method or substance to properly clean surfaces for the destruction of pathogens and other microorganisms, as far as is practicable; and

(b) A treatment that:

(i) Does not adversely affect the equipment, the milk, milk product, or the health of consumers; and

(ii) Is acceptable to the Department.

.03 Incorporation by Reference.

In this chapter, the following documents are incorporated by reference:

A. (text unchanged);

B. 21 CRF Part 110, as amended;

[B.**]** *C.* 21 CFR Part 133, as amended; **[**and**]**

D. Nutrition Labeling and Education Act of 1990 (Public Law 101-535), as amended;

[C.**]** *E.* (text unchanged)

F. 21 USC §§ 401-423, as amended;

G. Food and Drug Administration Compliance Program Guidance Manual, Program 7303.803 (November 9, 2008); and

H. Grade "A" Pasteurized Milk Ordinance, 2013 Revision (U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration), Section 8, Appendix D, Appendix G, Section I, Appendix H Section II, and Appendix N only.

.04 General Requirements.

A. The Department shall ensure that all inspections, sampling, testing, and enforcement actions performed by the State are carried out as set forth and in compliance with the standards, requirements, and procedures specified in:

(1) Health-General Article, Title 21, Annotated Code of Maryland;

(2) Federal Food, Drug and Cosmetic Act, 21 USC §§341-350; and

(3) Nutrition Labeling and Education Act of 1990 (Public Law 101-535).

B. An individual engaged in an occupation involving farmstead cheese production shall conduct all farmstead cheese production activities as set forth at and in compliance with the standards, requirements, and procedures specified in:

(1) Health-General Article, Title 21, Annotated Code of Maryland;

(2) Federal Food, Drug and Cosmetic Act, 21 USC §§341-350; and

(3) Nutrition Labeling and Education Act of 1990 (Public Law 101-535).

.05 [Production of Farmstead Cheese] Permitting Requirements.

A. **[**Permitting.

(1) Pursuant to Health-General Article, §§21-410 *and 21-412*, Annotated Code of Maryland, a person shall obtain a permit from the Secretary to operate as a producer.

(2) A person may not operate as a producer without obtaining a permit from the Secretary.

(3) A person seeking a permit shall provide the Department with the plans and specifications set forth in Regulation .06 of this chapter.**]** *Pursuant to Health-General Article, §§21-410 and 21-412, Annotated Code of Maryland, a person shall obtain a permit from the Department and pay the required fee, as specified in COMAR 10.01.17, to the Department before the person may be a:*

(1) Milk producer; or

(2) Milk Processor—Farmstead Cheese Producer.

[(4)**]** *B.* The Department may grant or deny a permit based on the criteria, *as* set forth in this chapter.

[(5)**]** *C.* To qualify for a permit, **[**the**]** *an* applicant **[**may not operate a dairy farm with more than 120 cows or goats in the herd.**]** *shall:*

[(6) An applicant shall pay to the Department a fee of $100 for a permit.**]**

(1) Provide the Department with the plans and specifications set forth in Regulations .14, .15, and .16 of this chapter;

(2) Submit an application to the Department on the forms that the Department provides; and

(3) Pay the Department's required permit fee, as specified in COMAR 10.01.17.

[(7)**]** *D.* A permit **[**expires**]***:*

(1) Expires 1 year from the date of issuance**[.]***;*

[(8)**]** *(2)* **[**A producer may renew a permit**]** *May be renewed by a producer* for a 1-year period upon the payment of the required fee, as specified in COMAR 10.01.17 **[.]***; and*

[(9)**]** *(3)* [A permit may**]** *May* not be transferred from one person to another person or from one farmstead cheese facility to another.

[(10) The Secretary may only issue a permit to the first five applicants who meet the requirements set forth in this chapter.**]**

[B. Labeling. A producer shall mark:

(1) Each farmstead cheese product with a label that conforms to the standards and requirements established by 21 CFR Part 101; and

(2) Conspicuously all packages containing farmstead cheese with the:

(a) Name of the product;

(b) Ingredients, in order of predominance;

(c) Identity of the facility where the farmstead cheese was produced; and

(d) The number of days of aging required by 21 CFR Part 133.

C. Testing.

(1) A producer:

(a) Is responsible for the cost associated with the sampling and testing of raw milk and the farmstead cheese product;

(b) Shall test all raw milk for the presence of inhibitors before processing;

(c) If raw milk is found to test positive for inhibitors, may not use it for production of farmstead cheese unless confirmatory testing proves that the raw milk does not contain inhibitors;

(d) Shall maintain a written log of the inhibitory testing done on the farm;

(e) Shall test monthly samples of raw milk used in the manufacture of farmstead cheese for:

(i) Standard plate count;

(ii) Somatic cell count;

(iii) Inhibitors;

(iv) Temperature;

(v) Odor; and

(vi) Appearance;

(f) Shall use raw milk to produce farmstead cheese that meets the quality and test requirements in COMAR 10.15.09.11;

(g) Shall have the first three batches of each cheese product tested by a certified laboratory for the presence of:

(i) Salmonella;

(ii) Escherichia coli;

(iii) Listeria monocytogenes;

(iv) Staphylococcus aureus; and

(v) Enterohemorrhagic E. coli (0157:H7);

(h) After three consecutive batches of each farmstead cheese product are found by testing to be in compliance with quality and test requirements in this regulation, shall test each cheese product once annually for the presence of:

(i) Salmonella;

(ii) E. coli;

(iii) Listeria monocytogenes;

(iv) Staphylococcus aureus; and

(v) Enterohemorrhagic E. coli (0157:H7);

(i) Shall test the water used in the manufacture of farmstead cheese every 6 months to assure that the water is potable as set forth in Regulation .06C of this chapter; and

(j) Shall ensure that the results of all testing of raw milk and cheese product are submitted to the Department's Laboratory Evaluation Officer.

(2) The Department may request the producer to have the producer's farmstead cheese products tested, as needed, as set forth in the United States Food and Drug Administration Food Compliance Program, "Domestic and Imported Cheese and Cheese Products", to assure compliance with the standards found in COMAR 10.15.09.11 and this regulation.

D. Record Keeping. A producer shall:

(1) Establish and use a process to identify each batch of farmstead cheese for the purpose of traceability; and

(2) Maintain a written record of the:

(a) Date and results of testing of raw milk for inhibitors;

(b) Date and results of testing of farmstead cheese;

(c) Date each batch entered the aging room;

(d) Batch identification;

(e) Measure of acidity in each batch at 24 hours and 60 days; and

(f) Origins of all ingredients used in the processing of farmstead cheese.**]**

E. Subject to the availability of sufficient inspection and testing staff, equipment, and other resources, the Department shall issue a permit entitled Milk Processor—Farmstead Cheese Producer:

(1) To an applicant in accordance with Health-General Article, §§21-415 and 21-416.1, Annotated Code of Maryland; and

(2) For the purpose of performing the specific process or processes to the specific milk or milk products as indicated on the plan review and permit applications.

.06 Sanitation Inspection Frequencies and Reports for Plants.

A. A farmstead cheese processor shall meet the standards set forth in this chapter.

B. The Department shall conduct sanitation inspections of a plant within the Departmental Inspection Area and any other area designated by the Department:

(1) At the start-up of farmstead cheese processing;

(2) Once every 6 months; and

(3) In response to a complaint received by the Department or a local health department.

C. Once a year a water supply survey shall be conducted to ensure that the requirements in Regulation .14 and .15 of this chapter are met.

D. Reinspections.

(1) If an inspection discloses the existence of a critical or repeat violation of a requirement set forth in this chapter, the Department shall reinspect within 30 days to determine compliance with the requirements of this chapter.

(2) If the Department finds on the second inspection a violation of the same requirement of this chapter, the Department shall issue a notice of intent to suspend the permit or a compliance schedule.

(3) If the Department finds a violation of the same requirement as specified on the notice of intent to suspend the permit or the compliance schedule as specified in the notice, the Department shall:

(a) Suspend the permit in accordance with Regulation .20 of this chapter and Health-General Article, §§21-418 and 21-419, Annotated Code of Maryland; or

(b) Initiate appropriate court action.

E. Inspection Reports.

(1) The Department shall give one copy of the inspection report to the permit holder or other responsible person or post the inspection report in a conspicuous place on an inside wall of the establishment immediately after the conclusion of the inspection.

(2) The permit holder:

(a) May not deface the inspection report; and

(b) Shall make the inspection report available to the Department upon request.

.07 Sanitation Inspection Standards for a Plant.

A plant shall meet the sanitation inspection standards set forth in this regulation:

A. Floor—Construction.

(1) The floor of each room in which product containers, utensils, equipment, milk, or cheese products are handled, processed, packaged, stored, or washed shall be:

(a) Constructed of concrete or other equally impervious and easily cleanable material; and

(b) Smooth, properly sloped, provided with trapped drains, and kept in good repair.

(2) Floor drains are not required in cold storage rooms used for storing milk and cheese products when the floor is sloped to drain to one or more exits.

(3) A storage room for storing dry ingredients, packaged dry ingredients, and packaging materials may have:

(a) Floor drains; and

(b) Floors constructed of tightly joined wood.

B. Wall and Ceiling—Construction. The wall and ceiling of each room in which milk or cheese products is handled, processed, packaged, or stored shall:

(1) Have a smooth, washable, light colored surface; and

(2) Be in good repair.

C. Door and Window.

(1) The plant shall provide effective means to prevent access by insects and rodents.

(2) An opening to the outside shall:

(a) Have solid doors or glazed windows; and

(b) Be closed during weather conditions that may result in particulate matter entering the facility.

D. Lighting and Ventilation. Each room shall be well lit and well ventilated where:

(1) Milk and cheese products are:

(a) Handled;

(b) Processed;

(c) Packaged; or

(d) Stored; or

(2) Milk containers, utensils, and equipment are washed.

E. Separate Room.

(1) There shall be a separate room for:

(a) Receiving farmstead cheese;

(b) Processing farmstead cheese;

(c) Cooling farmstead cheese;

(d) Aging farmstead cheese;

(e) Packaging farmstead cheese; and

(f) Cleaning raw milk cans and containers brought in from the farm.

(2) A room may not open directly into a stable or room used for a domestic purpose where:

(a) Milk or a farmstead cheese product is:

(i) Received;

(ii) Handled;

(iii) Processed;

(iv) Stored; or

(v) Packaged; or

(b) Containers, utensils, or equipment are washed or stored.

(3) A room shall be of sufficient size for their intended purposes.

(4) Each designated area or room shall be provided for receiving, handling, and storage of a returned packaged or farmstead cheese not suitable for sale.

F. Toilet Sewage Disposal Facility.

(1) Each toilet facility shall conform to the regulations of the local health department.

(2) Each toilet facility may not open directly into a room where milk or cheese products are processed.

(3) Each toilet facility shall be completely enclosed and have a tight fitting, self-closing door.

(4) Each dressing room, toilet room, and fixture shall be:

(a) Kept in a clean condition;

(b) Kept in good repair;

(c) Well ventilated; and

(d) Well lit.

(5) Sewage and other liquid waste shall be disposed of in a sanitary manner.

G. Water Supply. Water for plant purposes shall be:

(1) From a supply properly located, protected, and operated;

(2) Easily accessible;

(3) Adequate; and

(4) Of a safe, sanitary quality.

H. Handwashing Facility. A hand washing facility shall:

(1) Provide:

(a) Either:

(i) Hot and cold running water; or

(ii) Warm running water;

(b) Soap; and

(c) Individual sanitary towels.

(2) Be kept in a clean condition and in good repair.

I. Plant Cleanliness.

(1) A room shall be kept clean, neat, and free of evidence of insects and rodents where:

(a) Milk and a farmstead cheese product is:

(i) Handled;

(ii) Processed; or

(iii) Stored; or

(b) Containers, utensils, or equipment are washed or stored.

(2) Only equipment directly related to processing operations or the handling of containers, utensils, and equipment shall be permitted in a room where:

(a) Receiving;

(b) Processing;

(c) Cooling;

(d) Aging;

(e) Packaging;

(f) Bulk milk is stored; or

(g) A cheese product is stored.

J. Sanitary Piping.

(1) The material of a sanitary piping fitting and connection exposed to milk, cheese products, or liquids drawn into milk and cheese products shall be:

(a) Smooth;

(b) Impervious;

(c) Corrosion resistant;

(d) Nontoxic;

(e) Easy cleanable; and

(f) An approved surface for food product contact.

(2) All piping shall be in good repair.

K. Construction and Repair of Containers and Equipment.

(1) A multiuse container and equipment that milk and a farmstead cheese product comes into contact with shall be:

(a) Constructed of smooth, impervious, corrosion resistant, and nontoxic material;

(b) Constructed for ease of cleaning; and

(c) Maintained in good repair.

(2) A single service container, closure, gasket, and other article that milk and a farmstead cheese product come in contact with shall be:

(a) Nontoxic; and

(b) Manufactured, packaged, transported, and handled in a sanitary manner.

(3) Articles intended for single service use may not be reused.

L. Clean and Sanitation of Containers and Equipment.

(1) The contact surface of a multiuse container, utensil, and equipment used in the farmstead cheese process from receiving through packaging shall, before each use, be effectively cleaned and sanitized.

(2) Sanitization:

(a) May not adversely affect the equipment, the milk or milk product, or the health of consumers; and

(b) Shall be acceptable to the Department.

(3) A cloth used for cheese making shall be cleaned and sanitized at intervals, and in accordance with the Department.

M. Storage of Cleaned Containers and Equipment. After cleaning, a multiuse milk or farmstead cheese product container, utensil, and equipment shall be:

(1) Transported and stored to assure complete drainage; and

(2) Protected from contamination before use.

N. Storage of Single Service Containers, Utensils, and Materials. A wrap, liner, bag, container, gasket, and other single service article in contact with milk and a farmstead cheese product shall be:

(1) Purchased and stored in a sanitary tube, wrapping, or carton;

(2) Kept in a clean, dry place until used; and

(3) Handled in a sanitary manner.

O. Protection from Contamination.

(1) The facility, plant operation, and equipment shall be located and used in a manner to prevent contamination of a milk and farmstead cheese product, ingredient, container, utensil, and equipment.

(2) A milk or a farmstead cheese product ingredient shall be discarded if:

(a) Spilt;

(b) Overflowing;

(c) Leaking; or

(d) Dropped or has fallen onto an unsanitized contact surface or nonproduct contact surface.

(3) The processing or handling of a product other than milk or a farmstead cheese product in the plant, shall be performed to preclude the contamination of such milk and farmstead cheese products.

(4) The storage, handling, and use of a poisonous or toxic material shall be performed to preclude the contamination of:

(a) A milk and a farmstead cheese product;

(b) An ingredient of milk and a farmstead cheese product; or

(c) The product contact surface of a container, utensil, and equipment.

P. Cross Contamination.

(1) During processing, a pipeline and equipment used to contain or conduct milk and a farmstead cheese product shall be effectively separated from each tank or circuit containing cleaning or sanitizing solutions.

(2) Separation shall be accomplished by:

(a) Physically disconnecting a connection point between each tank or circuit containing a cleaning or sanitizing solution from a pipeline and equipment used to contain or conduct a milk or farmstead cheese product; or

(b) A method approved by the Department.

(3) The farmstead cheese processor shall provide a means to prevent contamination of milk and a farmstead cheese product, container, utensil, and equipment from dripping, spillage, and splash from an overhead piping, platform, or mezzanine.

(4) A product that may create a public health hazard may not be handled in the plant.

(5) Permission to handle a product other than farmstead cheese or to conduct an operation in equipment or a room, other than those designated, shall be provisional and subject to revocation if found objectionable.

Q. Raw Milk Cooling and Farmstead Cheese Processing.

(1) Raw milk shall be maintained at 7ºC (45ºF) or less until processed.

(2) Farmstead cheese shall meet the definition of a hard cheese as found in 21 CFR 133.150 which states hard cheese:

(a) Contains not more than 39 percent of moisture; and

(b) Solids contain not less than 50 percent of milk fat, as determined by the methods prescribed in 21 CFR 133.5(a), (b), and (d).

(3) Farmstead cheese shall be cured at a temperature of not less than 35˚F for not less than 60 days.

R. Personnel Sanitation.

(1) An individual shall wash their hands thoroughly before commencing a plant function and as often as may be required to remove soil and contamination.

(2) An employee may not resume work after visiting the toilet room without thoroughly washing their hands.

(3) An individual shall wear clean outer garments while engaged in the:

(a) Handling of raw milk and ingredients;

(b) Processing of a farmstead cheese product;

(c) Storage of a farmstead cheese product;

(d) Transportation of a farmstead cheese product;

(e) Packaging of a farmstead cheese product; and

(f) Handling of a container, utensil, and equipment.

(4) An individual, while engaged in the processing of milk or a farmstead cheese product, shall:

(a) Wear an adequate hair covering;

(b) Abstain from tobacco use;

(c) Wear clean and sanitized footwear;

(d) Maintain trim and clean fingernails and not wear false fingernails; and

(e) Abstain from any activity that may contaminate food.

(5) The farmstead cheese processor shall ensure that education and training is provided to an employee in:

(a) Food processing and handling;

(b) Personal hygiene; and

(c) Plant sanitation.

S. Vehicles.

(1) A vehicle used for the transportation of raw milk and a farmstead cheese product shall be constructed and operated so that the milk and the farmstead cheese product is maintained at 7ºC (45ºF) or less and is protected from contamination.

(2) A vehicle used to transport milk and a farmstead cheese product may not be used to transport or contain a substance that may be toxic or harmful to humans.

T. Surroundings. Plant surroundings shall be kept neat, clean, and free from conditions which:

(1) Attract or harbor flies, other insects, or rodents; or

(2) Otherwise constitute a nuisance.

.08 Examination and Standards of Raw Milk, Farmstead Cheese Finished Products, and Water Supply.

A. Raw Milk Sampling and Testing Standards.

(1) The farmstead cheese processor is responsible for the collection and cost associated with the sampling and testing of raw milk used for the manufacture of farmstead cheese;

(2) Sampling shall be conducted by an industry plant sampler;

(3) The raw milk used for the manufacture of farmstead cheese shall be tested monthly for:

(a) Bacteria;

(b) Drug residue;

(c) Temperature;

(d) Odor; and

(e) Appearance.

B. Raw Milk Quality Standards.

(1) A standard plate count of raw milk for farmstead cheese may not exceed 500,000 per milliliter;

(2) Raw milk shall meet the following drug residue standards:

(a) Raw milk for farmstead cheese shall be negative for drug residue.

(b) Before processing, the industry plant sampler shall collect a representative sample of raw milk used in the manufacture of farmstead cheese; and

(c) An official laboratory or officially designated laboratory shall conduct drug residue testing for the presence of drug residue in accordance with the Grade "A" Pasteurized Milk Ordinance, Appendix N.

(3) Raw milk shall meet the following temperature standards:

(a) Raw milk for farmstead cheese shall be cooled to 7˚C (45°F) or less within two hours after initial milking;

(b) The blend temperature after the first and subsequent milkings may not exceed 10°C (50°F).

(c) Raw milk for farmstead cheese shall be cooled to and maintained at a temperature not to exceed 7°C (45°F).

(4) The appearance and odor of raw milk used for farmstead cheese shall be free from:

(a) Objectionable feed;

(b) Off odors; and

(c) Abnormalities.

(5) In accordance with the Department, an official laboratory or officially designated laboratory shall test a composite milk sample and shall rate it "acceptable for use" if there is no actionable residue for:

(a) Radionuclides;

(b) Pesticides; and

(c) Herbicides.

(6) Added water shall be tested on an individual producer's milk in accordance with the Department's official laboratory or officially designated laboratory and rated "acceptable for use" if the test result is-0.540˚H or less.

C. Farmstead Cheese Finished Product Sampling.

(1) The farmstead cheese processor is responsible for the collection and cost associated with the sampling and testing of a finished farmstead cheese product;

(2) Sampling shall be conducted by an industry plant sampler;

(3) The initial three finished products of each farmstead cheese shall be tested for:

(a) Salmonella;

(b) Escherichia coli (E. coli);

(c) Listeria monocytogenes;

(d) Staphylococcus aureus;

(e) Enterohemorrhagic E. coli (0157:H7); and

(f) Percent moisture.

(4) The finished product of each farmstead cheese shall be tested annually and is in accordance with §C(3) of this regulation.

D. Farmstead Cheese Finished Product Quality Standards. The farmstead cheese finished product:

(1) Shall test negative for Salmonella, Enterohemorrhagic E. coli (0157:H7), and Listeria monocytogenes;

(2) Shall test less than 10 cfu/gram for E. coli and Staphylococcus aureus; and

(3) May not be greater than 39 percent moisture.

E. Farmstead Cheese Processing Standards. The farmstead cheese:

(1) Finished product shall be aged at least 60 calendar days before offering for sale;

(2) Shall be aged or cured at a temperature of not less than 35˚F; and

(3) Finished product may not contain more than 39 percent moisture at the end of the aging period.

F. The farmstead cheese processor shall ensure that the result of all tested farmstead cheese finished products are submitted and approved by the Department before further processing or sale of the farmstead cheese.

G. The Department may request that the farmstead cheese processor have the farmstead cheese finished product tested, as needed, as set forth in the United States Food and Drug Administration Food Compliance Program, "Domestic and Imported Cheese and Cheese Products," to ensure compliance with this regulation.

H. Water Samples.

(1) Samples for bacteriological testing of the plant water supply and, if applicable, any other water used for cooling and processing shall be collected:

(a) Upon the initial approval of the physical structure;

(b) Every 6 months thereafter; and

(c) When any repair or alteration to the water supply system has been made.

(2) Plant water for testing shall be obtained from a potable water supply system that complies with Regulation .15A of this chapter.

(3) Samples shall be taken by the Department and examined by an official laboratory.

I. Record Keeping Required.

(1) Current written step by step standard operating procedures are required for:

(a) Product trace back;

(b) Product recalls;

(c) Drug residue testing;

(d) Cleaning of the equipment and facility;

(e) Sanitizing equipment and product contact surfaces;

(f) Receiving, processing, aging, storage, and packaging of each type of farmstead cheese produced;

(g) Pest control and preventative maintenance; and

(h) Employee training including personal hygiene practices;

(2) Processing records shall include the:

(a) Product being manufactured;

(b) Drug residue testing as set forth in the Grade "A" Pasteurized Milk Ordinance, Appendix N;

(c) Date and result of the raw milk testing;

(d) Date and result of the finished farmstead cheese product tested;

(e) The pH of each batch after inoculation at 5 hours, 24 hours, and the end of aging; and

(f) Raw ingredient:

(i) Origin;

(ii) Storage;

(iii) Transportation; and

(iv) Other information required by the Department; and

(g) Temperature, as set forth in Regulation .07 of this chapter.

(3) For each batch of farmstead cheese produced, a make record shall be maintained and include:

(a) The name of the product being produced;

(b) The temperature of the milk being used;

(c) A unique identifier assigned at the start of the production of that batch of cheese shall be:

(i) Used to track each batch of cheese through the production process; and

(ii) Included on the product label;

(d) The amount of product being produced;

(e) The name and amount of each ingredient added;

(f) The cook temperature;

(g) The pH of the product after inoculation at 5 hours, 24 hours, and the end of aging; and

(h) The production date for the product which is the date the batch entered the aging room to start the aging process; and

(4) Each record shall be available to the Department for review during each inspection.

.09 Enforcement Actions.

A. Raw Milk Enforcement.

(1) When two of the last four consecutive bacterial count or cooling temperatures, taken on separate days, exceed the limit for raw milk, as set forth in this chapter, the Department shall:

(a) Send to the permit holder a written notice of intent to suspend the permit which shall remain in effect as long as two of the last four consecutive samples exceed the limit of the standard; and

(b) Take an additional sample within 21 days of the written notice of intent to suspend, but not before 3 days have elapsed.

(2) When the standard set forth in Regulation .08 of this chapter is violated three of the last five consecutive bacterial counts or cooling temperature tests the Department shall immediately suspend the permit in accordance with this section, Regulation .20 of this chapter, and Health-General Article, §21-418, Annotated Code of Maryland.

(3) The Department shall conduct an investigation and take enforcement action in accordance with the Grade "A" Pasteurized Milk Ordinance, Appendix N, when a drug test is positive.

(4) When an odor and appearance evaluation results in rejection of milk:

(a) The Department shall conduct an investigation to determine the reason for the rejection; and

(b) A person may not offer the rejected milk for sale.

(5) When a pesticide, herbicide, or radionuclide residue test is positive:

(a) The Department shall conduct an investigation to determine the cause and the cause shall be corrected;

(b) An additional sample shall be taken and tested for the pesticide, herbicide, or radionuclide, and no milk shall be used for processing or offered for sale until it is shown by a subsequent sample to be free of the positive residue; and

(c) The Department may suspend a permit based on the presence of pesticide, herbicide, or radionuclide residue.

B. Farmstead Cheese Finished Product Enforcement.

(1) When the pathogen testing result exceeds the limits set forth in Regulation .08 of this chapter, the cheese in violation may not be offered for sale, and the:

(a) Department shall conduct an investigation to determine the cause; and

(b) Cause shall be corrected prior to resumption of processing.

(2) A person may not offer for sale a farmstead cheese product if the processing requirement is in violation of this chapter at the end of the aging period:

(a) Days of aging;

(b) Temperature during aging; or

(c) Percent moisture.

(3) Cheese may be detained and further pathogen testing may be required to show compliance.

C. Reinstatement of Permits.

(1) To reinstate a permit that is suspended for either a bacteria count or cooling violation the permit holder shall:

(a) Submit a written application for the reinstatement of the permit;

(b) Successfully complete a Department inspection of the facility within 1 week of a reinstatement request to ensure that the condition responsible for the violation is corrected;

(c) Accept a temporary permit if it has determined that the facility is in compliance; and

(d) Complete an accelerated sampling program at the rate of no more than two samples per week on separate days within a 3-week period to confirm that the violation has been corrected.

(2) The Department shall fully reinstate the permit upon compliance with the appropriate bacteria and temperature standard as determined in accordance with Regulation .08 of this chapter.

(3) To reinstate a suspended permit for violations other than bacteriological, drug residue test, or cooling temperature standards, the permit holder shall:

(a) Notify the Department that the violation has been corrected; and

(b) Successfully complete a Department inspection of the facility within 1 week of a reinstatement request to ensure that the condition responsible for the violation is corrected.

(4) When a permit suspension has been due to a positive drug residue, the permit shall be reinstated in accordance with the provisions of the Grade "A" Pasteurized Milk Ordinance, Appendix N, incorporated by reference in Regulation .03 of this chapter.

.10 Improper Handling of Milk Products.

A. Pursuant to Health-General Article, §21-428, Annotated Code of Maryland, the Department shall impound milk or a milk product intended for human consumption due to improper handling.

B. The Department may:

(1) Issue an order to make the milk or milk product unusable for consumption before disposing of the milk or milk product; and

(2) Impose a civil monetary penalty, as set forth in §C of this regulation.

C. The Department shall determine the amount of the civil monetary penalty by multiplying the volume of the milk listed on the shipping documents by the current milk price of the applicable market, as set by the Federal Milk Market Administrator on the date of the impounding.

D. A person subject to an impoundment order may seek legal recourse, as set forth in Health-General Article §21-428, Annotated Code of Maryland, by:

(1) Appealing a civil penalty; or

(2) Bringing an action for damages.

.11 Labeling of Farmstead Cheese.

A farmstead cheese processor shall:

A. Ensure all labels for a farmstead cheese product conform to the standards and requirements established by:

(1) The Federal Food, Drug, and Cosmetic Act, 21 USC, §§341—350f;

(2) The Nutrition Labeling and Education Act of 1990 (Public Law 101-535);

(3) 21 CFR Parts 101 and 133; and

(4) Health-General Article, §21-424, Annotated Code of Maryland; and

B. Conspicuously mark each package containing farmstead cheese with the:

(1) Name of the product;

(2) Name of the manufacturer that made the farmstead cheese;

(3) Address of the manufacturer if:

(a) Listed in the local phone book, the address may consist of the city and state; or

(b) Not listed in the local phone book, the street address shall be included;

(4) Plant license number;

(5) Each ingredient in order of predominance;

(6) Net weight of the product in English and metric units;

(7) Batch identification of the product;

(8) Required nutritional information;

(9) Statement:

(a) "Cured or aged for 60 days at a temperature not less than 35° F;" or

(b) A variation of this phrase that conveys the fact that the product has been aged at least 60 days; and

(10) Statement that the milk was not pasteurized, using terms such as "raw milk" or "not pasteurized."

.12 Sale of Raw Milk.

Pursuant to Health-General Article, §21-434, Annotated Code of Maryland, a person may not sell raw milk for human consumption.

.13 Animal Health.

All raw milk for farmstead cheese shall meet the Animal Health requirements as set forth in the Grade "A" Pasteurized Milk Ordinance, Section 8, incorporated by reference in Regulation .03 of this chapter.

.14 Plant Construction and Plan Submission.

Pursuant to Health-General Article, §§21-410, 21-411, and 21-413 for construction, reconstruction, or extensive alteration of a milk facility, a person shall submit to the Department:

A. A plan and specification before:

(1) A plant is constructed, reconstructed, or extensively altered;

(2) An existing building or structure is converted or remodeled for use as a plant;

(3) A plant process is added, replaced, relocated, or modified; or

(4) A clean-in-place (CIP), other washing system, or part of a CIP is added, modified, or replaced;

B. A plan and drawing bearing the name of a professional engineer or a representative of the company performing the work;

C. Contact information for the facility, including:

(1) The full name, title, and telephone number of each applicant;

(2) The name of the plant;

(3) The mailing address;

(4) The location; and

(5) Directions to the site;

D. A narrative describing the scope and purpose of the project, including a projected timeline from start to completion;

E. An estimate of the finished product output per day;

F. A sample product label for each product;

G. A list of the:

(1) Type of raw milk cheese to be processed and sold;

(2) Each raw ingredient and the ingredient source; and

(3) Single service container source;

H. A scale drawing showing the layout and arrangement of an area within and around the plant, including the:

(1) Processing area;

(2) Chemical storage;

(3) Dry storage;

(4) Ingredient and product storage;

(5) Receiving area;

(6) Load out area;

(7) Laboratory space;

(8) Office;

(9) Restroom facility;

(10) Locker or similar storage facility for the storage of personal items; and

(11) Separate area for employees to eat and drink beverages;

I. A scale drawing showing the location of all equipment, including the:

(1) Milk processing equipment;

(2) Milk tank and silo;

(3) CIP system;

(4) Glycol water tank;

(5) Recirculating cooling water tank;

(6) Boiler; and

(7) Boiler makeup tank;

J. A scale drawing showing the location of plumbing and each plumbing fixture, including the:

(1) Water line;

(2) Sewer line;

(3) Hand sink;

(4) Toilet;

(5) Utility sink;

(6) Utensil washing sink;

(7) Floor drain;

(8) Floor sink;

(9) Hose station; and

(10) Back flow prevention device;

K. A legend for each drawing;

L. Specifications for:

(1) Ventilation, including, but not limited to, the type and location of:

(a) An air filter;

(b) An air pump; and

(c) A compressor; and

(2) Construction material for the building and interior finish;

M. A list and description of boiler, glycol, and recirculating water additive and water treatment;

N. A description of the:

(1) Type of disposal for wastewater and sewage;

(2) Source and system for the facility's potable water supply;

(3) Lighting fixture and placement; and

(4) Recirculating cooling system;

O. Each specification sheet, including manufacturer and model number of the plant equipment;

P. A document that lists the flow for a products through the plant identifying each functional piece of equipment and each process used in processing and packaging;

Q. A CIP flow diagram from the makeup tanks through all equipment;

R. Information and drawings on how separation from product lines will be accomplished, if applicable;

S. Written step by step standard operating procedures for:

(1) Receiving, processing, aging, storing, and packaging of each type of farmstead cheese product;

(2) Drug residue testing;

(3) Cleaning and sanitization for all equipment;

(4) Cleaning and sanitization for the facility;

(5) Product trace back, inclusive of production/make sheet; and
(6) Product recall;
T. Pest and mite control program;
U. A specification and standard operating procedure for how wood shelving used in the aging of cheese will be:
(1) Designed;
(2) Installed;
(3) Used;
(4) Cleaned;
(5) Sanitized;
(6) Maintained; and
(7) Inspected by the farmstead cheese processor; and
V. Employee training and personal hygiene practices.

.15 Physical Plant Requirements for Plants.
A. Water used at a farmstead cheese facility shall:
(1) Be obtained from a potable water supply system that complies with:
(a) Environment Article, Title 9, Annotated Code of Maryland;
(b) COMAR 26.04.04; and
(c) The Grade "A" Pasteurized Milk Ordinance, Appendix D, incorporated by reference in Regulation .03 of this chapter;
(2) Be installed in a manner that prevents backflow or back siphoning;
(3) Be separate from a nonpotable water supply system so that nonpotable water can be drawn or discharged into the potable water supply system;
(4) Provide hot and cold running water in an area where milk processing equipment is washed; and
(5) Have sufficient water capacity, pressure, and hot water generation and distribution to meet peak demands throughout the washing system;
B. Hand sinks shall have:
(1) Either:
(a) Hot and cold running water; or
(b) Warm running water;
(2) A supply of hand cleaning soap or detergent; and
(3) A sanitary means of drying hands, such as individual towels or a hand drying device;
C. A sewage system shall be constructed and operated in conformance with applicable State and local laws, ordinances, and regulations;
D. Plumbing shall be sized, installed, and maintained in accordance with applicable State and local plumbing laws, ordinances, and regulations; and
E. Electrical systems at the facility shall:
(1) Comply with State and local electrical laws, ordinances, and regulations;
(2) Provide adequate lighting sources that furnish at least 30 foot candles of light in all working areas and rooms where:
(a) Milk or a milk product is handled, processed, packaged, or stored; or
(b) A container, utensil, and equipment are washed; and
(3) Provide adequate lighting sources that furnish at least five foot candles of light in dry storage and cold storage rooms.

.16 Plan Review and Approval Process.
A. An applicant may not construct, reconstruct, or extensively alter a plant without prior plan approval from the Department.
B. An applicant for a permit shall submit a plan to the Department that includes the requirements set forth in Regulations .14 and .15 of this chapter.
C. The Department shall:
(1) Review the plan submitted under this regulation to ensure compliance with the requirements set forth in Regulations .14 and .15 of this chapter; and
(2) Inform the applicant:
(a) That the plan has been received;
(b) If additional information is required to complete the plan review;
(c) Whether the plan is approved or denied; and
(d) Of the appeal process, if the plan is denied.

.17 Personnel Health.
No individual affected with any disease capable of being transmitted to others through the contamination of food shall work at a plant in any capacity which brings them into direct contact with:
A. Raw milk, a farmstead cheese product, and a food ingredient; or
B. Associated raw milk and a food product contact surface.

.18 Procedure When Infection or High Risk of Infection is Suspected or Discovered.
In accordance with Health-General Article, §§18-102, 21-253, 21-254, and 21-435, Annotated Code of Maryland, when an individual working at a plant has a communicable disease or is a carrier of a communicable disease the Department:
A. Shall immediately exclude the:
(1) Individual from handling milk, milk products, milk containers, and milk equipment; and
(2) Milk supply that is handled by the infected individual from distribution and use; and
B. May require medical and biological examination of the individual and the individual's bodily discharges.

.19 Confidentiality.
The Department shall maintain confidentiality of records submitted by a person in accordance with §4-335 of the General Provisions Article, Annotated Code of Maryland.

.20 Suspension and Revocation of Permits.
A. When a farmstead cheese processor is found in violation of this chapter, the Department may suspend or revoke a permit as set forth in this regulation and Health-General Article, §§21-211, 21-418, or 21-419, Annotated Code of Maryland.
B. Except as otherwise provided in this regulation, before suspending a permit, the Department shall give to the farmstead cheese processor notice of intent to suspend as provided by Health-General Article, §21-418, Annotated Code of Maryland.
C. The Department may suspend a permit if the farmstead cheese processor fails or neglects to correct a violation within the specified time period.
D. If a permit has been suspended more than once, the Department may revoke the permit.
E. When an immediate and substantial danger is found to exist to public health, safety, or welfare that requires emergency action, pursuant to Health-General Article, §21-418(c) and State Government Article, §10-226(c)(2), Annotated Code of Maryland, the:
(1) Department shall:
(a) Summarily suspend the permit;
(b) Order the farmstead cheese processor to cease operation immediately; and
(c) Promptly provide the farmstead cheese processor with:
(i) A written notice of the suspension of the permit;
(ii) The reasons for the suspension; and
(iii) An opportunity to be heard; and

(2) The farmstead cheese processor shall immediately cease operation upon the receipt of the summary suspension order.

.21 Appeals Process.

In accordance with the Administrative Procedures Act and Health-General Article, §21-419 the Department shall ensure that an opportunity for a hearing is provided to a farmstead cheese processor whose plan review or permit has been:

A. Denied;

B. Suspended; or

C. Revoked.

VAN T. MITCHELL
Secretary of Health and Mental Hygiene

Subtitle 16 HOUSING

Notice of Proposed Action

[16-007-P]

The Secretary of Health and Mental Hygiene proposes to:

(1) Amend Regulations **.02**, **.06**, **.08**, **.14**, **.15**, **.21**, and **.51**, repeal existing Regulation **.22** and adopt new Regulation **.22**, and repeal existing Regulations **.23—.33** under **COMAR 10.16.06 Certification for Youth Camps**; and

(2) Adopt new Regulations **.01—.16** under a new chapter, **COMAR 10.16.07 Health and Medication Requirements for Youth Camps**.

Statement of Purpose

The purpose of this action is to align youth camp regulations with legislative mandates resulting from the 2015 legislative session and to reorganize health and safety protocols to better clarify medication administration for youth camps. Specifically, a helmet requirement for rock climbing and high ropes activities has been added and a new chapter dedicated to all youth camp health and medication requirements will be promulgated (COMAR 10.16.07). This chapter will include requirements for the emergency treatment of adverse reactions to allergens or insect stings as mandated by Senate Bill 344.

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 February 8, 2016. A public hearing has not been scheduled.

10.16.06 Certification for Youth Camps

Authority: Family Law Article, §§5-560—5-568, 5-704, and 5-705; Health-General Article, §§2-104, 14-402(d), 14-403, 18-318, and 18-403; Health Occupations Article, §§8-6A-01—8-6A-16 and 14-306; Annotated Code of Maryland

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

[(2) "Acute illness" means an abnormal condition of the body with rapid onset associated with recognizable symptoms and signs, such as chicken pox, gastroenteritis, influenza, or streptococcal sore throat, which has a short course of duration, as opposed to a chronic illness of long duration lasting 30 calendar days or more.

(3) Administer Medication.

(a) "Administer medication" means the act of providing, preparing, or applying a nonprescription or prescription medication.

(b) "Administer medication" does not include:

(i) Reminding a camper to take a nonprescription or prescription medication; or

(ii) Providing physical assistance with opening and removing a nonprescription or prescription medication from the container or locked storage.**]**

[(4)**]** *(2)*—**[**(12)**]** *(10)* (text unchanged)

[(13)**]** *(11)* "Critical violation" means failure to comply with:

(a)—(c) (text unchanged)

(d) **[**Regulation .22A(1) and (2) of this chapter**]** *COMAR 10.16.07.03A(1) and (2)*;

(e) A majority of the required procedures in **[**Regulation .22A(4) and (5) of this chapter**]** *COMAR 10.16.07.03A(4) and (5)*;

(f) **[**Regulation .23 of this chapter**]** *COMAR 10.16.07.04*;

(g) **[**Regulation .27A—C of this chapter**]** *COMAR 10.16.07.08A—C*;

(h)—(s) (text unchanged)

[(14)**]** *(12)*—**[**(17)**]** *(15)* (text unchanged)

[(18) "Emergency medication" means a medication, identified by a camper's plan of action for use in case of a medical emergency, for a camper with an identified medical problem.**]**

[(19)**]** *(16)*—**[**(20)**]** *(17)* (text unchanged)

[(21) "Health supervisor" means an individual who:

(a) Provides health services for a camp; and

(b) Is licensed by the State as a:

(i) Physician;

(ii) Certified nurse practitioner; or

(iii) Registered nurse.**]**

[(22)**]** *(18)* (text unchanged)

[(23) Identified Medical Problem.

(a) "Identified medical problem" means a chronic physical condition diagnosed by a licensed health care professional that:

(i) Requires specific medical treatment and supervision; and

(ii) If untreated, can adversely affect the general health of the camper.

(b) "Identified medical problem" includes, but is not limited to, asthma, cancer, diabetes, and epilepsy.

(c) "Identified medical problem" does not include a chronic physical condition, which does not typically cause other medical problems or have an adverse effect on the general health of the camper, such as blindness, deafness, or a developmental disability.**]**

[(24)**]** *(19)*—**[**(33)**]** *(28)* (text unchanged)

[(34)**]** *(29)* Recreational Activity.

(a) (text unchanged)

(b) "Recreational activity" includes, but is not limited to:

(i)—(xiii) (text unchanged)

(xiv) Instruction or skill development in an activity listed in **[**§B(34)(b)(i)—(xiii) and (39)**]** *§B(29)(b)(i)—(xiii) and (30)* of this regulation.

[(35)**]** *(30)*— **[**(37)**]** *(32)* (text unchanged)

[(38) "Self-administer medication" means the act of an individual's ingesting, injecting, or applying the individual's own nonprescription or prescription medication when the individual:

(a) Identifies the individual's own nonprescription or prescription medication; and

(b) Follows the directions for use, including the correct route, dose, and frequency.**]**

[(39)**]** *(33)*—**[**(44)**]** *(38)* (text unchanged)

[(45)**]** *(39)* Youth Camp.

(a)—(b) (text unchanged)

(c) "Youth camp" does not include:

(i)—(iv) (text unchanged)

(v) A program that operates before, after, or before and after a child care program's daily session as set forth in **[**§B(45)(c)(i)—(iii)**]** *§B(39)(c)(i)—(iii)* of this regulation;

(vi)—(xi) (text unchanged)

[(46)**]** *(40)* (text unchanged)

.06 Annual Report and Self-Assessment.

A. An operator of a program or activity that complies with Regulation .03 or .04 of this chapter and an operator of a youth camp shall submit an annual report, on a form prescribed by the Department, within 4 weeks of the end of the program, activity, or camp to the Department stating:

(1) (text unchanged)

(2) The number of injuries and illnesses that required an operator to submit a report to the Department under **[**Regulation .25 of this chapter**]** *COMAR 10.16.07.06*; and

(3) (text unchanged)

B. (text unchanged)

.08 Application Procedures and Fees.

A. For a camp that was not issued a certificate or a letter of compliance by the Department in the previous calendar year, an operator shall:

(1)—(2) (text unchanged)

(3) Submit documentation that verifies compliance with or capability of compliance with:

(a)—(b) (text unchanged)

(c) Health **[**program as specified in Regulation .22A(1), (3), and (4)—(6) of this chapter;

(d) Health personnel as specified in Regulation .23 of this chapter;

(e) Camper's health record as specified in Regulation .27 of this chapter;

(f) Staff member's or volunteer's health record as specified in Regulation .29**]** *and medication requirements as specified in Regulation .22* of this chapter;

[(g)**]** *(d)*—**[**(r)**]** *(o)* (text unchanged)

B.—H. (text unchanged)

.14 Denial of a Certificate or Letter of Compliance.

A. (text unchanged)

B. The Department shall deny an application for a certificate or a letter of compliance in writing, setting forth the reason or reasons for the denial, if the operator fails within the time period specified by the Department to correct a violation of:

(1)—(4) (text unchanged)

[(5) Regulation .23A of this chapter;

(6) Regulation .23B and E of this chapter for at least one adult at camp at all times;

(7) Regulation .25 of this chapter;

(8) Regulation .27D of this chapter;

(9) Regulation .28 of this chapter;

(10) Regulation .29D of this chapter;

(11) Regulation .30 of this chapter;

(12) Regulation .31 of this chapter;**]**

[(13)**]** *(5)*—**[**(20)**]** *(12)* (text unchanged)

C.—D. (text unchanged)

.15 Suspension or Revocation of a Certificate or Letter of Compliance.

A. (text unchanged)

B. The Department shall suspend or revoke a certificate or letter of compliance if the operator fails within the time period specified by the Department to correct a violation of:

(1)—(3) (text unchanged)

[(4) Regulation .23A of this chapter;

(5) Regulation .23B and E of this chapter for at least one adult at camp at all times;

(6) Regulation .25 of this chapter;

(7) Regulation .27D of this chapter;

(8) Regulation .28 of this chapter;

(9) Regulation .29D of this chapter;

(10) Regulation .31 of this chapter;

(11) Regulation .30 of this chapter;**]**

[(12)**]** *(4)*—**[**(19)**]** *(11)* (text unchanged)

C.—D. (text unchanged)

.21 Criminal Background Investigations.

A. An operator shall:

(1) (text unchanged)

(2) Ensure that before the camp operates, the Department has on file for the personnel administrator a:

(a) (text unchanged)

(b) **[**Notice**]** *Response* from Child Protective Services indicating the *status of the* background clearance; and

(3) (text unchanged)

B. (text unchanged)

C. The personnel administrator shall:

(1) Ensure that, for an individual employed at a camp a:

(a)—(b) (text unchanged)

(c) **[**Notice**]** *Response* from Child Protective Services indicating the *status of the* background clearance is kept on file with the employer once received from Child Protective Services;

(2)—(3) (text unchanged)

D.—G. (text unchanged)

.22 Health and Medication Requirements

An operator shall ensure that a camp complies with COMAR 10.16.07.

.51 Other Specialized Activities.

A.—C. (text unchanged)

D. Except when an auto-belay system is utilized, an individual participating in rock climbing or high ropes activities, regardless of whether the activity occurs on manufactured equipment or natural formations, shall wear a helmet.

10.16.07 Health and Medication Requirements for Youth Camps

Authority: Family Law Article, §§5-560—5-568, 5-704, and 5-705; Health-General Article, §§2-104, 13-701-13-708; 14-402(d), 14-403, 18-318, and 18-403; Health Occupations Article, §§8-6A-01—8-6A-16 and 14-306; Annotated Code of Maryland

.01 Scope.

This chapter applies to programs or activities that meet the definition of youth camp as defined in COMAR 10.16.06.02.

.02 Definitions.

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

B. Terms Defined.

(1) "Acute illness" means an abnormal condition of the body with rapid onset associated with recognizable symptoms and signs, such as chicken pox, gastroenteritis, influenza, or streptococcal sore throat, which has a short course of duration, as opposed to a chronic illness of long duration lasting 30 calendar days or more.

(2) Administer Medication.

(a) "Administer medication" means the act of providing, preparing, or applying a medication.

(b) "Administer medication" does not include:

(i) Reminding a camper to take a medication; or

(ii) Providing physical assistance with opening and removing a medication from the container or locked storage.

(3) "Adult" has the meaning stated in COMAR 10.16.06.02.

(4) "Agent" means an individual who:

(a) Is at least 18 years old;

(b) Has successfully completed, at the expense of an applicant, an emergency epinephrine educational training program approved by the Department; and

(c) Is appointed by a certificate for emergency epinephrine holder to administer auto–injectable epinephrine in an emergency situation.

(5) "Anaphylaxis" means a sudden, severe, and potentially life–threatening allergic reaction that occurs when an individual is exposed to an allergen.

(6) "Applicant" means an individual applying for a Certificate for Emergency Epinephrine.

(7) "Auto–injectable epinephrine" means a portable, disposable drug delivery device that contains a premeasured single dose of epinephrine that is used to treat anaphylaxis in an emergency situation.

(8) "Camp" means a youth camp as defined in COMAR 10.16.06.02.

(9) "Camper" has the meaning stated in COMAR 10.16.06.02.

(10) "Certificate" means a document showing the authority to operate a youth camp, issued by the Department of Health and Mental Hygiene pursuant to COMAR 10.16.06 and Health-General Article, §14-403, Annotated Code of Maryland, which displays the name of the person granted the authority.

(11) "Certificate for emergency epinephrine" means a certificate or an endorsement on the operating certificate of a youth camp issued by the Department of Health and Mental Hygiene to an individual who operates a youth camp under COMAR 10.16.06 to obtain, store, and administer auto–injectable epinephrine.

(12) "Certificate for emergency epinephrine holder" means an individual who is authorized by the Department of Health and Mental Hygiene to obtain, store, and administer auto–injectable epinephrine to be used in an emergency situation.

(13) "Day" has the meaning stated in COMAR 10.16.06.02.

(14) "Department" has the meaning stated in COMAR 10.16.06.02.

(15) "Director" has the meaning stated in COMAR 10.16.06.02.

(16) "Emergency medication" means a medication, identified by a camper's plan of action for use in case of a medical emergency, for a camper with an identified medical problem.

(17) "Health supervisor" means an individual who:

(a) Provides health services for a camp; and

(b) Is licensed by the State as a:

(i) Physician;

(ii) Certified nurse practitioner; or

(iii) Registered nurse.

(18) Identified Medical Problem.

(a) "Identified medical problem" means a chronic physical condition diagnosed by a licensed health care professional that:

(i) Requires specific medical treatment and supervision; and

(ii) If untreated, can adversely affect the general health of the camper.

(b) "Identified medical problem" includes, but is not limited to:

(i) Asthma;

(ii) Cancer;

(iii) Diabetes; and

(iv) Epilepsy.

(c) "Identified medical problem" does not include a chronic physical condition, which does not typically cause other medical problems or have an adverse effect on the general health of the camper, such as:

(i) Blindness;

(ii) Deafness; or

(iii) A developmental disability.

(19) "Medication" means any nonprescription or prescription medication present at camp.

(20) "Operate" means to supervise, control, conduct, or manage a youth camp as:

(a) An owner;

(b) An agent of the owner;

(c) A lessee of the owner;

(d) A director; or

(e) An independent contractor.

(21) "Operator" has the meaning stated in COMAR 10.16.06.02.

(22) "Person" has the meaning stated in COMAR 10.16.06.02.

(23) "Secretary" has the meaning stated in COMAR 10.16.06.02.

(24) "Self-administer medication" means the act of an individual's ingesting, injecting, or applying the individual's own medication when the individual:

(a) Identifies the individual's own medication; and

(b) Follows the directions for use, including the correct route, dose, and frequency.

(25) "Successfully completed" means to pass a written examination with a grade of 75 percent or higher.

.03 Health Program.

A. An operator shall prepare and implement a written health program that:

(1) Is approved annually, in writing, by a physician, certified nurse practitioner, or registered nurse licensed to practice in the State;

(2) Is on file in the headquarters or office of the camp and is available to the camp staff members;

(3) Includes the name, title, and license number of the health supervisor;

(4) Includes procedures for the camp staff members to:

(a) Obtain camper, staff, and volunteer health information;

(b) Notify the camp health supervisor when a camper has an identified medical problem to ensure that there is a plan of action at the camp in case of a medical emergency;

(c) Disseminate information to staff members that work with a camper having a health problem;

(d) Care for a camper with an identified medical problem;

(e) Maintain confidentiality regarding all health information on campers and staff members;

(f) Observe campers each day for easily discernible signs of injury or illness;

(g) Handle health emergencies and accidents;

(h) Use emergency ambulance services and 911 services;

(i) Care for and supervise an injured or ill camper until the camper is returned to the parent, guardian, or the parent's or guardian's designee;

(j) Notify a parent, guardian, or the parent's or guardian's designee when a camper is observed to be injured or ill;

(k) Report health situations in accordance with Regulations .06 and .07 of this chapter; and

(l) Prevent the spread of an infectious disease using:

(i) Hand washing procedures;

(ii) Personal protective equipment;

(iii) Personal hygiene; and

(iv) An exposure control plan;

(5) Includes procedures for handling medication at camp, in accordance with Regulation .14 of this chapter; and

(6) If using electronic records, includes procedures for, in the event that a power or server outage prevents access to the electronic record:

(a) Accessing camper, staff, and volunteer health information;

(b) Documenting injuries, illnesses, and other reportable diseases and conditions in a paper health log; and

(c) Documenting medication administration on a paper form.

B. An operator shall ensure and document that, not more than 30 calendar days before working at the camp, each staff member or volunteer:

(1) Is trained in the health program;

(2) Demonstrates knowledge of the health program procedures; and

(3) Is provided with the opportunity to discuss the procedures and have any questions answered by a supervisor.

C. A staff member or volunteer shall conduct health procedures according to the health program.

.04 Health Personnel.

An operator shall ensure that:

A. A camp health supervisor is:

(1) Available for consultation at all times when campers are present at a camp; and

(2) On site at all times when campers are present in a camp where 50 percent or more of the campers have identified medical problems;

B. Two adults with cardiopulmonary resuscitation certification by a national organization with a training program in cardiopulmonary resuscitation are on duty at all times;

C. If a camp has campers participating in a trip and campers remaining at camp, an adult with cardiopulmonary resuscitation certification by a national organization with a training program in cardiopulmonary resuscitation is on duty:

(1) With the trip; and

(2) At the camp;

D. The cardiopulmonary resuscitation certification by the national organization is appropriate to the age of campers and staff members;

E. Two adults with first aid certification by a national organization with a training program in first aid are on duty at all times; and

F. If a camp has campers participating in a trip and campers remaining at camp, an adult with first aid certification by a national organization with a training program in first aid is on duty:

(1) With the trip; and

(2) At the camp.

.05 Health Log.

An operator shall ensure that:

A. A camp staff member records in the camp health log, for all injuries, illnesses, medication errors, and reportable diseases and conditions as delineated in COMAR 10.06.01, the:

(1) Date;

(2) Name of individual;

(3) Ailment;

(4) Treatment prescribed; and

(5) Name of the individual administering care or initials of the individual administering care if a list of names and initials is provided at the front of the health log;

B. The camp health log is:

(1) Written on lined paper;

(2) Maintained in a confidential manner;

(3) Stored in a locked compartment;

(4) Available at all times for review by the Department; and

(5) Retained for a period of 3 years;

C. Each entry in the camp health log is:

(1) Recorded in ink and no lines are skipped, providing a permanent record that is not easily modified; and

(2) Legibly signed by the individual administering care at the camp; and

D. The camp health log is a:

(1) Bound volume, such as a composition notebook;

(2) Spiral book with sequentially numbered pages; or

(3) Dedicated paper record per individual.

.06 Required Health Reports.

For all campers, staff members, and volunteers, an operator shall ensure that:

A. An injury or illness that results in death or that requires resuscitation or admission to a hospital is reported:

(1) Immediately to the health supervisor and, in the case of a minor, to the minor's parent or guardian;

(2) Verbally to the Department within 24 hours; and

(3) To the Department within 1 week of the incident, on a form that meets the requirements of Regulation .07 of this chapter;

B. An injury that is treated at an off-site medical facility and that results in a positive diagnosis through clinical examination, laboratory test, or X-ray is reported:

(1) Immediately to the health supervisor and, in the case of a minor, to the minor's parent or guardian; and

(2) To the Department within 4 weeks of the end of camp on a form that meets the requirements of Regulation .07 of this chapter;

C. When a camp health supervisor is on duty at the camp, an accident with no apparent injury, such as a fall from a horse, a fall from equipment, or impact from sports equipment, is reported immediately to the health supervisor;

D. When a camp health supervisor is only available for consultation and not on duty at the camp, the minor's parent or guardian is notified as soon as possible and before the end of the camp day, verbally or in writing, of:

(1) An illness or injury that is not included in §A or B of this regulation; or

(2) An accident with no apparent injury, such as:

(a) A fall from a horse;

(b) A fall from equipment; or

(c) Impact from sports equipment;

E. An outbreak of a disease or a condition that is required to be reported pursuant to COMAR 10.06.01 is reported:

(1) Immediately to the health supervisor and in the case of a minor, to the minor's parent or guardian;

(2) Verbally to the Department within 24 hours; and

(3) To the Department within 1 week of the incident on a form that meets the requirements of Regulation .07 of this chapter;

F. A medication error or incident that required the administration of auto-injectable epinephrine is reported:

(1) Immediately to the health supervisor and, in the case of a minor, to the minor's parent or guardian; and

(2) To the Department within 4 weeks of the end of camp on a form that meets the requirements of Regulation .07 of this chapter; and

G. A camp health supervisor and camp director shall:

(1) Annually review all health log records and identify opportunities to reduce incidents, accidents, injuries, and medication errors; and

(2) Make available to the Department for review written documentation of the findings of the review of health log records.

.07 Reportable Condition Report Form.

An operator shall ensure that:

A. Any reportable condition described in Regulation .06 of this chapter is reported to the Department on a form prescribed by the Department;

B. Each report form is:

(1) Completed in duplicate; and

(2) Signed and dated by the person completing the form;

C. The original report form is maintained for at least 3 years; and

D. A copy of the report is forwarded to the Department with personal identifiers removed to maintain confidentiality.

.08 Camper's Health Record.

An operator shall ensure that each camper has on file at the time of admission to a youth camp a written personal health record that includes:

A. The name of the camper's primary care physician or other provider of medical care;

B. Pertinent information on any health problem including a physical, psychiatric, or behavioral problem;

C. The name and phone number of a parent or legal guardian and at least one additional person to contact in an emergency situation; and

D. For a camper who currently resides:

(1) Within the United States, a United States territory, or the District of Columbia, documentation of:

(a) The camper's residence; and

(b) Immunization exemptions because of a parental or guardian objection or medical contraindication; or

(2) Outside the United States, a United States territory, or the District of Columbia, documentation of:

(a) The camper's residence; and

(b) Record of vaccination or immunity on a form prescribed by the Department.

.09 Staff Member's or Volunteer's Health Record.

An operator shall ensure that each staff member or volunteer has on file at the time of employment or volunteering at a youth camp a written personal health record that includes:

A. The name of the staff member's primary care physician or other provider of medical care;

B. Pertinent information on any health problem including a physical, psychiatric, or behavioral problem;

C. The name and phone number of a person to contact in an emergency; and

D. For a staff member or volunteer who currently resides:

(1) Within the United States, a United States territory, or the District of Columbia, documentation of:

(a) The staff member's or volunteer's residence; and

(b) Immunization exemptions because of a parental or guardian objection or medical contraindication; or

(2) Outside the United States, a United States territory, or the District of Columbia, documentation of:

(a) The staff member's or volunteer's residence; and

(b) Record of vaccination or immunity on a form prescribed by the Department.

.10 Electronic Records.

A. All of the following records may be kept electronically:

(1) A health log;

(2) A camper health record;

(3) A staff or volunteer health record;

(4) A Medication Administration Authorization Form;

(5) A Medication Administration Form;

(6) A Medication Final Disposition Form; or

(7) When an operator uses standing orders for medication administration, a parent or guardian consent form.

B. The camp operator shall ensure that an electronic record under §A of this regulation is:

(1) Capturing the same required information as the paper record being replaced;

(2) Password protected;

(3) Accessed only by authorized staff members;

(4) Permanent and will not be deleted;

(5) Capable of tracking staff member use of the system and producing an auditable record;

(6) Maintained in a confidential manner;

(7) Available at all times for review by the Department upon request; and

(8) Retained for a period of 3 years.

C. If the electronic record under §A of this regulation is unavailable for any reason, the camp operator shall:

(1) Provide a paper health log that meets the requirements of Regulation .05 of this chapter;

(2) Record all injuries, illnesses, medication errors, and reportable diseases and conditions as defined in COMAR 10.06.01 in the paper health log until access to the electronic record is restored;

(3) Transcribe all information recorded in the paper health log into the electronic record once access to the electronic record is restored;

(4) Annotate the paper health log to indicate that transcription has occurred;

(5) Retain the paper health log according to the time frame specified in Regulation .05 of this chapter; and

(6) Provide an alternative means to access the electronic record.

.11 Exclusion During Vaccine-Preventable Disease Outbreaks.

During an outbreak of a vaccine-preventable disease at a camp, the camp operator shall exclude:

A. A camper who does not have documented vaccination or immunity to the relevant vaccine-preventable disease from attending the camp; and

B. An individual who does not have documented vaccination or immunity to the relevant vaccine-preventable disease from working or volunteering at the camp.

.12 Exclusion for Acute Illness and Communicable Disease.

A. An operator shall ensure that camp staff members:

(1) Monitor a camper for signs and symptoms of acute illness such as vomiting, diarrhea, or a fever;

(2) Arrange for first aid or medical treatment upon observing a sign or symptom of acute illness;

(3) Restrict an affected camper from participating in camp activities so that the camper's illness is not communicated to another individual;

(4) Provide supervision for an affected camper so that the camper is within sight and hearing of the supervising staff member; and

(5) Upon observing a sign or symptom of acute illness:

(a) Report an illness in accordance with Regulation .06E of this chapter; and

(b) Except for a residential camp as defined in COMAR 10.16.06.02, notify the camper's parent, guardian, or other designated person that the camper may not remain at camp.

B. When an acute illness is reported to the health supervisor, the health supervisor shall:

(1) Provide medical consultation or treatment; and

(2) Report the situation to the local health department in accordance with COMAR 10.06.01.

C. If a camper is exhibiting a symptom of acute illness, an operator may not:

(1) Admit an individual to a camp; or

(2) Except for a residential camp as defined in COMAR 10.16.06.02, allow a camper to remain in a camp.

D. An operator may not knowingly allow an individual to participate, work, or volunteer at camp during the period of communicability of a disease or condition listed in COMAR 10.06.01, unless:

(1) The individual is under the care of a licensed health care practitioner; and

(2) A licensed health care practitioner or local health officer as applicable approves, in writing, the individual's attendance.

.13 Health Treatment.

An operator shall ensure that:

A. A health treatment area:

(1) Is maintained within the camp for the temporary isolation and treatment of sick or injured campers;

(2) Affords privacy, quiet, continual supervision, and protection from the elements;

(3) Is equipped with:

(a) First aid supplies specified by the health supervisor; and

(b) Provisions for sanitary hand washing; and

(4) In the case of a residential camp as defined in COMAR 10.16.06.02, except for a primitive camp as defined in COMAR 10.16.06.02, provides:

(a) Hot and cold running water;

(b) A bathroom with a flush toilet;

(c) A hand sink;

(d) A shower;

(e) An isolation and convalescent area; and

(f) Exterior lighting; and

B. Staff members or volunteers wash their hands before and after treatment.

.14 Medications.

A. When a staff member or volunteer administers a medication, an operator shall ensure that a medication is only administered by:

(1) A licensed or certified professional:

(a) Who is authorized to practice in Maryland; and

(b) Whose scope of practice includes medication administration; or

(2) For routine medications, by an adult staff member or volunteer who has successfully completed a training course approved by the Department.

B. When a camper self-administers medication, an operator shall ensure that the:

(1) Parent or guardian provides written authorization for the camper to self-administer the medication;

(2) Camper's physician or the authorized prescriber provides written authorization for the camper to self-administer the medication;

(3) Health supervisor designates an adult staff member or volunteer to supervise; and

(4) Designated adult staff member or volunteer supervises the self-administration.

C. When a staff member or volunteer administers a medication or a camper self-administers a medication, an operator shall ensure that:

(1) Except for a camp using standing orders as described in §E of this regulation, before administration of a medication, written authorization is provided on a Medication Administration Authorization Form that includes:

(a) The written prescriptive order for the medication that includes:

(i) The child's name;

(ii) The child's date of birth;

(iii) The condition for which the medication is being administered;

(iv) Whether the medication is an emergency medication or not;

(v) The name of the medication;

(vi) The dose of the medication;

(vii) The route of administration for the medication;

(viii) The time or frequency of administration for the medication;

(ix) If PRN, the frequency and for what symptoms the medication should be administered;

(x) The known side effects of the medication specific to the camper;

(xi) The date medication administration shall begin;

(xii) The date medication administration shall end, not to exceed 1 year from the beginning date;

(xiii) The authorized prescriber's name;

(xiv) The authorized prescriber's title;

(xv) The authorized prescriber's telephone number;

(xvi) The authorized prescriber's fax number;

(xvii) The authorized prescriber's address;

(xviii) The authorized prescriber's signature; and

(ix) The date the form is signed by the authorized prescriber;

(b) A statement saying, "I request the authorized youth camp operator, staff member or volunteer to administer the medication or supervise the camper in self-administration if authorized as prescribed by the above authorized prescriber. I certify that I have legal authority to consent to medical treatment for the child named above, including the administration of medication at the facility. I understand that at the end of the authorized period, an adult must pick up the medication, otherwise it will be discarded. I authorize camp personnel to communicate with the authorized prescriber as allowed by HIPAA";

(c) The parent's or guardian's signature;

(d) The date the parent or guardian signed the form;

(e) The parent's or guardian's primary phone number;

(f) The parent's or guardian's alternative phone number;

(g) If a camp allows a camper to self-administer medication, authorization to self-administer medication that includes:

(i) A statement saying, "I authorize self-administration of the above listed medication for the child named above under the supervision of a designated staff member or volunteer";

(ii) The signature of the authorized prescriber and the date the form is signed under the statement in §C(1)(g)(i) of this regulation; and

(iii) The signature of the parent or guardian and the date the form is signed under the statement in §C(1)(g)(i) of this regulation; and

(h) If a camp allows a camper to self-carry emergency medication, authorization to self-carry emergency medication that includes whether the:

(i) Authorized prescriber allows the child to self-carry emergency medication; and

(ii) Parent or guardian authorizes the child to self-carry emergency medication;

(2) Except for a primitive camp as defined in COMAR 10.16.06.02, emergency medication, or while a medication is being administered, medication is kept in a locked storage compartment;

(3) A prescription medication is kept in the original container bearing a pharmacy label that shows the:

(a) Prescription number;

(b) Date filled;

(c) Authorized prescriber's name;

(d) Name of the medication;

(e) Directions for use; and

(f) Patient's name;

(4) A nonprescription medication is kept in the original container that includes the directions for use;

(5) Medication is given to the camper from the original container;

(6) The directions provided in the prescriptive order for the medication found on the Medication Administration Authorization Form or the standing order are followed;

(7) The staff member or volunteer administering the medication to a camper or supervising a camper who is self-administering medication knows the side and toxic effects of the medication;

(8) Medication is kept in a secure manner;

(9) Emergency medications are handled according to §D of this regulation;

(10) Except for emergency medication that the camper is authorized to self-carry, in a primitive camp as defined in COMAR 10.16.06.02, medication is kept inaccessible to the camper;

(11) Medication is kept under storage conditions specified by the manufacturer of the medication;

(12) The staff member or volunteer documents medication administration on a Medication Administration Form, which shall be retained for 3 years, that includes the:

(a) Child's name;

(b) Child's date of birth;

(c) Medication name;

(d) Dosage;

(e) Route;

(f) Time or times to administer;

(g) Amount of medication administered;

(h) Date and time of administration; and

(i) Name of the individual who administered the medication to the child or that the child self-administered the medication;

(13) A staff member or volunteer documents the final disposition of the medication on a Medication Final Disposition Form that includes:

(a) If the medication is returned to the parent or guardian the:

(i) Child's name;

(ii) Child's date of birth;

(iii) Name of the medication;

(iv) Final disposition of the medication;

(v) Name of the person to whom the medication was returned; and

(vi) Signature of the camp staff member or volunteer who returned the medication; and

(b) If the medication is not retrieved by the parent or guardian within 1 week of the child leaving camp, the:

(i) Child's name;

(ii) Child's date of birth;

(iii) Name of the medication;

(iv) Final disposition of the medication;

(v) Signature of the person responsible for destroying the medication;

(vi) Signature of the person witnessing the destruction of the medication; and

(vii) Dates each person signed the form; and

(14) Medication is returned to the parent or guardian or destroyed:

(a) At the end of the camping session; or

(b) When it is no longer needed.

D. Except as allowed in Regulation .15 of this chapter, an operator shall ensure that:

(1) Emergency medication is:

(a) Carried by the camper needing the medication, by a staff member or volunteer directly supervising the camper, or stored at a designated location in a locked compartment;

(b) Kept in a secure manner;

(c) Administered according to the plan of action developed for the camper and the prescriptive order for the medication; and

(d) Administered by the camper if authorized to self-administer or by an individual trained by a health supervisor; and

(2) When a camper self-carries an emergency medication, the parent or guardian and a licensed or authorized prescriber have provided written consent for the camper to self-carry the emergency medication.

E. When a staff member or volunteer administers a medication and an operator uses standing orders from a licensed or certified professional authorized to prescribe medication, in place of the Medication Administration Authorization Form required in §C of this regulation, an operator shall obtain written permission from the child's parent or guardian to administer the medication.

F. Staff Member or Volunteer Medication.

(1) An operator shall:

(a) Provide a means to secure medication for a staff member or volunteer when a medication is brought to camp; and

(b) Ensure that all staff member or volunteer medications are maintained in a secure manner at all times.

(2) Except when a staff member or volunteer is administering a medication to another staff member or volunteer:

(a) A staff member or volunteer is not required to complete the Medication Administration Authorization Form for medications brought to camp.

(b) An operator is not required to have on file a Medication Administration Authorization Form, Medication Administration Form, or Medication Final Dispensation Form for medications brought to camp by a staff member or volunteer.

.15 Emergency Epinephrine.

A. An individual may apply, on a form prescribed by the Department, for a certificate for emergency epinephrine, which shall be valid for up to 1 year if the applicant:

(1) Is an operator of a youth camp;

(2) Is at least 18 years old; and

(3) Has successfully completed, at the applicant's expense, an emergency epinephrine educational training program approved by the Department.

B. The applicant shall submit to the Department with the form required in §A of this regulation a written policy that includes:

(1) Designation of agents;

(2) The name of the approved emergency epinephrine educational training program; and

(3) Procedures to:

(a) Store emergency auto-injectable epinephrine;

(b) Notify a parent or guardian that emergency auto-injectable epinephrine is available at camp;

(c) Maintain the emergency auto-injectable epinephrine in a secure manner;

(d) Report use of emergency auto-injectable epinephrine according to Regulation .06 of this chapter;

(e) Train an emergency epinephrine certificate holder and agent annually; and

(f) Maintain documentation of an emergency epinephrine certificate holder and agent training for 3 years.

C. A provider of an emergency epinephrine educational training program may apply to the Department to have the training program recognized as approved for 5 years by submitting:

(1) An application form prescribed by the Department;

(2) A copy of all training program materials, including but not limited to handouts, presentations, and exams; and

(3) The following credentials of the instructor:

(a) Name;

(b) License type as required in §E of this regulation; and

(c) License number.

D. An emergency epinephrine educational training program shall include:

(1) The signs and symptoms of anaphylaxis;

(2) Use of an emergency auto-injectable epinephrine pen;

(3) Follow-up procedures with a parent or guardian after an emergency auto-injectable epinephrine is administered;

(4) A skills demonstration; and

(5) A written examination.

E. An individual teaching an emergency epinephrine educational training program shall be licensed as a physician, a registered nurse, or a certified nurse practitioner.

F. The Department shall:

(1) Issue a certificate for emergency epinephrine to an applicant who meets the requirements in §§A and B of this regulation;

(2) Deny, revoke or suspend a certificate for emergency epinephrine from an applicant who does not meet the requirements in §§A and B of this regulation;

(3) Approve an emergency epinephrine educational training program if the training program meets the requirements of §C of this regulation;

(4) Disapprove an emergency epinephrine educational training program if the training program does not meet the requirement of §C of this regulation; and

(5) On or before January 31 of each year, publish a report summarizing the information obtained from the Reportable Incident Report Forms submitted to the Department related to the use of auto-injectable epinephrine at youth camps.

G. A physician licensed to practice medicine in the State may prescribe auto-injectable epinephrine in the name of a certificate for emergency epinephrine holder.

H. A pharmacist licensed to practice pharmacy in the State or a physician may dispense auto-injectable epinephrine under a prescription issued to a certificate for emergency epinephrine holder.

I. A certificate for emergency epinephrine holder may:

(1) On presentment of a certificate for emergency epinephrine, receive from any physician licensed to practice medicine in the State a prescription for auto-injectable epinephrine; and

(2) Possess and store prescribed auto-injectable epinephrine.

J. In an emergency situation when physician or emergency medical services are not immediately available, a certificate for emergency epinephrine holder or agent may administer auto-injectable epinephrine to an individual who is experiencing or believed in good faith by the certificate for emergency epinephrine holder or agent to be experiencing anaphylaxis.

.16 Appeal Rights.

A. Except as otherwise provided in the Administrative Procedure Act, State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland, or in this regulation, before the Department takes any final action to deny, suspend, or revoke a certificate for emergency epinephrine the Department shall give the person against whom the action is contemplated an opportunity for a hearing.

B. The Department shall give the applicant for a certificate for emergency epinephrine:

(1) Written notice of the denial, suspension, or revocation of the certificate for emergency epinephrine;

(2) The reasons for the denial, suspension, or revocation; and

(3) In accordance with §A of this regulation, an opportunity for a hearing.

C. A person shall request a hearing, if a hearing is desired, by submitting to the Department a written request for a hearing.

D. To preserve the right to a hearing, a person shall submit the written request within 10 calendar days of the receipt of the denial, suspension, or revocation notice.

VAN T. MITCHELL
Secretary of Health and Mental Hygiene

Subtitle 18 HUMAN IMMUNODEFICIENCY VIRUS (HIV) INFECTION AND ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS)

Notice of Proposed Action

[16-014-P]

The Secretary of Health and Mental Hygiene proposes to:

(1) Adopt new Regulations **.01—.09** under a new chapter, **COMAR 10.18.01 Maryland AIDS Drug Assistance Program: Temporary Assistance Program**;

(2) Repeal existing Regulations **.01—.05** and adopt new Regulations **.01—.05**, repeal existing Regulations **.06—.11**, amend and recodify existing Regulations **.12**, **.14**, and **.15** to be Regulations **.06**, **.08**, and **.09** respectively, and recodify existing Regulation **.13** to be Regulation **.07** under **COMAR 10.18.05 Maryland AIDS Drug Assistance Program: Eligibility**;

(3) Repeal existing Regulations **.01** and **.04-1** and adopt new Regulations **.01** and **.04-1**, and amend Regulations **.03**, **.04**, **.04-2**, **.05—.07**, and **.09—.12** under **COMAR 10.18.06 Maryland AIDS Drug Assistance Program: Pharmacy Services**;

(4) Repeal existing Regulations **.01—.06**, **.08**, **.09**, and **.11** and adopt new Regulations **.01—.06**, **.08**, **.09**, and **.11**, repeal existing Regulations **.07**, **.10**, **.12**, **.14** and **.16**, and amend and recodify existing Regulations **.13** and **.15** to be Regulations **.07** and **.10** respectively, under **COMAR 10.18.07 Maryland AIDS Drug Assistance Program: Health Insurance (MADAP-PLUS)**; and

(5) Adopt new Regulations **.01—.09** under a new chapter, **COMAR 10.18.10 Urgent Maryland AIDS Drug Assistance Program**.

Statement of Purpose

The purpose of this action is to align COMAR 10.18.05, 10.18.06, and 10.18.07 with current practices and bring these chapters into closer alignment with the Affordable Care Act. This proposal will also establish regulations for two existing programs – the Maryland AIDS Drug Assistance Program (MADAP) Temporary Assistance Program (TAP) and Urgent MADAP – codified as COMAR 10.18.01 and 10.18.10, respectively. Amendments to COMAR 10.18.07 will expand the capacity to help clients through the payment of co-pays, co-insurance, and deductibles associated with health care visits.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. As a result of proposed changes to COMAR 10.18.07 MADAP-Plus, this proposal will have a minimal economic impact on the Department of Health and Mental Hygiene (Department) and a positive impact on health care providers and clients, resulting from coverage of additional outpatient healthcare services. The Department's expenditures in MADAP-Plus will increase by an estimated $910,800 annually for co-pays, co-insurance, and deductibles based on estimated utilization for the following services: primary medical care, HIV subspecialty care, and laboratory services. The Department has sufficient federal funds (Ryan White Part B) and special funds (pharmaceutical rebates) to cover the cost of these additional services. The other proposed changes to COMAR 10.18.01, 10.18.05, 10.18.06, and 10.18.10 either update existing regulations or establish new regulations that reflect current practice.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(E+)	$910,800
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	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:	(+)	Indeterminable

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

A. Under this proposal, the Department will pay for co-pays, co-insurance, and deductibles for additional covered healthcare services in the MADAP-Plus program. The estimated average number of visits per client is five visits per year. The Department has sufficient federal funds (Ryan White Part B) and special funds (pharmaceutical rebates) to cover the cost of these additional services.

Expenditures are based on estimated client utilization of services and estimated average cost per visit. The estimated number of clients who may be served through this expansion is 1,800 clients. The estimated total number of visits provided through this expansion is 9,000 visits. The estimated average amount paid by MADAP for these visits is $101.20 per visit.

9,000 x $101.20 = $910,800

D. There will be a minimal positive economic impact on health care providers resulting from an increase in client utilization of covered healthcare services.

F. The effects on the public will be positive as the proposed regulatory changes will remove a barrier to care for MADAP-Plus clients.

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 February 8, 2016. A public hearing has not been scheduled.

10.18.01 Maryland AIDS Drug Assistance Program: Temporary Assistance Program

Authority: Health-General Article, §§2-104(b), 2-104(j), 2-105(a), and 18-102(a), Annotated Code of Maryland

.01 Purpose.

The purpose of the Maryland AIDS Drug Assistance Program's Temporary Assistance Program is to provide short term assistance to individuals with Human Immunodeficiency Virus (HIV) who:

A. Need HIV drugs and other products;

B. Have an application for Medical Assistance or Low-Income Subsidy pending; and

C. Are considered likely to have their application approved.

.02 Definitions.

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

B. Terms Defined.

(1) "Acquired Immunodeficiency Syndrome (AIDS)" means the medical condition caused by the Human Immunodeficiency Virus.

(2) "Agent" means a case manager, licensed social worker, registered nurse, or any other related professional that assists an individual in submitting an application to the Temporary Assistance Program.

(3) "Applicant" means an individual on whose behalf an application has been submitted to the Temporary Assistance Program and whose eligibility status for the Temporary Assistance Program has not yet been determined.

(4) "Department" means the Department of Health and Mental Hygiene.

(5) "Drug" means an article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease licensed by the U.S. Food and Drug Administration, and covered by the Maryland AIDS Drug Assistance Program as specified in COMAR 10.18.06.04.

(6) "Enrollment period" means the period of time a recipient may receive Temporary Assistance Program benefits.

(7) "Formulary" means a list of prescription drugs and other products covered by the Maryland AIDS Drug Assistance Program as specified in COMAR 10.18.06.04-1.

(8) "Health care practitioner" means any individual licensed to prescribe U.S. Food and Drug Administration-approved drugs or other products in the state in which they practice.

(9) "Human Immunodeficiency Virus (HIV)" means the virus that causes AIDS.

(10) "Low-Income Subsidy (LIS)" means the federal program available under the Medicare Part D prescription drug program and Medicare advantage plans that assists persons who have limited income to pay for the cost of premiums, deductibles, and copayments.

(11) "Maryland AIDS Drug Assistance Program (MADAP)" means the program administered by the Department that provides services specified in COMAR 10.18.06.04 for enrolled recipients.

(12) "Medical Assistance" has the meaning specified in COMAR 10.09.24.02.

(13) "Recipient" means an individual who is enrolled in the Temporary Assistance Program.

(14) "Resident" means an individual:

(a) Who is living in the State voluntarily with the intention of making it that individual's home and not for a temporary purpose; and

(b) For whom any temporary absence from the State is coupled with an intent to return so as not to interrupt the continuity of residence.

(15) "Temporary Assistance Program (TAP)" means the program administered by the Department that provides short term MADAP services as specified in Regulation .05 of this chapter for low income eligible individuals.

.03 Eligibility.

To be eligible for benefits, an individual shall meet the following criteria:

A. Be a resident of Maryland;

B. Be infected with HIV; and

C. Have a pending application to Medical Assistance or LIS.

.04 Application and Enrollment.

A. Application.

(1) The agent of the applicant shall submit a completed TAP application to the Department on the form designated by the Department that includes:

(a) Responses to all applicable questions; and

(b) A copy of the completed application or other verifiable documentation for Medical Assistance or LIS enrollment.

(2) The agent of the applicant or the applicant may voluntarily withdraw the application at any time without prejudice.

(3) The Department shall:

(a) Review and process a TAP application by the end of the first business day following receipt;

(b) Approve a TAP application if the:

(i) TAP application is complete;

(ii) Applicant is determined to be eligible; and

(iii) Department is able to ascertain that the applicant will likely be found eligible for Medical Assistance or LIS;

(c) Issue a client identification number if the TAP application is approved;

(d) Disapprove a TAP application if the:

(i) TAP application is incomplete; or

(ii) Agent of the applicant fails to provide sufficient information or documentation to determine eligibility; and

(e) Contact the agent of the applicant with the status of the TAP application.

B. Enrollment.

(1) A recipient shall be approved for coverage beginning the first day of the month in which the TAP application was received.

(2) Benefits shall end on the date that a determination of Medical Assistance or LIS coverage occurs.

.05 Covered Services.

A. The recipient shall obtain a prescription for each drug or other product ordered for the recipient.

B. TAP shall pay for each prescription drug or other product within the limits established by the Department on the formulary if the prescription is ordered and signed by a health care practitioner for a recipient.

.06 Recovery of Payments.

If benefits have been incorrectly paid or another payer has been identified, the Department shall seek recovery of the amount of those payments.

.07 Fraud.

The Department shall pursue cases of suspected misrepresentation or fraud pursuant to Criminal Law Article, §8-503, Annotated Code of Maryland, or any other applicable statutory provision.

.08 Confidentiality.

Except when communicating with the parties listed in §B of this regulation and unless otherwise authorized by law, the agent of an applicant, or the agent of a recipient, the Department:

A. Shall keep all applicant and recipient personal information confidential;

B. May not disclose personal information kept on an applicant or recipient without written consent of the:

(1) Applicant;

(2) Recipient;

(3) Applicant's parent or legal guardian; or

(4) Recipient's parent or legal guardian;

C. Shall comply with the laws and regulations concerning the privacy and security of protected health information under:

(1) Health-General Article, Title 4, Subtitle 3, Annotated Code of Maryland; and

(2) The Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. §§1320d et seq., as amended, the HITECH Act, 42 U.S.C. §§17932, et seq., as amended, and 45 CFR Parts 160 and 164, as amended, and their implementing regulations; and

D. Shall ensure that all interactive video technology-assisted communication comply with HIPAA patient privacy and security regulations.

.09 Availability of Funding and Program Termination.

A. If sufficient monies are not available to fund TAP, the Department shall take the action necessary to eliminate a deficit which may include program termination.

B. If TAP is terminated, the Department shall provide benefits for each current recipient in accordance with Regulation .04B of this chapter.

10.18.05 Maryland AIDS Drug Assistance Program: Eligibility

Authority: Health General Article, §§2-104(b) and (i), 2-105(a) and (b), and 18-102(a) Annotated Code of Maryland

.01 Definitions.

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

B. Terms Defined.

(1) "Acquired Immunodeficiency Syndrome (AIDS)" means the medical condition caused by the Human Immunodeficiency Virus.

(2) "Applicant" means an individual who has submitted an application to the Maryland AIDS Drug Assistance Program and

whose eligibility status for the Maryland AIDS Drug Assistance Program has not yet been determined.

(3) "Department" means the Department of Health and Mental Hygiene.

(4) "Disenroll" means to end Maryland AIDS Drug Assistance Program benefits.

(5) "Drug" means an article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease licensed by the U.S. Food and Drug Administration and covered by the Maryland AIDS Drug Assistance Program as specified in COMAR 10.18.06.04.

(6) "Enrollment period" means the period of time a recipient may receive Maryland AIDS Drug Assistance Program benefits.

(7) "Formulary" means a list of prescription drugs and other products covered by the Maryland AIDS Drug Assistance Program as specified in COMAR 10.18.06.04-1.

(8) "Gross income" means the income derived from sources provided in Regulation .02.

(9) "Health care practitioner" means any individual licensed to prescribe U.S. Food and Drug Administration-approved drugs or other products in the state in which they practice.

(10) "Human Immunodeficiency Virus (HIV)" means the virus that causes AIDS.

(11) "Maryland AIDS Drug Assistance Program (MADAP)" means the program administered by the Department that provides services specified in COMAR 10.18.06.04 for enrolled recipients.

(12) "Medical Assistance" has the meaning stated in COMAR 10.09.24.02.

(13) "Recipient" means an individual who is enrolled in MADAP.

(14) "Resident" means an individual:

(a) Who is living in the State voluntarily with the intention of making it that individual's home and not for a temporary purpose; and

(b) For whom any temporary absence from the State is coupled with an intent to return so as not to interrupt the continuity of the residence.

.02 Eligibility.

A. Except when an individual is enrolled in Medical Assistance but does not have prescription coverage assistance, an individual who is eligible for Medical Assistance is not eligible for MADAP.

B. To be eligible for benefits, an individual shall meet the following criteria:

(1) Residency;

(2) Medical; and

(3) Financial.

C. Residency Criteria. To meet the residency criteria the individual shall be a resident of Maryland.

D. Medical Criteria. To meet the medical criteria the individual shall be:

(1) Infected with HIV as verified by the individual's health care practitioner on the medical form provided by the Department; and

(2) Prescribed or will be prescribed, within 3 months from the date the completed application was received by the Department, one or more of the antiretroviral drugs in the formulary.

E. Financial Criteria.

(1) To meet the financial criteria the individual shall have a projected gross income less than or equal to 500 percent of the Federal Poverty Level Guidelines as updated annually in the Federal Register by the U.S. Department of Health and Human Services under authority of 42 U.S.C. §9902(2).

(2) Projected gross income shall be determined based on what can reasonably be expected to be received during the 12-month period beginning with the month in which the completed application is filed.

(3) Gross income includes income derived from:

(a) Wages and salaries, including tips;

(b) Net income from self-employment or business;

(c) Unemployment compensation;

(d) Social security payments, including disability payments;

(e) Alimony;

(f) Retirement or pension;

(g) Investments, including dividends or interest;

(h) Rental income; and

(i) Other taxable income, such as prizes, awards, and gambling winnings.

(4) Gross income under this chapter does not include income derived from:

(a) Child support;

(b) Gifts;

(c) Supplemental Social Security Income;

(d) Veterans' disability payments;

(e) Workers' compensation; and

(f) Proceeds from loans, such as student loans, home equity loans, or bank loans.

.03 Application and Enrollment.

A. Application.

(1) Applicant.

(a) An applicant shall submit a completed application to the Department on the form designated by the Department that includes:

(i) Responses to all applicable questions; and

(ii) Supporting documentation related to residency, medical, and financial eligibility criteria.

(b) An applicant may voluntarily withdraw the application at any time without prejudice.

(c) An applicant may submit a new application at any time.

(2) The Department shall:

(a) Approve the application if the:

(i) Application is complete; and

(ii) Applicant is determined to be eligible;

(b) Disapprove the application if the:

(i) Application is incomplete;

(ii) Applicant fails to provide sufficient information or documentation to determine eligibility; or

(iii) Applicant provides the appropriate documentation but is determined ineligible; and

(c) Provide the applicant with written notice of the final disposition of the application.

B. Enrollment.

(1) A recipient shall:

(a) Attest to continuing eligibility by completing and submitting the eligibility verification form provided by the Department during the sixth month of the current enrollment period; or

(b) Lose MADAP benefits, effective at the end of the seventh month of the current enrollment period, if the recipient fails to attest to continued eligibility for MADAP benefits during the sixth month of the current enrollment period;

(2) A recipient who seeks to continue enrollment shall reapply by submitting a new completed application at least ten business days prior to the end of the current 12-month enrollment period; and

(3) The Department shall:

(a) Enroll an applicant who has been determined eligible for a 12-month enrollment period with the stipulation that continued eligibility must be verified by the Department during the sixth month of the enrollment period;

(b) Establish the 12-month enrollment period beginning on the first day of the month in which the Department approves the application;

(c) Redetermine eligibility if the Department receives information that may affect continued eligibility; and

(d) Send any relevant application or eligibility verification forms at least 45 calendar days before the end of the:

(i) First 6 months of the current enrollment period; and

(ii) Current enrollment period.

.04 Changes in Eligibility and Disenrollment.

A. A recipient shall notify the Department within 10 business days of a change in:

(1) Availability of third-party payment for services covered under MADAP;

(2) Gross income; or

(3) Address.

B. If a change reported in §A of this regulation results in a recipient no longer qualifying for MADAP, the Department shall:

(1) Determine the recipient ineligible for MADAP; and

(2) Disenroll the recipient.

C. The notice of intended action, which notifies the recipient of the disenrollment, shall:

(1) Be mailed to the recipient at least 15 business days before the effective date of disenrollment;

(2) Include an explanation of the action;

(3) Cite the regulation supporting the action; and

(4) Explain the right of the recipient to request reconsideration or an appeal of the decision.

D. If the recipient is determined to be ineligible before the end of the current enrollment period because of a change in residency, medical, or financial eligibility criteria, the disenrollment shall be the earlier of:

(1) The date on which the recipient's current enrollment ends; or

(2) The first day of the month that is at least 15 calendar days after the date of the notice of ineligibility for MADAP benefits.

E. If the recipient's Medical Assistance coverage is pending or active, the recipient shall be disenrolled, as determined by the Department.

.05 Reconsideration and Appeal.

A. An applicant or recipient who has been notified by the Department of ineligibility for or disenrollment from MADAP benefits may request reconsideration of the decision by submitting additional supporting documentation or information to the Department within 30 business days of notification.

B. If an applicant or recipient submits a timely request for reconsideration, the Department shall:

(1) Review all additional supporting documentation, within 5 business days of the Department's receipt of the request for reconsideration; and

(2) Issue a final decision in writing to the applicant or recipient.

C. If an applicant or recipient is dissatisfied with the final decision of the Department, the applicant or recipient may appeal the reconsideration by requesting in writing for a hearing with the Department.

D. The Office of Administrative Hearings shall:

(1) Conduct a hearing according to the procedures set forth in COMAR 28.02.01;

(2) Hold a hearing to review the decision within 45 days of the postmarked date on the letter requesting a hearing; and

(3) Issue a decision in writing to the applicant or recipient.

[.12] *.06* Recovery of [Fees] *Payments*.

If MADAP benefits have been incorrectly paid **[**as a result of a recipient's action or inaction**]** *or another payer has been identified,* the Department shall seek recovery of the amount of those **[**benefits**]** *payments*.

[.14] *.08* Confidentiality.

Unless otherwise authorized by law, the Department:

A. Shall keep all **[**personal**]** applicant and recipient *personal* information confidential; **[**and**]**

B. May not disclose *personal* information **[**from the applicant's or recipient's record**]** *kept on an applicant or recipient* without written consent of the:

(1) (text unchanged)

(2) **[**Applicant's representative**]** *Recipient*;

(3) **[**Recipient; or**]** *Applicant's parent or legal guardian; or*

(4) Recipient's **[**representative**]** *parent or legal guardian;*

C. Shall comply with the laws and regulations concerning the privacy and security of protected health information under:

(1) Health-General Article, Title 4, Subtitle 3, Annotated Code of Maryland; and

(2) The Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. §§1320d et seq., as amended, the HITECH Act, 42 U.S.C. §§17932, et seq., as amended, and 45 CFR Parts 160 and 164, as amended, and their implementing regulations; and

D. Shall ensure that all interactive video technology-assisted communication comply with HIPAA patient privacy and security regulations.

[.15] *.09 Availability of Funding and* **Program Termination.**

A. If **[**monies received by the Department under Part B of the federal Ryan White CARE Act**]** *sufficient monies* are not **[**sufficient**]** *available* to fund MADAP, the Department **[**may terminate MADAP.**]** *shall take the action necessary to eliminate a deficit which may include MADAP termination.*

B. **[**In the event of MADAP's termination,**]** *If MADAP is terminated* the Department shall **[**pay**]** *provide* benefits for each current recipient until **[**the end of the recipient's certification period.**]** *the earlier of:*

(1) The end of the recipient's enrollment period; or

(2) Six months from the date MADAP is terminated.

10.18.06 Maryland AIDS Drug Assistance Program: *Pharmacy* Services

Authority: Health General Article, §§2-104(b) and (i), 2-105(a) and (b), and 18-102(a), Annotated Code of Maryland

.01 Definitions.

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

B. Terms Defined.

(1) "Acquired Immunodeficiency Syndrome (AIDS)" means the medical condition caused by the Human Immunodeficiency Virus.

(2) "Department" means the Department of Health and Mental Hygiene.

(3) "Drug" means an article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease licensed by the U.S. Food and Drug Administration and covered by the Maryland AIDS Drug Assistance Program as specified in Regulation .04 of this chapter.

(4) "Enrollment period" means the period of time a recipient may receive Maryland AIDS Drug Assistance Program benefits.

(5) "Formulary" means a list of prescription drugs and other products covered by the Maryland AIDS Drug Assistance Program as specified in Regulation .04-1 of this chapter.

(6) "Health care practitioner" means any individual licensed to prescribe U.S. Food and Drug Administration-approved drugs or other products in the state in which they practice.

(7) "Human Immunodeficiency Virus (HIV)" means the virus that causes AIDS.

(8) "Maryland AIDS Drug Assistance Program (MADAP)" means the program administered by the Department that provides services specified in Regulation .04 of this chapter for enrolled recipients.

(9) "Medical Assistance" has the meaning stated in COMAR 10.09.24.02.

(10) "Pharmacist" means an individual registered and licensed to practice pharmacy in the state where the prescription is filled.

(11) "Pharmacy" means an establishment or institution registered and licensed to dispense U.S. Food and Drug Administration-approved drugs or other products to the public in the state in which the establishment or institution is located.

(12) "Preauthorization" means an approval required before the dispensing of the prescription.

(13) "Prescription" means a direction, usually written by a health care provider authorized to prescribe drugs and other products and sent to the pharmacist for the preparation, dispensing, and directions for use of a drug or other product included in the MADAP formulary.

(14) "Recipient" means an individual who is enrolled in MADAP.

.03 Conditions for Participation.

A. To participate in MADAP, a **[**provider**]** *pharmacy* shall:

(1) Be **[**approved by the Department for participation in the**]** *enrolled in* Medical Assistance **[**Program**]** *or submit a request for exception to, and receive approval from, the Department*;

(2) Accept payment by MADAP as payment in full for the professional services rendered and make no additional charges to the **[**patient**]** *recipient* or the **[**patient's**]** *recipient's* family;

(3) Maintain records **[**as required by the**]** in accordance with standards established by Medical Assistance **[**Program**]**;

(4) (text unchanged)

(5) Include **[**on all prescriptions sufficient**]** information **[**to justify the**]** *required by the Department on all* pharmacy **[**invoice charges**]** *invoices*;

(6) Provide services without regard to race, color, *creed*, age, sex, sexual orientation, *gender identity*, national origin, marital status, **[**and physical or mental handicap**]** *or disability*;

(7) Verify **[**the recipient's**]** *an individual's* eligibility; and

(8) Bill the recipient's third-party insurance payer in accordance with the payer's requirements in order to reduce the cost to be **[**borne**]** *paid* by **[**MADAP**]** *the Department*.

B. A **[**MADAP provider**]** *pharmacy* may not:

(1) Knowingly employ a person who has been disqualified from **[**MADAP or the**]** Medical Assistance **[**Program to compound or dispense prescriptions, unless prior written approval has been received from the Department**]**; or

(2) Place a restriction on a recipient's right to select **[**providers**]** *a pharmacy* of the recipient's choice.

.04 Covered Services.

A. **[**A**]** *The* recipient shall obtain a prescription for each **[**medication**]** *drug or other product* ordered for the recipient.

B. **[**MADAP**]** *The Department* shall pay for **[**prescriptions for**]** *a prescription* **[**drugs in**]** *drug or other product on* the formulary *within the limits established by the Department* if the prescription is ordered and signed by **[**prescribers**]** *a health care practitioner* for **[**recipients within the limits established by MADAP**]** *the recipient*.

[C. In accordance with policy guidance issued by the Health Resources and Services Administration, MADAP may pay for:

(1) Core medical services; and

(2) Support services.**]**

.04-1 Formulary.

The Department shall:

A. Maintain an updated formulary that is available electronically;

B. Make available copies of the formulary; and

C. Consider the recommendations of the MADAP Advisory Board in revising the formulary, in accordance with Regulation .04-2G of this chapter.

.04-2 Advisory Board.

A.—F. (text unchanged)

G. The Board shall:

(1) (text unchanged)

(2) Develop recommendations for the formulary **[**for MADAP**]** by considering the:

(a)—(b) (text unchanged)

(c) Needs of **[**MADAP**]** recipients, such as the:

(i) (text unchanged)

(ii) Availability of other drugs on the **[**MADAP**]** formulary to treat the same condition; and

(3) Recommend:

(a) **[**The addition to or deletion from**]** *Revisions to* the formulary **[**of existing drugs**]** as necessary; and

(b) (text unchanged)

H. (text unchanged)

.05 Limitations on Covered Services.

A. A **[**provider**]** *pharmacist* may not dispense more than a 100-day supply of **[**the**]** *a* prescribed drug **[**on one prescription at one time**]** *or other product*.

B. **[**MADAP**]** *The Department* may not pay for:

(1) A drug *or other product* prescribed as part of a recipient's care in **[**an**]** *a correctional institution*, inpatient hospital, nursing home, or long-term care setting; or

(2) **[**The drug peginterferon alfa-2b, peginterferon alfa-2a, ribavirin, epoetin alpha, filgrastim, or oxandrolone, unless the recipient has submitted to MADAP a written statement as specified in COMAR 10.18.05.05.**]** *Drugs or other products indicated as restricted on the formulary, unless the:*

(a) Recipient has submitted the completed preauthorization request form to the Department; and

(b) The Department has approved the request.

.06 Preauthorization Requirement.

[A.**]** A **[**provider**]** *pharmacist* shall obtain preauthorization **[**from MADAP**]** for each prescription or refill before dispensing **[**the**]** *a* drug *or other product marked as restricted*.

[B. If MADAP knows about third-party insurance coverage that could pay some or all of the cost of the services provided to the recipient, MADAP shall notify the provider when the provider contacts MADAP for preauthorization.

C. If a recipient's third-party insurance carrier requires preauthorization before a prescription is filled, the provider shall obtain preauthorizations from both the third-party insurance carrier and MADAP before filling the prescription.**]**

.07 Payment Procedures.

A. Except as provided in §§B and C of this regulation, **[**MADAP**]** *the Department* shall pay a **[**provider**]** *pharmacy* in accordance with the procedures of the Medical Assistance Pharmacy Services Program set forth at COMAR 10.09.03.07.

B. If **[**MADAP**]** *the Department* or the recipient tells the **[**provider**]** *pharmacy* that the recipient has or may have third-party insurance coverage **[**that will pay**]** *to offset* some or all of the cost for services provided under MADAP, the **[**provider**]** *pharmacy* shall:

(1) Bill the third-party payer the **[**provider's**]** *pharmacy's* usual and customary charge for the services provided; *and*

[(2) Determine the amount to be paid by the third-party payer; and**]**

[(3)**]** *(2)* Bill **[**MADAP**]** *the Department* for the difference between the **[**provider's**]** *pharmacy's* usual and customary charge and the anticipated third-party receipts**[**, as determined in accordance with §B(2) of this regulation**]**.

C. If the recipient has third-party insurance coverage, **[**MADAP**]** *the Department* shall pay the **[**provider**]** *pharmacy* the difference between the **[**provider's**]** *pharmacy's* usual and customary charge and the anticipated third-party insurance receipts, not to exceed the amount permitted under COMAR 10.09.03.07F and G.

D. The Department shall make *payments related to* MADAP **[**payments**]** in accordance with any applicable policies and procedures for the administration of federal funds issued pursuant to the **[**Ryan White CARE Act Amendments of 1996, P.L. 104—106**]** *Ryan White HIV/AIDS Treatment Extension Act of 2009*, and any subsequent modifications to the Act.

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

A. If the Department determines that a **[**provider or the provider's**]** *pharmacy or the pharmacy's* employee, or both, has failed to comply with federal or State laws and regulations, the Department may:

(1) Suspend the **[**provider**]** *pharmacy* from MADAP;

(2) Withhold payment to the **[**provider**]** *pharmacy* by MADAP; or

(3) (text unchanged)

B. **[**If a provider or the provider's employee is removed from Medical Assistance, MADAP shall remove the provider or provider's employee from MADAP.**]** *Removal of a pharmacy or a pharmacy's employee from Medical Assistance shall result in removal from MADAP*.

C. The Department:

(1) May consult with the **[**State Pharmaceutical Association and the**]** State Board of Pharmacy regarding the actions of a **[**provider**]** *pharmacy*, such as:

(a)—(c) (text unchanged)

(2) Shall consider the findings and recommendations of the **[**State Pharmaceutical Association and the**]** State Board of Pharmacy when deciding on the imposition of a sanction as stated in §A of this regulation.

D. The Department shall give the **[**provider**]** *pharmacy* written notice of the Department's intention to impose sanctions referred to in §A of this regulation, including:

(1)—(2) (text unchanged)

(3) **[**That the provider has a**]** *The pharmacy's* right to appeal the proposed action.

E. **[**Before rendering services to a recipient, a provider**]** *A pharmacy* voluntarily withdrawing from MADAP or removed or suspended from MADAP according to this regulation shall notify a recipient that the **[**provider**]** *pharmacy is* no longer **[**:

(1) Is**]** a MADAP **[**provider; and

(2) Honors MADAP cards**]** *pharmacy*.

.10 Appeal Procedures.

A **[**provider**]** *pharmacy* filing an appeal **[**under MADAP] shall do so in accordance with the Medical Assistance Pharmacy Services Program *as* set forth at COMAR 10.09.03.10.

.11 Confidentiality.

Unless otherwise authorized by law, the Department:

A. Shall keep all **[**personal**]** applicant and recipient *personal* information confidential; **[**and**]**

B. May not disclose *personal* information **[**from the applicant's or recipient's record**]** *kept on an applicant or recipient* without written consent of the:

(1) (text unchanged)

(2) **[**Applicant's representative**]** *Recipient*;

(3) **[**Recipient; or**]** *Applicant's parent or legal guardian; or*

(4) Recipient's **[**representative**]** *parent or legal guardian;*

C. Shall comply with the laws and regulations concerning the privacy and security of protected health information under:

(1) Health-General Article, Title 4, Subtitle 3, Annotated Code of Maryland; and

(2) The Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. §§1320d et seq., as amended, the HITECH Act, 42 U.S.C. §§17932, et seq., as amended, and 45 CFR Parts 160 and 164, as amended, and their implementing regulations; and

D. Shall ensure that all interactive video technology-assisted communication comply with HIPAA patient privacy and security regulations.

.12 *Availability of Funding and* Program Termination.

A. If **[**monies received by the Department under Part B of the federal Ryan White CARE Act**]** *sufficient monies* are not **[**sufficient**]** *available* to fund MADAP, the Department **[**may terminate MADAP**]** *shall take the action necessary to eliminate a deficit which may include MADAP termination*.

B. **[**In the event of the termination of MADAP,**]** *If MADAP is terminated,* the Department shall **[**pay**]** *provide* benefits for each current recipient **[**until the end of the recipient's certification period**]** *in accordance with COMAR 10.18.05.09B.*

10.18.07 Maryland AIDS Drug Assistance Program: Health Insurance (MADAP-PLUS)

Authority: Health-General Article, §§2-104(b) and (i), 2-105(a) and (b), and 18-102(a) Annotated Code of Maryland

.01 Definitions.

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

B. Terms Defined.

(1) "Acquired Immunodeficiency Syndrome (AIDS)" means the medical condition caused by the Human Immunodeficiency Virus.

(2) "Applicant" means an individual who has submitted an application to the Maryland AIDS Drug Assistance Program—Plus and whose eligibility status for the Maryland AIDS Drug Assistance Program—Plus has not yet determined.

(3) "Core medical services" means a set of direct health care services as specified by the Ryan White Care Act Part B Program administered by the U.S. Health Resource and Services Administration.

(4) "Department" means the Department of Health and Mental Hygiene.

(5) "Enrollment period" means the period of time a recipient may receive Maryland AIDS Drug Assistance Program—Plus coverage.

(6) "Formulary" means a list of prescription drugs and other products covered by the Maryland AIDS Drug Assistance Program as specified in COMAR 10.18.06.04-1.

(7) "Health care provider" means an individual licensed to provide core medical services in the state where services are rendered.

(8) "Human immunodeficiency virus (HIV)" means the virus that causes AIDS.

(9) "Maryland AIDS Drug Assistance Program (MADAP)" means the program administered by the Department that provides services specified in COMAR 10.18.06.04 for enrolled recipients.

(10) "Maryland AIDS Drug Assistance Program—Plus (MADAP-Plus)" means the program administered by the Department to pay insurance premiums, copays, coinsurance, and deductibles for formulary drugs and core medical services.

(11) "Medical Assistance" has the meaning stated in COMAR 10.09.24.02.

(12) "Recipient" means an individual who is enrolled in MADAP-Plus.

.02 Eligibility.

To be eligible for MADAP-Plus coverage, an individual shall be:

A. Enrolled in MADAP; and

B. Receiving or eligible to receive health insurance and prescription drug coverage.

.03 Application and Enrollment.

A. An applicant shall apply in the manner set forth in COMAR 10.18.05.03A.

B. A recipient and the Department shall meet the enrollment responsibilities set forth in COMAR 10.18.05.03B.

C. The recipient's enrollment period for MADAP-Plus shall be the same as the MADAP enrollment period in 10.18.05.03B.

.04 Covered Services.

A. The Department shall pay for health and prescription plan premiums with a prescription drug formulary comparable to the MADAP formulary.

B. Within the limits established by the Department and in accordance with policy guidance issued by the Health Resources and Services Administration, the Department:

(1) Shall pay for copays, coinsurance, and deductibles for formulary drugs; and

(2) May pay for visits associated with core medical services.

C. An individual who is eligible for employer sponsored health insurance with a prescription drug formulary comparable to the MADAP formulary may not receive premium assistance unless the individual is:

(1) Enrolled in the employer sponsored health plan; and

(2) Paying 50 percent or more of the total monthly health insurance premiums.

.05 Changes in Eligibility and Disenrollment.

A. A recipient shall inform the Department of a change in eligibility as set forth in COMAR 10.18.05.04A.

B. If a change reported in §A of this regulation results in a recipient no longer qualifying for MADAP-Plus, the Department shall:

(1) Determine the recipient ineligible for MADAP-Plus; and

(2) Disenroll the recipient.

C. If a MADAP-Plus recipient is disenrolled from MADAP, the recipient is automatically disenrolled from MADAP-Plus.

.06 Reconsideration and Appeal.

A. An applicant or recipient who has been notified by the Department of disenrollment or ineligibility for MADAP-Plus benefits may request reconsideration of the decision by submitting additional supporting documentation or information to the Department within 30 business days of notification.

B. If an applicant or recipient submits a timely request for reconsideration, the Department shall:

(1) Review all additional supporting documentation, within five business days of the Department's receipt of the request for reconsideration; and

(2) Issue a final decision in writing to the applicant or recipient.

C. If an applicant or recipient is dissatisfied with the final decision of the Department, the applicant or recipient may appeal the reconsideration by requesting in writing for a hearing with the Department.

D. The Office of Administrative Hearings shall:

(1) Conduct a hearing according to the procedures set forth in COMAR 28.02.01;

(2) Hold a hearing to review the decision within 45 days of the postmarked date on the letter requesting a hearing; and

(3) Issue a decision in writing to the applicant or recipient.

E. The Department shall pay any health insurance plan or prescription drug plan costs due pending a decision by the Office of Administrative Hearings.

F. If the final decision finds in favor of the Department, the Department shall, upon the date of the decision, cease paying the health insurance costs allowed under this chapter and seek recovery in accordance with regulation .08 of this chapter.

[.13] *.07* Payment Procedures.

A. **[**An**]** *A recipient, recipient's representative, health care provider,* insurer, employer, *or* health plan administrator, **[**recipient, or recipient's representative**]** *as applicable*:

(1) May request payment **[**for health insurance benefits**]** *costs allowed under this chapter on behalf of the recipient* according to procedures established by the Department **[**in this chapter**]**;

(2) Shall submit a payment request that is:

(a) An invoice for the recipient's health *or prescription drug plan* insurance premium, *copays, coinsurance, and deductibles for core medical services* issued **[**by:

(i) An insurer;

(ii) An employer; or

(iii) A health plan administrator;**]** *by an insurer, an employer, a health plan administrator, prescription drug plan administrator, or a health care provider;* and

(b) Submitted timely to allow for payment in accordance with §§A(3) and B(4) of this regulation; and

(3) Shall make the initial request for the payment of costs within the time frames established **[**under:

(a) COBRA;

(b) FEHBAA; or

(c) The**]** *by the health or prescription drug* insurance policy.

B. The Department:

(1) May not process a payment request that is not submitted as required by this chapter;

(2) Shall **[**return unpaid an invoice that is not submitted as required by this chapter**]** *inform a recipient or the recipient's representative if an invoice is not paid*;

(3) Shall make **[**health insurance premium**]** payments in accordance with any applicable policies and procedures for the administration of federal funds issued pursuant to the Ryan White CARE Act Amendments of 1996, P. L. 104-146, and any subsequent modifications to the Act; *and*

(4) Shall make subsequent payments:

(a) On the designated due date or on a later date as permitted under **[**the**]** *a* health *or prescription drug* plan; or

(b) Upon agreement between the Department and the:

(i) (text unchanged)

(ii) Employer; **[**or**]**

(iii) Health plan administrator; **[**and**]**

(iv) Prescription drug plan administrator; or

(iv) Health care provider.

[(5) May seek from the insurer repayment of any remaining prepaid premiums in the event of the death of a recipient**]**.

.08 Recovery of Payments.

If MADAP-Plus payments have been incorrectly paid or another payer has been identified, the Department shall seek recovery of the amount of those payments.

.09 Fraud.

The Department shall pursue cases of suspected misrepresentation or fraud pursuant to Criminal Law Article, §8-503, Annotated Code of Maryland, or any other applicable statutory provision.

[.15] .*10* Confidentiality.

Unless otherwise authorized by law, the Department:

A. Shall keep all **[**personal**]** applicant and recipient *personal* information confidential; **[**and**]**

B. May not disclose *personal* information **[**from the applicant's or recipient's record**]** *kept on an applicant or recipient* without the written consent of the **[**applicant or recipient.**]**:

(1) Applicant;

(2) Recipient;

(3) Applicant's parent or legal guardian; or

(4) Recipient's parent or legal guardian;

C. Shall comply with the laws and regulations concerning the privacy and security of protected health information under:

(1) Health-General Article, Title 4, Subtitle 3, Annotated Code of Maryland; and

(2) The Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C; §§1320d et seq., as amended, the HITECH Act, 42 U.S.C. §§17932, et seq., as amended, and 45 CFR Parts 160 and 164, as amended, and their implementing regulations; and

D. Shall ensure that all interactive video technology-assisted communication comply with HIPAA patient privacy and security regulations.

.11 Availability of Funding and Program Termination.

A. If sufficient monies are not available to fund MADAP-Plus, the Department shall take the action necessary to eliminate a deficit which may include MADAP-Plus termination.

B. If MADAP-Plus is terminated, the Department shall provide coverage for each current recipient until the earlier of:

(1) The end of the recipient's enrollment period; or

(2) Six months from the date MADAP-Plus is terminated.

10.18.10 Urgent Maryland AIDS Drug Assistance Program

Authority: Health-General Article, §§2-104(b), 2-104(j), 2-105(a), and 18-102(a), Annotated Code of Maryland

.01 Purpose.

The purpose of the Urgent Maryland AIDS Drug Assistance Program is to provide expedited assistance to individuals with Human Immunodeficiency Virus (HIV) who have an immediate need for HIV drugs and other products.

.02 Definitions.

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

B. Terms Defined.

(1) "Acquired Immunodeficiency Syndrome (AIDS)" means the medical condition caused by the Human Immunodeficiency Virus.

(2) "Agent" means a case manager, licensed social worker, registered nurse, or any other related professional that assists an individual in submitting an application to the Urgent Maryland AIDS Drug Assistance Program.

(3) "Applicant" means an individual on whose behalf an application has been submitted to the Urgent Maryland AIDS Drug Assistance Program and whose eligibility status for the Urgent Maryland AIDS Drug Assistance Program has not yet been determined.

(4) "Department" means the Department of Health and Mental Hygiene.

(5) "Drug" means an article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease licensed by the U.S. Food and Drug Administration, and covered by the Maryland AIDS Drug Assistance Program as specified in COMAR 10.18.06.04.

(6) "Enrollment period" means the period of time a recipient may receive Urgent Maryland AIDS Drug Assistance Program benefits.

(7) "Formulary" means a list of prescription drugs and other products covered by the Maryland AIDS Drug Assistance Program as specified in COMAR 10.18.06.04-1.

(8) "Health care practitioner" means any individual licensed to prescribe U.S. Food and Drug Administration-approved drugs or other products in the state in which they practice.

(9) "Human Immunodeficiency Virus (HIV)" means the virus that causes AIDS.

(10) "Maryland AIDS Drug Assistance Program (MADAP)" means the program administered by the Department that provides services specified in COMAR 10.18.06.04 for enrolled recipients.

(11) "Recipient" means an individual who is enrolled in Urgent MADAP.

(12) "Urgent MADAP" means the program administered by the Department that provides expedited access to MADAP services as specified in Regulation .05 of this chapter for eligible individuals.

.03 Eligibility.

To be eligible for coverage, an individual shall be eligible for MADAP as specified in COMAR 10.18.05.02 and:

A. Be taking antiretroviral medication and have less than 2-week supply;

B. Have an acute medical condition needing immediate access to formulary medication as attested by the agent; or

C. Be a pregnant woman needing medications to prevent perinatal transmission of HIV.

.04 Application and Enrollment.

A. Application.

(1) The agent of the applicant shall:

(a) Submit a complete Urgent MADAP application to the Department on the form designated by the Department;

(b) Submit a copy of the complete or incomplete MADAP application; and

(c) Attest to submitting supporting documentation to complete the MADAP application within 30 calendar days after submission of the Urgent MADAP application.

(2) The agent of the applicant or applicant may voluntarily withdraw the Urgent MADAP application at any time without prejudice.

(3) The Department shall:

(a) Review and process an Urgent MADAP application by the end of the first business day following receipt;

(b) Approve an Urgent MADAP application if the:

(i) Urgent MADAP application is complete; and

(ii) Applicant is determined to be eligible;

(c) Issue a client identification number if the Urgent MADAP application is approved;

(d) Disapprove an Urgent MADAP application if the:

(i) Urgent MADAP application is incomplete;

(ii) Applicant is determined to be ineligible; or

(iii) Agent of the applicant fails to provide sufficient information or documentation to determine eligibility; and

(e) Contact the agent of the applicant with the status of the Urgent MADAP application.

B. Enrollment.

(1) A recipient shall be approved for coverage beginning the first day of the month in which the Urgent MADAP application was received.

(2) Benefits shall end on the date that a determination of MADAP coverage occurs and not later than 60 calendar days from the date the Urgent MADAP application was approved.

.05 Covered Services.

A. The recipient shall obtain a prescription for each drug or other product ordered for the recipient.

B. Urgent MADAP shall pay for each prescription drug or other product within the limits established by the Department on the formulary if the prescription is ordered and signed by a health care practitioner for a recipient.

.06 Recovery of Payments.

If benefits have been incorrectly paid or another payer has been identified, the Department shall seek recovery of the amount of those payments.

.07 Fraud.

The Department shall pursue cases of suspected misrepresentation or fraud pursuant to:

A. Criminal Law Article, §8-503, Annotated Code of Maryland; or

B. Any other applicable statutory provision.

.08 Confidentiality.

Except when communicating with the parties listed in §B of this regulation and unless otherwise authorized by law, the agent of an applicant, or the agent of a recipient, the Department:

A. Shall keep all applicant and recipient personal information confidential;

B. May not disclose personal information kept on an applicant or recipient without written consent of the:

(1) Applicant;

(2) Recipient;

(3) Applicant's parent or legal guardian; or

(4) Recipient's parent or legal guardian;

C. Shall comply with the laws and regulations concerning the privacy and security of protected health information under:

(1) Health-General Article, Title 4, Subtitle 3, Annotated Code of Maryland; and

(2) The Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. §§1320d et seq., as amended, the HITECH Act, 42 U.S.C. §§17932, et seq., as amended, and 45 CFR Parts 160 and 164, as amended, and their implementing regulations; and

(D) Shall ensure that all interactive video technology-assisted communication comply with HIPAA patient privacy and security regulations.

.09 Availability of Funding and Program Termination.

A. If sufficient monies are not available to fund Urgent MADAP, the Department shall take the action necessary to eliminate a deficit which may include program termination.

B. If Urgent MADAP is terminated, the Department shall provide benefits for each current recipient in accordance with Regulation .04B of this chapter.

VAN T. MITCHELL
Secretary of Health and Mental Hygiene

Subtitle 18 HUMAN IMMUNODEFICIENCY VIRUS (HIV) INFECTION AND ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS)

10.18.08 HIV [Counseling and] Testing Procedures

Authority: Health-General Article, §§*2-104(b) and (i), 2-105(a) and (b),* 18-102, 18-336, and 18-338.3, Annotated Code of Maryland

Notice of Proposed Action

[16-017-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations **.01—.05**, repeal existing Regulations **.06—.10**, adopt new Regulations **.06—.09**, amend and recodify existing Regulation **.11** to be Regulation **.10**, and recodify existing Regulation **.12** to be Regulation **.11** under **COMAR 10.18.08 HIV Testing Procedures**.

Statement of Purpose

The purpose of this action is to streamline and update processes related to HIV testing for health care providers and in nonclinical settings and ensure overall consistency across various related regulations. Health care providers are generally physicians, nurses, or the designee of a health care facility. Nonclinical settings are locations or settings where medical and/or treatment services are not provided. The consent process for HIV testing was streamlined for health care providers to allow consent to be collected in the same manner in which consent is collected for other medical procedures. Also, the amount and type of information which is to be delivered by health care providers to patients prior to testing has been reduced. No procedural changes were made in nonclinical settings.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. As a result of the changes to streamline pretest activities related to HIV testing, health care providers (including those in local health departments) may note a negligible positive economic impact. As clinical settings implement changes to the testing process, the time they spend with each patient to provide the required information prior to testing will be reduced. This may allow a health care provider to see more patients, which may increase revenue generated by the additional patients.

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

trade groups:

F. Direct and indirect effects on public: NONE

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

C. Local governments have, within their local health departments, health care providers who will be impacted by the changes to the HIV testing process. As noted above, health care providers may see an increase in the number of patients they are able to see. The magnitude of the impact is not measurable as it will be dependent on the number of patients that can be seen, the number of health care providers who offer testing, and the volume of reimbursable services that are paid for by both public and private insurers.

D. Health care providers will be impacted by the changes to the HIV testing process. As noted above, health care providers may see an increase in the number of patients they are able to see. The magnitude of the impact is not measurable as it will be dependent on the number of patients that can be seen, the number of health care providers who offer testing, and the volume of reimbursable services that are paid for by both public and private insurers.

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 February 8, 2016. A public hearing has not been scheduled.

.01 Scope.

A. Except as provided in **[**§§B—E**]** *§§C—F* of this regulation, this chapter governs pretest and post-test **[**counseling**]** *information* and requirements for informed consent when HIV testing is performed.

B. In cases exempt from the requirements for consent throughout this chapter, as specified in §§C—F of this regulation, it is not necessary to obtain written informed consent for HIV testing on the form approved by the Secretary.

[B.**]** *C.* If an HIV test is performed on an individual solely for the purpose of determining the suitability of that individual as a prospective donor of blood, semen, or tissue, the requirements for **[**counseling and written informed**]** *information and* consent are addressed in:

(1)—(2) (text unchanged)

[C.**]** *D.* If an HIV test is performed on an individual as a result of a court order issued under the provisions of the Criminal Procedure Article, §§11-107—11-117, Annotated Code of Maryland:

(1) The requirements for **[**counseling**]** *HIV testing* are addressed in COMAR 10.52.10; and

(2) (text unchanged)

[D.**]** *E.*—**[**F.**]** *G.* (text unchanged)

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) "Acquired immunodeficiency syndrome (AIDS)" means the medical condition caused by the human immunodeficiency virus.

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

(3) "Applicant" means a community based organization or other similar agency that seeks approval to become a designated human immunodeficiency virus testing site.

(4) "Appropriate entity" means the Department of Health and Mental Hygiene or the Baltimore City Health Department, which designate anonymous testing sites in the State.

(5) "Centers for Disease Control and Prevention (CDC)" means the federal Centers for Disease Control and Prevention of the federal Department of Health and Human Services.

[(2)**]** *(6)*—**[**(3)**]** *(7)* (text unchanged)

[(4)**]** *(8)* "Designated anonymous **[**test**]** *testing* site" means **[**an HIV counseling and**]** *a human immunodeficiency virus* testing site approved by the Department *or the Baltimore City Health Department* as a site where an individual may have an anonymous **[**HIV**]** *human immunodeficiency virus* test using a code rather than a name for identification.

[(5)**]** *(9)* "Health care facility" means a:

(a)—(b) (text unchanged)

(c) Health maintenance organization as defined in Health-General Article, §19-701, Annotated Code of Maryland; **[**or**]**

(d) *The Department of Public Safety and Correctional Services; or*

(e) A program approved by the Department to provide **[**HIV counseling and**]** *human immunodeficiency virus* testing services, according to Regulations .03 and .04 of this chapter.

[(6) "Health care practitioner" means a physician or other person authorized to order laboratory examinations under:

(a) Health Occupations Article, Annotated Code of Maryland; or

(b) COMAR 10.10.06.02.**]**

[(7)**]** *(10)* "Health care provider" means a**[**:

(a) Physician licensed under Health Occupations Article, Annotated Code of Maryland;

(b) Nurse licensed under Health Occupations Article, Annotated Code of Maryland; or

(c) Designee of a health care facility**]** *physician, nurse, or designee of a health care facility*.

[(8) "HIV counseling" means communication of information to an individual that informs the individual about HIV infection, risks, tests for HIV, and means of preventing infection provided:

(a) Verbally;

(b) In writing;

(c) By video; or

(d) By any combination of §B(8)(a)—(c) of this regulation based on the testing history and information needs of the individual to be tested.

(9) "HIV infection" means an infection with HIV.**]**

[(10)**]** *(11)* "Human immunodeficiency virus (HIV)" means a virus that causes **[**acquired immune deficiency syndrome**]** *AIDS*.

[(11)**]** *(12)* "Indeterminate HIV test result" means that a test did not establish either the presence or absence of HIV infection as defined by the **[**Centers for Disease Control and Prevention**]** *CDC's* laboratory criteria.

[(12)**]** *(13)* "Informed consent" means the voluntary permission by the individual to be tested for HIV, after the individual receives pretest **[**counseling**]** *information* as specified in **[**Regulation**]** *Regulations* .06 *and .07* of this chapter.

[(13)**]** *(14)* (text unchanged)

[(14)**]** *(15)* "Negative HIV test result" means the test result failed to document the presence of HIV as defined by the **[**Centers for Disease Control and Prevention**]** *CDC's* laboratory criteria.

(16) Nonclinical Settings.

(a) "Nonclinical settings" means locations:

(i) That are not health care settings;

(ii) Where medical or treatment services are not provided; and

(iii) Where selected diagnostic services and selected prevention services may be provided.

(b) "Nonclinical settings" may include:

(i) Community based organizations;

(ii) Outreach settings; or

(iii) Mobile vans.

[(15)**]** *(17)* Partner.

(a) "Partner" means:

(i) **[**A sexual partner of the individual**]** *An individual with whom one has, or has had, oral, anal, or vaginal sexual contact;* or

(ii) An individual with whom **[**the individual**]** *one* has shared hypodermic needles or other similar drug paraphernalia.

(b) "Partner" includes **[**a current marital partner (spouse) or a previous marital partner (spouse) within the last 10 years**]** *any individual who is the marriage partner of an HIV-infected patient, or who has been the marriage partner of that patient at any time within the 10-year period before the diagnosis of HIV infection.*

[(16)**]** *(18)* "Positive HIV test result" means the test result has documented the presence of HIV as defined by the **[**Centers for Disease Control and Prevention**]** *CDC's* laboratory criteria.

[(17)**]** *(19)* "Post-test **[**counseling**]** *information*" means **[**HIV counseling of an individual,**]** *notifying an individual about HIV test results and providing an individual with other relevant information* after an HIV test has been performed, **[**for the purpose of:

(a) Notifying the individual about the test results; and

(b) Imparting other relevant information**]** *as required by Regulations .08 and .09 of this chapter*.

[(18)**]** *(20)* "Pretest **[**counseling**]** *information*" means **[**HIV counseling of an individual**]** *providing an individual with information* before a specimen is **[**obtained for the purpose of testing**]** *tested* for the presence of HIV infection, *as required by Regulations .06 and .07 of this chapter*.

[(19)**]** *(21)*—**[**(23)**]** *(25)* (text unchanged)

.03 Requirements for Designated Anonymous [Counseling and] Testing Sites.

A. **[**A community based organization or other similar agency**]** *An applicant* shall seek approval from an appropriate entity to become a designated anonymous testing **[**site, as follows**]** *site from the*:

(1) **[**Community based organizations or other similar agencies providing services within Baltimore City shall seek approval from the**]** Baltimore City Health Department *for an applicant offering services in Baltimore City*; **[**and**]** *or*

(2) **[**Community based organizations or other similar agencies providing services outside of Baltimore City shall seek approval from the**]** Department *for an applicant offering services outside of Baltimore City*.

B. **[**A community based organization or other similar agency**]** *An applicant* that seeks approval to become a designated anonymous testing site shall *request an application from the appropriate entity and* submit **[**a written request**]** *a completed application in writing* to the appropriate **[**entity, which includes:

(1) A description of assessed need for HIV testing services at the proposed location that includes:

(a) The target population to be tested;

(b) The estimated number of individuals to be served; and

(c) An explanation of why the target population may not be adequately served by existing counseling and testing sites;

(2) A description of the on-site professional staff;

(3) The availability of on-site services and referrals offered to individuals;

(4) The method for providing referrals to individuals;

(5) The days and hours of operation;

(6) If applicable, the criteria for accepting individuals;

(7) Whether an appointment is required for HIV testing;

(8) Whether confidential HIV counseling and testing may be offered at the site;

(9) A description of funding sources that will pay for testing services, including fees for service;

(10) A statement of intent to comply with this chapter;

(11) A statement of intent to comply with COMAR 10.18.02 if confidential counseling and testing will be offered;

(12) Documentation of training by all HIV counselors. Training may be accomplished by:

(a) Completion of a HIV Counseling and Testing Skills Level I HIV counselor training program approved by the Department; or

(b) Completion of a similar skills training course that adheres to current Centers for Disease Control and Prevention guidelines;

(13) Implementation of an HIV counseling and testing protocol that:

(a) Ensures compliance with current Centers for Disease Control and Prevention HIV counseling, testing, and referral standards and guidelines;

(b) Includes an explanation of the method for assignment of a patient identifying code to ensure an individual's anonymity;

(c) Describes record keeping procedures to separate records of an anonymous test from a record with an individual's name;

(d) Describes procedures to maintain the security of an individual's information; and

(e) States that an HIV-positive individual will be offered assistance in notifying the individual's sexual and needle-sharing partners; and

(14) A statement of intent to report all HIV counseling and testing activity to the appropriate entity in a manner that is approved by that**]** entity.

C. The Department **[**and**]** *or* the Baltimore City Health Department shall:

(1) (text unchanged)

(2) Respond in writing to the written request **[**indicating**]**:

(a) **[**Approval to become a designated anonymous counseling and testing site;

(b) Disapproval**]** *Indicating approval or disapproval* to become a designated anonymous **[**counseling and**]** testing site; or

[(c)**]** *(b)* **[**A request**]** *Soliciting* for revision and resubmission of the *written* request.

.04 Requirements for Designated Confidential [Counseling and] Testing Sites.

A. **[**A community based organization or other similar agency**]** *An applicant* shall seek approval from an appropriate entity to become a designated confidential testing site**[**, as follows**]** *from the*:

(1) **[**Community based organizations or other similar agencies providing services within Baltimore City shall seek approval from the**]** Baltimore City Health Department *for an applicant offering services in Baltimore City*; **[**and**]** *or*

(2) **[**Community based organizations or other similar agencies providing services outside of Baltimore City shall seek approval from the**]** Department *for an applicant offering services outside of Baltimore City*.

B. **[**A community based organization or other similar agency**]** *An applicant* that seeks approval to become a designated confidential testing site shall *request an application from the appropriate entity and* submit **[**a written request**]** *a completed application in writing* to the appropriate **[**entity, which includes:

(1) A description of assessed need for HIV testing services at the proposed location that includes:

(a) The target population to be tested;

(b) The estimated number of individuals to be served; and

(c) An explanation of why the target population may not be adequately served by existing counseling and testing sites;

(2) A description of the on-site professional staff;

(3) The availability of on-site services and referrals offered to individuals;

(4) The method for providing referrals to individuals;

(5) The days and hours of operation;

(6) The criteria, if applicable, for accepting individuals;

(7) Whether an appointment is required for HIV testing;

(8) A description of funding sources that will pay for testing services, including fees for service;

(9) A statement of intent to comply with this chapter;

(10) A statement of intent to comply with COMAR 10.18.02;

(11) Documentation of training by all HIV counselors which may be accomplished by completion of a:

(a) HIV Counseling and Testing Skills Level I HIV counselor training program approved by the Department; or

(b) Similar skills training course that adheres to current Centers for Disease Control and Prevention guidelines;

(12) Implementation of an HIV counseling and testing protocol that:

(a) Ensures compliance with current Centers for Disease Control and Prevention HIV counseling, testing, and referral standards and guidelines;

(b) Describes procedures to maintain the security of an individual's information; and

(c) States that an HIV-positive individual will be offered assistance in notifying the individual's sexual and needle-sharing partners; and

(13) A statement of intent to report all HIV counseling and testing activity to the appropriate entity in a manner that is approved by that**]** entity.

C. The Department **[**and**]** *or* the Baltimore City Health Department shall:

(1) (text unchanged)

(2) Respond in writing to the written request **[**indicating**]**:

(a) **[**Approval to become a designated confidential counseling and testing site;

(b) Disapproval**]** *Indicating approval or disapproval* to become a designated confidential **[**counseling and**]** testing site; or

[(c)**]** *(b)* **[**A request**]** *Soliciting* for revision and resubmission of the *written* request.

.05 Denial and Reconsideration.

A. An applicant under Regulation .03 or .04 of this chapter that has a written request denied by the appropriate entity may request reconsideration of the decision:

(1) (text unchanged)

(2) Within 30 *calendar* days of the date postmarked on the notice of denial.

B. If an applicant requests a reconsideration according to §A of this regulation, the appropriate entity shall:

(1) Review the request for reconsideration and any supplemental documentation submitted by the applicant within 45 *calendar* days of the postmarked date on the letter requesting reconsideration; and

(2) (text unchanged)

.06 Consent and Pretest Requirements for HIV Testing by Health Care Providers.

A. General medical consent is:

(1) Required to be obtained only once during a patient's visit; and

(2) Sufficient to perform HIV testing.

B. A health care provider who is obtaining consent for HIV testing shall:

(1) Obtain consent as a part of a patient's general consent for medical care in the same category as other screening and diagnostic tests; and

(2) Document all declinations of an HIV test in the medical record of the patient.

C. The general informed consent for medical care may specify that an HIV test will be performed.

D. Except as provided under Regulation .07 of this chapter, a health care provider may not be required to obtain consent for HIV testing on a separate consent form.

E. Pretest information shall be provided to the patient to be tested for HIV before each specimen is tested.

F. A health care provider providing pretest information shall:

(1) Provide HIV-specific information:

(a) Verbally;

(b) In writing;

(c) By video; or

(d) By any combination of §F(1)(a)—(c) of this regulation;

(2) Provide HIV information in a manner that protects the confidentiality of the patient being tested;

(3) Using layman's terms, provide, at minimum, the following information to the patient being tested:

(a) That the patient is being tested for HIV;

(b) That the patient has the right to:

(i) Ask questions; or

(ii) Decline the test without penalty;

(c) An explanation of HIV infection;

(d) That a negative HIV test result means that:

(i) A patient is not infected with HIV or that the test was unable to detect the presence of HIV because a patient is in the early stage of infection and has not yet developed detectable evidence of HIV infection; and

(ii) If the patient has had any potential recent exposures, the patient should be retested within an appropriate time frame based on the type of testing used; and

(e) That a positive HIV test result means the patient:

(i) Is infected with HIV; and

(ii) Will be linked with medical treatment and other supportive services;

(4) Include an opportunity for the individual being tested to:

(a) Ask questions about HIV infection and other topics described in this regulation and have those questions answered; and

(b) Decline HIV testing; and

(5) Make necessary accommodation with respect to language or disability to ensure that the patient being tested understands the information presented.

.07 Consent and Pretest Requirements for HIV Testing in Nonclinical Settings.

A. For HIV tests administered in nonclinical settings, as permitted in Regulations .03 and .04 of this chapter, the individual administering the HIV test shall:

(1) Utilize the HIV informed consent form approved by the Secretary to document the obtainment of informed consent;

(2) Read and explain the HIV informed consent form, through an interpreter if necessary, to anyone who cannot read or understand the form's contents; and

(3) Obtain voluntary written informed consent from the individual to be tested for HIV before an HIV test is performed on a specimen.

B. An individual tested at a designated anonymous nonclinical test site, as permitted in Regulation .03 of this chapter, may indicate

consent by placing their assigned code on the signature line of the form approved by the Secretary to indicate written informed consent.

C. Pretest information shall be provided to the individual being tested before each specimen is tested.

D. An individual providing pretest information shall:

(1) Provide HIV-specific information:

(a) Verbally;

(b) In writing;

(c) By video; or

(d) By any combination of §D(1)(a)—(c) of this regulation based on the testing history and information needs of the individual being tested;

(2) Provide HIV information in a manner that protects the confidentiality of the individual being tested;

(3) Using layman's terms, provide, at a minimum, the following information to the individual being tested:

(a) That the individual is being tested for HIV;

(b) That the individual has the right to:

(i) Ask questions; or

(ii) Decline the test without penalty;

(c) The primary modes of HIV transmission including:

(i) Sexual contact without the use of condoms, other barriers, or other biomedical interventions;

(ii) Injection drug use; and

(iii) Mother-to-child transmission.

(d) That a negative test result means that:

(i) An individual is not infected with HIV or that the test was unable to detect the presence of HIV because an individual is in the early stage of infection and has not yet developed detectable evidence of HIV infection; and

(ii) If the individual has had any potential recent exposures, that the individual should be retested within an appropriate time frame based on the type of testing used;

(e) That a positive test result means the individual:

(i) Is infected with HIV;

(ii) Will be linked with medical treatment and other supportive services; and

(iii) May need a confirmatory test if the preliminary positive was based on an HIV rapid test; and

(f) Inform the individual being tested at a designated anonymous HIV test site that an assigned code will be used instead of a name;

(4) Include an opportunity for the individual being tested to:

(a) Ask questions about HIV infection and other topics described in this regulation and have those questions answered; and

(b) Decline HIV testing; and

(5) Make necessary accommodation with respect to language or disability to ensure that the individual being tested understands the information presented.

.08 Post-Test Requirements for HIV Testing by Health Care Providers.

A. If a patient's test result is negative, the individual providing testing shall provide post-test information that includes:

(1) The test result was negative; and

(2) A review of the meaning of a negative result.

B. If a patient's test result is indeterminate, the individual providing testing shall provide post-test information to and in the presence of the patient tested that includes:

(1) The test result was indeterminate;

(2) A review of the meaning of an indeterminate test result;

(3) A recommendation that the patient return in a medically appropriate time frame for another test; and

(4) A recommendation that the patient take precautions as if the patient's test result had been positive until the patient is retested.

C. If a patient's test result is positive:

(1) The individual providing testing shall provide post-test information to and in the presence of the patient tested that includes:

(a) The test result was positive;

(b) A review of the meaning of a positive test result;

(c) Information regarding the patient's responsibility to notify all known sexual and needle-sharing partners of possible exposure or to request assistance from the local health department; and

(2) The health care provider shall:

(a) Ensure the patient is linked to an appropriate source of HIV medical care and supportive services;

(b) If necessary, provide the patient with information about mental health services for HIV-infected individuals; and

(c) Offer to assist the patient in notifying their partners that they may have been exposed to HIV and provide testing to their partners, or request that the local health officer conduct an investigation to assure partner notification has been completed.

.09 Post-Test Requirements for HIV Testing in Nonclinical Settings

A. If an individual's test result is negative, the individual providing testing shall provide post-test information that includes:

(1) The test result was negative;

(2) A review of the meaning of a negative result; and

(3) A recommendation about whether a repeat test is advisable based on potential recent exposures and the type of test technology used.

B. If an individual's test result is indeterminate, the individual providing testing shall provide post-test information to and in the presence of the individual tested that includes:

(1) The test result was indeterminate;

(2) A review of the meaning of an indeterminate test result;

(3) A recommendation that the individual return in a medically appropriate time frame for another test;

(4) A review of information regarding transmission of HIV and means of preventing transmission of HIV; and

(5) A recommendation that the individual take precautions as if the individual's HIV test result had been positive until the individual is retested.

C. If an individual's test result is positive:

(1) The individual providing testing shall provide post-test information to and in the presence of the individual tested that includes:

(a) The test result was positive;

(b) A review of the meaning of a positive test result;

(c) A review of information regarding transmission of HIV and means of preventing transmission of HIV;

(d) That the individual should have a medical evaluation by a physician or physician's designee who knows that the individual is HIV positive and should receive ongoing health care appropriate for an HIV seropositive individual; and

(e) If the individual is a female, a discussion of HIV transmission from mother to child in case of an unconfirmed pregnancy; and

(2) The health care provider shall:

(a) Ensure the individual is linked to an appropriate source of HIV medical care and supportive services, including evaluation and treatment for:

(i) Tuberculosis;

(ii) Hepatitis;

(iii) Pregnancy; and

(iv) Sexually transmitted infections;

(b) If necessary, provide the individual with information about mental health services for HIV-infected individuals; and

(c) Offer to assist the individual in notifying their partners that they may have been exposed to HIV and provide testing to their partners, or request that the local health officer conduct an investigation to assure partner notification has been completed.

[.11] .*10* Health Care Providers, First Responders, and Public Safety Workers — HIV Exposure.

A.—B. (text unchanged)

C. A hospital's designated infection preventionist or employee health provider or its designee shall follow the requirements in Health-General Article, §18-338.3, Annotated Code of Maryland, if an exposure, as defined in Health-General Article, §18-338.3, Annotated Code of Maryland:

(1) (text unchanged)

(2) Is such that, in accordance with the **[**Centers for Disease Control and Prevention**]** *CDC's* recommendations, warrants recommending or offering chemoprophylaxis treatment for the health care provider, first responder, or public safety worker.

VAN T. MITCHELL
Secretary of Health and Mental Hygiene

Subtitle 21 MENTAL HYGIENE REGULATIONS

10.21.01 Involuntary Admission to Inpatient Mental Health Facilities

Authority: Health-General Article, §§10-603, 10-613—10-617, 10-631—10-633, and 10-803—10-806, Annotated Code of Maryland

Notice of Proposed Action

[16-010-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations **.02**, **.04**, and **.08—.10** under **COMAR 10.21.01 Involuntary Admission to Inpatient Mental Health Facilities**.

Statement of Purpose

The purpose of this action is to alter the individuals who may assent to the admission of a minor to a certain unit of a State facility for the treatment of a mental disorder by providing that assent may be given by a physician and psychiatric nurse practitioner; and to allow a physician and psychiatric nurse practitioner to sign a certain certificate to accompany an application for involuntary admission to a facility or Veteran's Administration 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 February 8, 2016. A public hearing has not been scheduled.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) "Administration" means the **[**Mental Hygiene**]** *Behavioral Health* Administration.

(2)—(25) (text unchanged)

(26) "Psychiatric nurse practitioner" means an individual licensed under Health-Occupations Article, Title 8, Annotated Code of Maryland, to practice nursing in this State as a certified registered nurse practitioner-psychiatric mental health (CRNP-PMH).

[(26)**]** *(27)*—**[(**34)**]** *(35)* (text unchanged)

.04 Physician's [or], Psychologist's *or Psychiatric Nurse Practitioner's* Certificate for Involuntary Admission (IVA).

[A. In order to initiate the IVA of an individual, two physicians or one physician and one psychologist shall complete certificates to accompany an application for IVA completed under the provisions of Regulation .03 of this chapter.**]**

A. The following shall be submitted when initiating the IVA of an individual:

(1) An application for IVA completed under the provisions of Regulation .03 of this chapter; and

(2) A certificate completed by:

(a) Two physicians;

(b) One physician and one psychologist; or

(c) One physician and one psychiatric nurse practitioner.

B. The Secretary shall provide the certificate that includes the following:

(1)—(5) (text unchanged)

(6) Spaces for the following information:

(a) The name, address, and telephone number of the certifying physician **[**or**]**, psychologist, *or psychiatric nurse practitioner*;

(b) (text unchanged)

(c) The date that the physician **[**or**]**, psychologist, *or psychiatric nurse practitioner* examined the individual;

(d)—(f) (text unchanged)

(7) A statement of whether the individual who completes the certificate is a physician **[**or**]**,psychologist, *or psychiatric nurse practitioner*;

(8) (text unchanged)

(9) Space for the signature of the physician **[**or**]**, psychologist, *or psychiatric nurse practitioner* and for the date and time the certificate is signed.

C. To complete a certificate for IVA, a physician **[**or**]**, psychologist, *or psychiatric nurse practitioner* shall:

(1)—(4) (text unchanged)

D. (text unchanged)

.08 Schedule of IVA Hearings.

A.—B. (text unchanged)

C. Semiannual Hearing.

(1) (text unchanged)

(2) At least 7 days before the date a semiannual hearing is scheduled to take place:

(a) Two physicians or one physician and one psychologist *or one physician and one psychiatric nurse practitioner* shall complete certificates for IVA in accordance with the provisions of Regulation .04 of this chapter;

(b) (text unchanged)

(3) (text unchanged)

.09 Conduct of IVA Hearings.

A.—D. (text unchanged)

E. Testimony.

(1) The ALJ shall require the inpatient facility to provide for the testimony of one of the following, who has personally examined the individual within 48 hours before the hearing:

(a) (text unchanged)

(b) A physician in an accredited residency program in psychiatry if the physician in the residency program in psychiatry is under the supervision of the psychiatrist who is responsible for the treatment of the individual who is the subject of the hearing; **[**or**]**

(c) A psychologist*; or*

(d) A psychiatric nurse practitioner.

(2) Unless the inpatient facility demonstrates exceptional and compelling circumstances, the ALJ shall require the examining psychiatrist, physician in the residency program in psychiatry identified under §E(1)(b) of this regulation, **[**or**]** psychologist, *or psychiatric nurse practitioner* to testify in person at the hearing.

(3) If the ALJ determines that a certifying physician **[**or**]**, psychologist, *or psychiatric nurse practitioner* has not submitted adequate information with the certificate and that additional testimony from the certifying physician **[**or**]**, psychologist, *or psychiatric nurse practitioner* may materially assist the ALJ to make an informed decision, the ALJ may;

(a) Require the certifying physician **[**or**]**, psychologist, *or psychiatric nurse practitioner* to attend and testify at the hearing; or

(b) Receive the testimony of the certifying physician **[**or**]**, psychologist, *or psychiatric nurse practitioner* by telephone.

F.—G. (text unchanged)

.10 Evaluation Following ALJ Release.

If an individual is released from an inpatient facility by an ALJ under the provisions of Regulation .09G(3) of this chapter, and the individual's treating physician **[**or**]**, psychologist, *or psychiatric nurse practitioner* determines, based on the individual's behavior and clinical condition after the hearing, that the individual meets the requirements for IVA outlined in Health-General Article, §10-617, Annotated Code of Maryland, and Regulation .04C(4)(c)(i)—(v) of this chapter:

A. After the individual has been given the opportunity to leave the inpatient facility, the treating physician **[**or**]**, psychologist, *or psychiatric nurse practitioner* may file a petition for emergency evaluation as the means of initiating an emergency psychiatric evaluation; and

B. (text unchanged)

VAN T. MITCHELL
Secretary of Health and Mental Hygiene

Subtitle 29 BOARD OF MORTICIANS AND FUNERAL DIRECTORS

10.29.11 Complaint Procedures

Authority: Health Occupations Article, §7–205(7)**]** *§7-205(a)*, Annotated Code of Maryland

Notice of Proposed Action

[16-011-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations **.01—.06** under **COMAR 10.29.11 Complaint Procedures**. This action was considered at a public meeting on October 14, 2015, notice of which was given by publication on the Board's website at http://dhmh.maryland.gov/bom/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:

(1) Make clarifying changes to the regulations for consistency with statute and to correct statutory citations;

(2) Define a certain term;

(3) Streamline the complaint process to make it consistent with the goal of public protection;

(4) Require that complaints received be recorded on a complaint log;

(5) Allow complaints to be received by any means and to clarify those coming from Board members;

(6) Require that a complaint that does not fall within the Board's jurisdiction, as determined by the Complaint Committee and affirmed by the Board, but falls within the jurisdiction of another agency should be referred to the appropriate agency; and

(7) Require that if the Complaint Committee determines that a complaint does fall within the Board's jurisdiction, the Board shall open the complaint for investigation.

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 February 8, 2016. A public hearing has not been scheduled.

.01 Scope.

This chapter applies to the handling of all complaints against licensees **[**before**]** *of* the State Board of Morticians and Funeral Directors.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(3) (text unchanged)

(4) "Committee" means the **[**complaint committee**]** *Complaint Committee* of the Board, which includes at least one mortician member of the Board and at least one consumer member of the Board, and which is assisted by Board counsel provided by the Attorney General's Office and Board administrative personnel.

(5) "Complaint" means a report of a potential violation **[**of**]** *during* the **[**practice**]** *performance* of mortuary **[**science**]** *services* against an individual licensed by the Board.

(6) (text unchanged)

(7) "Confidential" means that neither the complaint nor resolution of it by the Board may be released to the public, including to the complainant, pursuant to **[**State Government Article, §10-617**]** *General Provisions Article, §4–333*, Annotated Code of Maryland.

(8) "Consent order" means a written agreement reached by the licensee and the Board as a result of a prehearing conference which sets forth the terms and conditions regarding the licensee's ability or inability to practice and is subject to release to the public, pursuant to **[**State Government Article, §10-617**]** *General Provisions Article, §4–333,* Annotated Code of Maryland.

(9)—(13) (text unchanged)

(14) "Letter of dismissal" means a letter from the Board advising the licensee that:

(a) (text unchanged)

(b) Violations **[**of the Act**]** were not found; and

(c) (text unchanged)

(15) (text unchanged)

(16) "Licensee" means an individual licensed by the Board of Morticians *and Funeral Directors* against whom a complaint has been filed.

(17) "Mortuary services" means any service provided to a decedent or their family that requires any license issued by the Board.

.03 Filing of Complaint.

A. **[**A complaint to the Board against a licensee shall be filed by the complainant on a form devised by the Board or in a letter addressed to the Board and mailed, sent by facsimile, or hand-delivered to the Board.**]** *A complaint may come to the Board by any means from the public or a Board member.*

[B. If the complaint to the Board against a licensee is filed in a letter form, the following information shall be included:

(1) Full name, address, and telephone number of complainant;

(2) Full name, address, and telephone number of the licensee against whom the complaint is being filed;

(3) Full name, address, and telephone number of each witness who should be contacted; and

(4) A detailed description of the nature of the complaint explaining what occurred, including dates and times**]**

B. A complaint received by the Board shall be recorded on a complaint log.

C. (text unchanged)

D. In an emergency situation the Board may act upon a complaint received by telephone if that complaint is followed up in writing **[**as specified in §A of this regulation**]**.

E. The Board may also act upon a complaint **[**of**]** *signed* by a Board member if the complaint is recorded *on the log* and the Board member refrains from further participation in the discussion or vote in the matter.

.04 Disposition of Complaint by Complaint Committee.

A. Upon receipt of a complaint, the administrative personnel shall present the complaint to the **[**complaint committee**]** *Complaint Committee* of the Board.

B. (text unchanged)

C. If the Committee determines that the complaint does not fall within the Board's jurisdiction **[**because the complaint addresses activities not governed by the Act**]**, the determination **[**is**]** *shall be* reported to the Board at its next regularly scheduled Board meeting. If the Board concurs with the recommendation of the Committee, the Board shall **[**notify the complainant and licensee in writing within 2 weeks of the Board's meeting**]** *vote to close the complaint with no Board action*.

D. If the Board determines that the complaint falls under the jurisdiction of another agency, the Board staff shall refer the complaint to the appropriate agency.

[D.**]** *E.* If the Committee determines that the complaint **[**falls**]** *would fall* within the Board's jurisdiction, **[**it may authorize that an investigation of the complaint be undertaken by sending a copy of the complaint to the licensee requesting a written response within 2 weeks which is to include the records, files, contracts, and other documents of the transaction. The Board may also instruct an investigator, as an agent of the Board, to conduct an investigation by issuing subpoenas, and conducting interviews with the licensee, the complainant, and other pertinent witnesses**]** *the Board shall vote to open the complaint for investigation*.

[E.**]** *F.* (text unchanged)

[F.**]** *G.* (text unchanged)

.05 Board Action on Complaints.

A.—D. (text unchanged)

E. In addition, following the Board's vote, the Board shall issue a written document regarding the action taken. All of these documents will be sent to the licensee. The Board shall notify the complainant of the resolution of the complaint, as permitted by **[**State Government Article, §10-617**]** *General Provisions Article, §4–333,* Annotated Code of Maryland.

.06 Confidentiality.

A. (text unchanged)

B. An educational letter *and a letter of admonishment* is treated as a confidential record maintained by the Board on the licensee.

VAN T. MITCHELL
Secretary of Health and Mental Hygiene

Subtitle 37 HEALTH SERVICES COST REVIEW COMMISSION

10.37.10 Rate Application and Approval Procedures

Authority: Health-General Article, §§19-207, 19-219 and 19-222, Annotated Code of Maryland

Notice of Proposed Action

[16-022-P]

The Health Services Cost Review Commission proposes to amend Regulations **.03** and **.03-1** under **COMAR 10.37.10 Rate Application and Approval Procedures**. This action was considered and approved for promulgation by the Commission at a previously announced open meeting held on November 18, 2015, notice of which was given pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland. If adopted, the proposed amendments will become effective on or about March 14, 2016.

Statement of Purpose

The purpose of this action is to establish a moratorium on the filing of regular rate applications pending the development and approval of rate efficiency measures that are consistent with the all-payer model.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. Hospitals will not be able to file full rate applications during the moratorium, and the general public and third-party payers will not be paying higher rates associated with full rate applications during the moratorium.

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

D. This assumption is based on the belief that although hospitals will not be able to file full rate applications during the moratorium, they have other administrative remedies and opportunities available for obtaining rate relief during the moratorium. Also, it is expected that approval of rate efficiency standards will be forthcoming on or about July 1, 2016.

E. This assumption is based on the belief that third-party payers will not be paying higher rates associated with a full rate application during the moratorium. However, the filing of full rate applications has become the exception, and the moratorium period will last only until new rate efficiency standards are approved, expected to be on or about July 1, 2016.

F. This assumption is based on the belief that the public will not be paying higher rates associated with a full rate application during the moratorium. However, the filing of full rate applications has become the exception, and the moratorium period will last only until new rate efficiency standards are approved, expected to be on or about July 1, 2016.

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 Diana Kemp, Regulations Coordinator, Health Services Cost Review Commission, 4160 Patterson Avenue, Baltimore, MD 21215, or call 410-764-2576, or email to diana.kemp@maryland.gov, or fax to 410-358-6217. Comments will be accepted through February 8, 2016. A public hearing has not been scheduled.

.03 Regular Rate Applications.

A. A hospital may not file a regular rate application with the Commission until [November 1, 2008, or until an earlier date as designated by the Commission] *rate efficiency measures are adopted by the Commission which are consistent with the all-payer model contract approved by the Centers for Medicare & Medicaid Services (CMS).* During this interim period of time, a hospital may seek a rate adjustment under any other administrative remedy available to it under existing Commission law, regulation, or policy. [As of November 1, 2008 or as of the earlier date if so designated by the Commission,] *The rate efficiency measures shall be adopted by the Commission on or about July 1, 2016. In no event shall the moratorium continue in effect beyond September 30, 2016. Once the moratorium is lifted,* a hospital may file a regular rate application with the Commission at any time if:

(1) — (2) (text unchanged)

B. — D. (text unchanged)

.03-1 Partial Rate Applications.

A. (text unchanged)

B. A hospital may file a partial rate application with the Commission at any time, consistent with the provisions of Regulation .03A of this chapter. [The moratorium provisions associated with Regulation .03A apply only to partial rate applications associated with a capital project.] A partial rate application is not a contested case under the provisions of the Administrative Procedure Act.

C. — D. (text unchanged)

JOHN M. COLMERS
Chairman

Subtitle 41 BOARD OF EXAMINERS FOR AUDIOLOGISTS, HEARING AID DISPENSERS, AND SPEECH-LANGUAGE PATHOLOGISTS

Notice of Proposed Action

[16-024-P]

The Secretary of Health and Mental Hygiene proposes to:

(1) Amend Regulation **.03** and adopt new Regulation **.07** under **COMAR 10.41.03 Licensure and Continuing Education**;

(2) Amend Regulation **.02** and adopt new Regulation **.13** under **COMAR 10.41.08 Hearing Aid Dispensers**; and

(3) Amend Regulation **.03** and adopt new Regulation **.10** under **COMAR 10.41.11 Speech-Language Pathology Assistants**.

This action was considered at a public meeting on October 15, 2015, notice of which was given by publication on the Board's website at http://dhmh.maryland.gov/boardsahs/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:

(1) Require an official transcript as part of an application for the license to the Board; and

(2) Require that licensees notify the Board within 30 days of the change of a mailing address, name, or email address and to authorize the Board to impose a $100 administrative penalty for failure to notify the Board of such changes.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to 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 February 8, 2016. A public hearing has not been scheduled.

10.41.03 Licensure and Continuing Education

Authority: Health Occupations Article, §§2–205, 2–302, 2–310, 2–310.2, and 2–314(11), Annotated Code of Maryland

.03 Requirements for Licensure.

A. Limited Licensure.

(1)—(2) (text unchanged)

(3) Application.

(a) An individual applying for limited licensure shall submit a complete application.

(b) The Board shall determine whether an application is complete.

(c) A complete application shall include:

(i) The application fee;

(ii) All required documentation regarding supervision of the limited licensee; and

(iii) An official transcript from the accredited educational institution attended by the applicant.

(4) Upon approval of an application, the Board shall issue a document authorizing the applicant to practice in this State in accordance with Health Occupations Article, §2–306, Annotated Code of Maryland, and the regulations in this chapter.

B.—D. (text unchanged)

.07 Licensee Responsibilities.

A. A licensee shall notify the Board in writing of a change of:

(1) Mailing address within 30 days after the change;

(2) Name within 30 days after the change; or

(3) Email address within 30 days after the change if the licensee has previously submitted an email address to the Board.

B. A licensee who fails to comply with the requirements of this regulation is subject to an administrative penalty of $100.

10.41.08 Hearing Aid Dispensers

Authority: Health Occupations Article, §§2–205, 2–302.1, 2–310.1, and 2–314(10) and (11), Annotated Code of Maryland

.02 Application for License.

A.—C. (text unchanged)

D. The applicant shall include with the application:

(1) **[**A check or money order made payable to the Board in the amount specified**]** *The application fee*; **[**and**]**

[(2) If applying for a full license in hearing aid dispensing or transferring from a limited license in hearing aid dispensing to a full license in hearing aid dispensing, evidence of graduation from an accredited 2-year post-secondary program, as defined in Regulation .01-1B of this chapter**]**

(2) Documentation regarding supervision of the limited license, if applicable;

(3) An official transcript from the accredited 2-year post-secondary program, as defined in Regulation .01-1B of this chapter, attended by the applicant; and

(4) All other required documentation.

E.—I. (text unchanged)

J. Upon approval of an application, the Board shall issue a document authorizing the applicant to practice in this State in accordance with Health Occupations Article, §2–306, Annotated Code of Maryland, and the regulations in this chapter.

.13 Licensee Reponsibilities.

A. A licensee shall notify the Board in writing of a change of:

(1) Mailing address within 30 days after the change;

(2) Name within 30 days after the change; or

(3) Email addres within 30 days after the change if the licensee has previously submitted an email address to the Board.

B. A licensee who fails to comply with requirements of this regulation is subject to an administrative penalty of $100.

10.41.11 Speech-Language Pathology Assistants

Authority: Health Occupations Article, §§2–205 and 2–314(10) *and (11)*, Annotated Code of Maryland

.03 Requirements for a Speech-Language Pathology Assistant License.

A. Academic Curriculum Requirement.

(1) (text unchanged)

(2) The Board shall accept only *an official transcript that demonstrates* course work completed with a grade of at least a "C" taken for credit.

(3)—(4) (text unchanged)

B.—C. (text unchanged)

.10 Licensee Responsibilities.

A. A licensee shall notify the Board in writing of a change of:

(1) Mailing address within 30 days after the change;

(2) Name within 30 days after the change; or

(3) Email address within 30 days after the change if the licensee has previously submitted an email address to the Board.

B. A licensee who fails to comply with the requirements of this regulation is subject to an administrative penalty of $100.

VAN T. MITCHELL
Secretary of Health and Mental Hygiene

Title 11
DEPARTMENT OF TRANSPORTATION

Subtitle 17 MOTOR VEHICLE ADMINISTRATION — DRIVER LICENSING AND IDENTIFICATION DOCUMENTS

11.17.03 Physical and Mental Condition

Authority: Transportation Article, §§12-104(b), 16-106, 16-110, 16-118, 16-119, 16-206, and 16-208, Annotated Code of Maryland

Notice of Proposed Action

[16-016-P]

The Administrator of the Motor Vehicle Administration proposes to amend Regulations **.02**, **.02-1**, **.03—.05**, and **.09** under **COMAR 11.17.03 Physical and Mental Conditions**.

Statement of Purpose

The purpose of this action is to update and clarify medical disorders that must be reported by driver's license applicants or holders.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Tracey C. Sheffield, Regulations Coordinator, Motor Vehicle Administration, 6601 Ritchie Highway N.E., Room 200, Glen Burnie, MD 21062, or call 410-768-7545, or email to tsheffield@mdot.state.md.us, or fax to 410-768-7506. Comments will be accepted through February 8, 2016. A public hearing has not been scheduled.

.02 [Disorders] *Medical Conditions* Reported by Physicians or Other Authorized Persons.

A. Under Transportation Article, §16-119, Annotated Code of Maryland, any physician and any other person authorized to diagnose, detect, or treat the following **[**disorders**]** *medical conditions*, may report to the Administration and to the subject of the report, in writing, the full name, date of birth, and address of each individual 15 years old or older who has a disorder that:

(1)—(2) (text unchanged)

B. Lapses of Consciousness.

(1)—(2) (text unchanged)

(3) Individuals who have a significant risk of lapses of consciousness due to any condition or disease **[**process**]** may be reported pursuant to Transportation Article, §16-119, Annotated Code of Maryland. A judgment of significant risk shall be based on:

(a) (text unchanged)

(b) How well the individual's **[**disorder**]** *medical condition* is controlled; or

(c) (text unchanged)

C. Individuals who have any **[**disorder**]** *medical condition* which prevents them from having a corrected minimum visual acuity of 20/40 in each eye and a field of vision of at least 140 degrees may be reported pursuant to Transportation Article, §16-119, Annotated Code of Maryland.

.02-1 [Disorders] *Medical Conditions* Reported by Applicant or Licensee.

A. A licensee or an applicant for a driver's license shall notify the Administration if the licensee or applicant is diagnosed as having any of the following **[**disorders**]**:

[(1) Cerebral palsy;**]**

[(2)**]** *(1)* Diabetes *that has caused a low blood sugar episode* requiring **[**insulin**]** *assistance from another person in the last 6 months*;

[(3)**]** *(2)* Epilepsy;

[(4) Multiple sclerosis;

(5) Muscular dystrophy;**]**

(3) Seizure;

[(6)**]** *(4)* **[**Irregular heart rhythm or**]** *A* heart condition *that has caused a loss of consciousness in the past 6 months*;

[(7)**]***(5)* Stroke **[**or transient ischemic attack (ministroke)**]**;

[(8) Alcohol dependence or abuse;

(9) Drug or substance dependence or abuse;

(10) Loss of limb or limbs;

(11) Traumatic brain injury;

(12) Bipolar disorder;

(13) Schizophrenic disorders;

(14) Panic attack disorder;**]**

[(15)**]** *(6)* Impaired or loss of consciousness,**]** *A condition that causes you to have dizzy spells,* fainting, **[**blackout,**]** or **[**seizure**]** *blackouts*;

(7) Sleep apnea or narcolepsy;

(8) A history of traumatic brain injury (TBI);

(9) A condition that causes weakness, shaking, or numbness in the arms, hands, legs, or feet that may affect your ability to drive;

(10) A hand, arm, foot, or leg, that is absent, amputated, or has a loss of function that may affect your ability to drive;

[(16)**]** *(11)* **[**Disorder**]** *An eye problem* which prevents a corrected minimum visual acuity of 20/70 in **[**each**]** *at least one* eye **[**and a**]** *or binocular* field of vision of at least 110 degrees;

[(17) Parkinson's disease;**]**

(12) Alcohol use problem;

(13) Drug use problem;

(14) A mental health condition that may affect your ability to drive;

(15) Schizophrenia; or

[(18)**]** *(16)* Dementia**[**, for example, Alzheimer's disease or multi-infarct dementia;

(19) Sleep disorders, for example, narcolepsy, or sleep apnea; or

(20) Autism**]**.

B. (text unchanged)

C. Upon application for, or renewal of, a driver's license, the applicant shall answer any question submitted by the Administration pertaining to any **[**disorders**]** *medical conditions* affecting the applicant's ability to drive.

D. Upon diagnosis of a medical condition listed in §A of this regulation, a licensee shall notify the Administration.

.03 Procedures When a Certain Physical or Mental Condition Is Indicated.

Upon receipt of an application for a driver's license, or renewal of a driver's license, on which an individual has indicated that the individual has been treated for any of the listed **[**disorders**]** *medical conditions*, or when an individual is referred to the Medical Advisory Board by the Administrator for any other reason, the Administration shall follow the procedures set forth below:

A.—C. (text unchanged)

.04 Medical Advisory Board Guidelines.

A. The Medical Advisory Board shall follow the guidelines set forth in **[**§§B—K**]** *§§B—J* of this regulation when making a recommendation to the Administration.

B. (text unchanged)

C. Diseases of the Endocrine System.

(1) Diabetes Mellitus. An individual with diabetes mellitus requiring insulin **[**shall**]** *may* be reviewed by the Medical Advisory Board.

(2) (text unchanged)

D.—F. (text unchanged)

[G. Intellectual or Developmental Disabilities.

(1) Mild Intellectual or Developmental Disability. Before deciding whether to issue a driver's license to an individual with a mild intellectual or developmental disability, the Administration shall ask the Medical Advisory Board to evaluate that individual.

(2) Moderate or Severe Intellectual or Developmental Disability. The Administration may not issue any class of driver's license to an individual with a moderate or severe intellectual or developmental disability.**]**

[H.**]** *G.* (text unchanged)

[I.**]** *H.* Substance **[**Abuse**]** *Use Disorders*. In this section, a certified substance abuse treatment program means a program which has been certified by the Alcohol and Drug Abuse Administration of the Department of Health and Mental Hygiene.

(1) **[**Substance abuse is the**]** *A severe substance use disorder is characterized by* physical or psychological dependence, or both, on certain psychoactive chemical substances, as shown through the continued use of these psychoactive chemical substances despite harmful or adverse circumstances. **[**Substance abuse**]** *A mild or moderate substance use disorder* involves harmful or hazardous use of substances which can be both licit, for example medication, and illicit. These substances include, but are not limited to:

(a)—(d) (text unchanged)

[(2) Misuse or abuse may be early stages of dependence or addiction.**]**

[(3)**]** *(2)*—**[**(5)**]** *(4)* (text unchanged)

[J.**]** *I* —**[**K.**]** *J.* (text unchanged)

.05 Procedures when Suspension or Refusal is Recommended.

If the Medical Advisory Board recommends suspension or refusal of a driving privilege, and the recommendation is followed by the Administration, a letter shall be sent by **[**certified**]** first class mail to the individual, stating:

A.—F. (text unchanged)

.09 Records of the Medical Advisory Board — Used for Driver Safety Research.

A. (text unchanged)

B. Records of the Medical **[**Advisor**]** *Advisory* Board are confidential, except as provided under Transportation Article, §§16-118 and 16-119, Annotated Code of Maryland, in which information may be used for the purpose of driver safety research, provided that personal information relating to the identity of the individual is not disclosed.

C.—J. (text unchanged)

CHRISTINE NIZER
Administrator

Title 15
DEPARTMENT OF AGRICULTURE

Subtitle 03 WEIGHTS AND MEASURES

15.03.12 Biodiesel Motor Blend Fuel Registration for a Weighing and Measuring Device

Authority: Agriculture Article, §11-203(b) and (c), Annotated Code of Maryland

Notice of Proposed Action

[16-023-P]

The Secretary of Agriculture proposes to adopt new Regulations **.01—.07** under a new chapter, **COMAR 15.03.12 Biodiesel Motor Blend Fuel Registration for a Weighing and Measuring Device**.

Statement of Purpose

The purpose of this action is to promote the use of biodiesel motor blend fuel by granting a limited exemption from State weights and measures requirements to certain organizations that distribute this fuel to its members only. This allows the exempted organization the limited use of a commercial measuring device that does not meet the technical requirements of Handbook 44 of the National Institute of Standards of Technology.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. This action will save certain organizations that dispense biodiesel fuel to its members a minimum of $20,000 which represents the cost of complying with current weights and measures requirements under State law.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(R+)	Unknown
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	**Magnitude**
D. On regulated industries or trade groups:	(+)	$20,000 (minimum)
E. On other industries or trade groups:	(+)	Unknown
F. Direct and indirect effects on public:	(+)	Unknown

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

A. Any additional fees generated by this regulation will be offset by the Department's inspection costs.

D. This action may save certain organizations distributing biodiesel fuel a minimum of $20,000.

E. May increase sales of biodiesel fuel

F. May increase access to biodiesel fuel by certain consumers.

Economic Impact on Small Businesses

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

This action will save organizations that dispense biodiesel fuel to its members a minimum of $20,000 which represents the cost of complying with current weights and measures requirements under State law.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Kenneth Ramsburg, Chief Weights and Measures, Maryland Department of Agriculture, 50 Harry S. Truman Parkway, Annapolis, Maryland 21401, or call (410) 841-2707, or email to kenneth.ramsburg@maryland.gov, or fax to (410) 841-5914. Comments will be accepted through February 8, 2016. A public hearing has not been scheduled.

.01 Scope and Purpose.

This chapter describes the Department's exemption, allowed only to certain organizations that distribute biodiesel blend fuel to its members only, and not to the general public, that permits the limited use of a commercial measuring device that does not meet the technical requirements of Handbook 44 of the National Institute of Standards and Technology.

.02 Definitions.

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

B. Terms Defined.

(1) "Biodiesel" means a renewable, biodegradable fuel that is manufactured from vegetable oils, animal fats, or recycled grease.

(2) "Biodiesel blend" means a motor fuel comprised of a minimum of 20 percent biodiesel fuel.

(3) "Department" means the Maryland Department of Agriculture.

(4) "Device" means any weighing or measuring instrument or meter used for measuring the amount of fuel distributed by an organization.

.03 Application and Qualifications for Certification.

A. An organization requesting registration of a device shall make application to the Department on a Departmental form, pay any fee required by this chapter, and include the following information:

(1) Name of the applicant;

(2) Business address of the applicant;

(3) Whether the applicant has ever had a registration or license suspended or revoked by the Department; and

(4) Any other information the Department considers necessary to determine the qualifications of the applicant.

B. In addition to the above, the organization shall certify to the Department that it meets all of the following conditions:

(1) That the organization is organized under Corporations and Associations Article, Title 5, Subtitle 5A, Annotated Code of Maryland, or organized as another entity approved by the Department;

(2) That the biodiesel blend is not commercially available in the market area where the device is located;

(3) That the device is accurate and free of error;

(4) That the device is constructed so that it is permanent in its adjustments and repeats its indications correctly;

(5) That the device does not facilitate the perpetration of fraud;

(6) That the device will only be used to dispense biodiesel blend fuel for use by active fully paid members of the organization, and that all fees and fuel prices are the same for all members;

(7) That the organization does not advertise, publicize, or otherwise disseminate information to the public indicating the unit pricing of the biodiesel blend fuel;

(8) That the organization does not have more than 60 members who purchase biodiesel blend fuel;

(9) That no more than 30,000 gallons of biodiesel blend fuel shall be dispensed annually;

(10) That the device is clearly marked to indicate that it is not legal for trade and is restricted to members of the organization;

(11) That the organization is in compliance with all other applicable State and federal requirements relating to the biodiesel blend fueling facility;

(12) That the organization grants permission to the Department to inspect the device, any records required by this chapter, and the biodiesel blend fuel facility;

(13) That the organization purchases biodiesel blend fuel only from persons who are legally licensed to distribute fuel in Maryland; and

(14) That the organization acknowledges and agrees that its registration may be denied, revoked, or suspended by the Department as provided by Regulation .07 of this chapter.

.04 Certification of Registration Fee.

A. The Department shall issue a certification of registration for a device to any qualifying organization under this chapter upon payment of the fee specified in §B of this regulation.

B. The fees for registration are:

(1) $50 for each business location; and

(2) $12.50 per meter.

.05 Annual Registration Renewals.

A. A registration expires on May 31st each year after the date issued.

B. An organization may renew a registration as described by Regulation .03 of this chapter and upon payment of a fee as specified in Regulation .04B of this chapter.

.06 Record-Keeping Requirements.

Any organization whose device is certified for registration under this chapter shall keep for 3 years the following records and make them available to the Department upon request:

A. Copies of any bills of lading and delivery tickets for any biodiesel blend fuel acquired by the organization;

B. The name of each member of the organization who acquired biodiesel blend fuel during each calendar year; and

C. The total amount of biodiesel blend fuel dispensed each calendar year by the organization.

.07 Denial, Revocation, and Suspension of Application of Registration.

A. The Department may deny an application for renewal, or revoke or suspend the current registration of any device:

(1) For operating without a current registration for the device;

(2) For any violation of this chapter, including providing false information to the Department or any violation of any certification by the organization to the Department under Regulation .03 of this chapter; or

(3) If the Department determines that the biodiesel blend fuel is commercially available in the market area where the device is located.

B. Before the Department takes any action under this regulation, the organization shall be given reasonable notice and the opportunity to be heard.

JOSEPH BARTENFELDER
Secretary of Agriculture

Title 20
PUBLIC SERVICE COMMISSION

Subtitle 95 TRANSPORTATION

20.95.01 General

Authority: State Government Article, §7-207(a); Public Utilities Article, §§2-113, 2-121, 4-503, 5-101, 5-106, 9-101—9-103, 9-201—9-205, 9-207, 13-101, 13-201, and 13-202; Annotated Code of Maryland

Notice of Proposed Action

[16-001-P]

The Public Service Commission proposes to amend Regulations **.03**, **.06**, **.08**, **.11**, **.12**, and **.19**, repeal existing Regulation **.09**, and adopt new Regulations **.20—.25** under **COMAR 20.95.01 General**. This action was considered at a scheduled rule making meeting on October 26, 2015, notice of which was given under General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to align regulations to the statutes passed during the 2015 Maryland General Assembly, Senate Bill 868, defining Transportation Network Company, Transportation Network Operator and Transportation Network Services. The modifications are to streamline and modernize outdated regulations, and implement new statutory provisions regarding Transportation Network Companies, Transportation Network Operators and Transportation Network Services.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. In the past 4years, a new variation of an intrastate passenger-for-hire transportation service has begun service in Maryland, Transportation Network Services. The General Assembly passed a bill, signed by the Governor, defining and regulating this type of service.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:		
(1) At least $1 million	(R+)	Annual Basis
(2) At least $455,000	(E+)	Annual Basis
B. On other State agencies:		
(1) Unquantifiable	(E+)	Annual Basis
(2) Approximately $75,000	(R+)	Annual Basis
C. On local governments:		
(1) Approximately $1,425,000	(R+)	Annual Basis
(2) Unquantifiable	(E+)	Annual Basis

	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
(1) At least $3.5 million	(-)	Unquantifiable
(2) Unquantifiable	(+)	Unquantifiable
E. On other industries or trade groups:		
(1) Unquantifiable	(+)	Unquantifiable
(2) Unquantifiable	(-)	Unquantifiable
F. Direct and indirect effects on public:		
(1) Unquantifiable	(-)	Unquantifiable
(2) Unquantifiable	(+)	Unquantifiable

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

A(1). On issuing agency, Revenue: The assumption is that there will be at least two operating Transportation Network Companies authorized by the Commission. There will be an estimated 20,000 Transportation Network Operators and vehicles authorized in Maryland. The two Transportation Network Companies will be expected to pay an annual assessment to the Commission as required by the Public Utilities Article. Additionally, the For-Hire Driving Services Enforcement Fund is an annual $40 assessment to be paid annually per each vehicle permitted. Therefore, the revenue to the For-Hire Driving Services Enforcement Fund is expected to be increased by $800,000 ($40 x 20,000).

A(2). On issuing agency, Expenditures: The assumption that with the addition of two Transportation Network Companies and estimated 20,000 Transportation Network Operators and vehicles, additional staffing would be required. Based on these estimated numbers, the following additional staff would be required: three (3) Administrative Specialist positions (salary and expenses $45,000 x 3 positions = $135,000), one (1) Field Investigator positions (salary and expenses $50,000), and one Staff attorney (salary and expenses $90,000). Additionally, day-to-day activities including office supplies, postage, phone lines, travel, and other expenses will cost an estimated $180,000. Although the Fiscal and Policy Note for SB868 estimated additional increased expense to the Commission would to be $109,300 annually, the operations of the Transportation Network Companies and Operators have experienced significant growth since this estimate was generated. Additionally, the fiscal note estimated expense was based on the original language of the proposed bill that limited the scope of the Commission's enforcement activities.

B(1). On other State agencies, Expenditures: Additional resources and expenses will be necessary in the Office of the Comptroller and the Maryland Insurance Administration. Commission Staff does not have access to information that would allow us to estimate the magnitude of those resources and expenditures. However, based on the Fiscal and Policy Note for SB868, there would be an increase of $59,600 in FY2016 and by $8,900 in FY2017 for the Maryland Insurance Information, but no expenses noted for the Office of the Comptroller. Again, these estimates were based on a proposed bill that limited the scope of the Maryland Insurance Administration and Office of the Comptroller activities

B(2). On other State agencies, Revenue: The assumption is that there will be at least 6 million trips completed in Maryland. The Office of the Comptroller, by statue, can collect 5% of the amount collected to be distributed to the Administrative Cost Account. Therefore, the Office of the Comptroller could possibility collect $75,000 (6 million x 25¢ x 5%).

C(1). On local governments, Revenue: Each local government, by statue, may establish a tax of 25¢ per each trip. The assumption is that there will be at least 6 million trips completed in Maryland, with all jurisdictions imposing a tax and notifying the Office of the Comptroller. Therefore, the local governments can possibly collect $1,425,000 (6 million x 25¢ - $75,000 [Office of the Comptroller]).

C(2). Expenditures for local governments to implement receipt of revenues is unquantifiable.

D(1). On regulated industries or trade groups, Costs: The assumption is that there will be additional costs borne by the Transportation Network Companies and Transportation Network Operators for assessments levied by the Commission (at least $1 million), the 25¢ per trip tax imposed by the local jurisdictions (at least $1,500,000), an annual inspection of each vehicle conducted by a facility authorized to conduct a State motor vehicle inspection (the assumption of 20,000 x $50-$70 = $1,000,000-$1,400,000) as well as any cost of repair to bring the vehicle to State standards (unquantifiable). Again, the assumptions are based on 20,000 Transportation Network Operators that conduct at least 6 million trips.

D(2). On regulated industries or trade groups, Benefits: The benefits are an unquantifiable amount because of the assumption of increased safety with Commission oversight and the codification of insurance requirements pertaining to Transportation Network Companies and Transportation Network Operators. Additionally, certain vehicles that are not Transportation Network Operators will be inspected only once per year; previous regulations required that these vehicles be inspected twice per year. The owners of those vehicles will see an intangible and unquantifiable benefit of time freed to perform transportation services and not incapacitated the vehicle inspection process.

E(1). On other industries or trade groups, Benefits and Costs: At this junction, it is hard to place any estimated benefits or costs to

other industries or trade groups. However, public safety is the overarching reason for the statute and respective regulations.

E(2). On other industries or trade groups, Benefits and Costs: At this junction, it is hard to place any estimated benefits or costs to other industries or trade groups. However, public safety is the overarching reason for the statute and respective regulations.

F(1). Direct and indirect effects on public, Benefits and Costs: Again, it is hard to place any estimated benefits or costs. However, public safety and regulatory oversight is the overarching reason for the statute and respective regulations.

F(2). Direct and indirect effects on public, Benefits and Costs: Again, it is hard to place any estimated benefits or costs. However, public safety and regulatory oversight is the overarching reason for the statute and respective regulations.

Economic Impact on Small Businesses

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

As a result of the passage of the statute, many individuals will be employed lawfully as "independent contractors" (if they are not deemed to be "employees") driving for Transportation Network Companies. Existing market participants will experience greater lawful competition.

Impact on Individuals with Disabilities

The proposed action has an impact on individuals with disabilities as follows:

The regulations clarify the rights of individuals with disabilities when using passenger-for-hire transportation services.

Opportunity for Public Comment

Comments may be sent to David J. Collins, Executive Secretary, William Donald Schaefer Tower, 6 St. Paul Street, Baltimore, Maryland 21202-6806, or call 410-767-8067, or fax to 410-333-6495. Comments will be accepted through February 8, 2016. A public hearing has not been scheduled.

.03 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) "Company" includes every corporation, association, partnership, group of individuals, or individual owning, controlling, operating, or managing one or more motor vehicles engaged in the transportation of persons for hire over any road between fixed termini, over a more or less regular route, on a more or less fixed schedule, *or transportation from point to point that is pre-arranged between the company and a rider*.

(3) (text unchanged)

(4) "Operator" means any person engaged in driving a motor vehicle for which a permit has been issued, *other than a Transportation Network Operator.*

(5) "Owner" means the individual, partnership, carrier, or company to whom a permit has been issued, *other than a Transportation Network Company or Transportation Network Operator*.

(6) "Permit" means the *motor carrier or driver's* permit issued by the Commission.

(7)—(8) (text unchanged)

(9) "Surge pricing" means the practice of a company applying a multiplier to customer fares for a limited duration.

(10) "Transportation Network Company" or "TNC" means a company that has been issued a permit by the Commission and operates in the State of Maryland using a digital network to connect passengers to Transportation Network Operators for Transportation Network Services.

(11) "Transportation Network Operator" means an individual who:

(a) Has been issued a Transportation Network Operator's License, or is otherwise authorized, by the Commission to provide Transportation Network Services;

(b) Receives, through a Transportation Network Company's digital network application, a connection to a potential passenger to transport the passenger between points chosen by the passenger in exchange for the payment of a fee to the Transportation Network Company; and

(c) Uses a motor vehicle that is owned, leased, or otherwise authorized for use by the individual and is approved for use in providing Transportation Network Services by the Commission.

(12) "Transportation Network Services" means:

(a) The activities of a Transportation Network Operator during:

(i) Transportation Network Coverage Period One, during which the Transportation Network Operator is logged onto and ready to accept a prearranged ride request made through a TNC's digital network application;

(ii) Transportation Network Coverage Period Two, during which the Transportation Network Operator accepts a ride request from a passenger that is prearranged through a TNC's digital network application, and is traveling to a predetermined location to pick up the passenger; and

(iii) Transportation Network Coverage Period Three, during which the Transportation Network Operator transports the passenger and continuing until the passenger departs the motor vehicle.

(b) "Transportation Network Services" does not include providing taxicab services, sedan services, or limousine services.

(13) "Transportation Network Operator Vehicle" means a vehicle that is used by a Transportation Network Operator to provide pre-arranged passenger transportation services requested through a TNC Platform, using Commission approved motor vehicles and operators.

(14) "TNC Platform" means a digital network application used by a TNC to connect riders to Transportation Network Operators who provide for-hire transportation services for compensation.

.06 Violations and Penalties.

A. (text unchanged)

B. Civil Penalty Violations. The following violations are subject to a civil penalty under Public Utilities Article, §13-202, Annotated Code of Maryland:

(1)—(2) (text unchanged)

(3) Failure to file with the Commission an inspection certificate from a facility licensed by the State to perform motor vehicle inspections, *or a facility licensed to perform inspections in an adjacent jurisdiction, if the Commission has previously determined that the vehicle inspection standards of that jurisdiction are materially the same as those adopted by the Maryland State Police*;

(4) Failure to carry appropriate insurance or provide evidence of coverage to the Commission under **[**Regulation**]** *Regulations* .18 *and .20* of this chapter;

(5) (text unchanged)

(6) Operating a motor vehicle without a valid state driver's license or valid passenger-for-hire driver's license, *or a valid Transportation Network Operator's License*;

(7)—(13) (text unchanged)

(14) Operating a motor vehicle which has been placed out of service for the same violation more than two times in a 1-year period

or over 50 percent of the time inspected in a 1-year period, whichever is less; **[**or**]**

(15) Failure of the owner or an operator of a motor vehicle, *including a Transportation Network Operator,* to permit inspection of a vehicle or of records relating to a permit**[**.**]***;*

(16) Operating a motor vehicle without all required permits; or

(17) Violation of Accessibility and Non-Discrimination under Regulation .25 of this chapter.

C. Civil penalties for the violations set forth in §B of this regulation may be assessed upon owners or operators as appropriate, including Transportation Network Companies and Transportation Network Operators.

[C.**]** *D.* (text unchanged)

.08 Schedules—[Times,] Rates, and Charges.

A. (text unchanged)

B. *Notice.*

(1) A schedule of **[**times,**]** rates**[**,**]** and charges may not be instituted or changed by an owner *or Transportation Network Company* without **[**prior approval of the Commission.**]** *providing the Commission and the Maryland Office of People's Counsel with 14 days notice.*

(2) Interested persons and the Maryland Office of People's Counsel may file with the Commission an objection to the schedule of rates and charges within 14 days of the submission of the application and proposed schedule.

(3) Unless the Commission suspends a schedule filed under §B(1) of this regulation within 14 days, the schedule shall take effect on the date specified in the schedule.

(4) A schedule of rates may include a range of maximum and minimum rates, including a range of base rates, and any applicable surge pricing capped at a maximum multiplier.

C. An owner *or Transportation Network Company* shall *file with the Commission a schedule of its rates and charges* **[**give the Commission and the public 30 days written notice before any changes in its times, rates, and charges**]**, as required in Regulation **[**.09C and D**]***.08B* of this chapter.

D. An application for authority to institute or change **[**times,**]** rates**[**,**]** and charges shall be typewritten or printed and shall include an original and *two copies of the proposed tariff change, including the following information*:

[(1) Two copies of the proposed tariff change; and

(2) 14 copies of a cover letter explaining the application, including the following information:**]**

[(a)**]** *(1)* A reference to the specific **[**time,**]** rate**[**,**]** or charge section being instituted or changed**[**,**]***;*

[(b)**]** *(2)* A list of the **[**time,**]** rate**[**,**]** or charge pages being revised**[**,**]***;*

[(c)**]** *(3)* A brief description of the nature of the **[**time,**]** rate**[**,**]** or charge addition or change**[**,**]***;*

[(d)**]** *(4)* If applicable, the percentage of increase or decrease in a rate or charge and the related dollar amount for each class**[**,**]***;*

[(e) A copy of the notice provided to passengers,

(f) The impact of the schedule changes on total annual Maryland intrastate regulated revenue expressed as a percentage increase or decrease and the related dollar amount,**]**

[(g)**]** *(5)* The proposed effective date**[**,**]***;*

[(h)**]** *(6)* The name and telephone number of a representative of the owner *or Transportation Network Company* capable of answering any question the Commission may have concerning the **[**time,**]** rate**[**,**]** or charge**[**,**]***;* and

[(i)**]** *(7)* The signature of the owner, or in the case of a *Transportation Network Company*, corporation, *partnership, or LLC, the signature* of an authorized representative.

E. An owner shall provide access to a copy of the effective and proposed schedule of **[**times,**]** rates**[**,**]** and charges to the public *on a website, or if the owner does not have a website,* at their principal place of business.

F. A Transportation Network Company shall disclose the following information to a passenger through the TNC Platform before the passenger agrees to a trip with a Transportation Network Company:

(1) The applicable rate being charged;

(2) Notice that surge pricing is in effect and the multiplier to be applied, if applicable;

(3) Notice of the type and amount of any additional fee or fees being charged; and

(4) The option to obtain an estimated fare for the transportation service that will be provided, based on passenger-input pick-up and drop-off points.

G. A Transportation Network Company shall include in its digital platform a feature that requires a passenger to acknowledge that surge pricing is in effect, when applicable.

H. A Transportation Network Company shall permit all passengers to view on their personal computer or mobile device a photograph of the authorized Transportation Network Operator, and the vehicle's license plate number, prior to entering the Commission approved vehicle.

I. A Transportation Network Company, on completion of transportation services, shall transmit an electronic receipt to the passenger's electronic mail address or mobile application documenting:

(1)The origin and destination of the trip;

(2)The total time of the trip;

(3)The total fare paid, including the base fare and any additional charges incurred for distance traveled or duration of the prearranged ride;

(4)The driver's first name;

(5)The PSC license number or a unique receipt identification number;

(6)The Company name; and

(7)A customer support telephone number and an e-mail address or hyperlink, or both for the submittal of inquiries and feedback.

J. A Transportation Network Company shall make available on its digital network and website a customer support telephone number and an e-mail address or hyperlink, or both for passenger inquires, as well as instructions to passengers for filing a complaint with the Commission.

.11 Required Equipment, and Minimum Safety Standards.

A. A motor vehicle, including a leased or reserved motor vehicle, used by a carrier *or Transportation Network Operator* shall:

(1)—(2) (text unchanged)

(3) Be equipped with:

[(a) An operative speedometer,

(b) Three roadside reflectors,

(c) A fire extinguisher with a minimum rating of 5 BC,**]**

[(d)**]** *(a) Except for a vehicle with a manufacturer's rated seating capacity of eight or fewer passengers, a* **[**A**]** light or lights within the motor vehicle arranged to illuminate the entire interior except for the area occupied by the driver, and

[(e)**]** *(b)* A heating system, *and an air conditioning system if the air conditioning system was originally installed by the vehicle manufacturer;*

[(4) Have a sign posted conspicuously, prohibiting smoking or the carrying of lighted tobacco products;**]**

[(5)**]** *(4)* Be identified by a distinctive number, and have the name, trade name, or company logo conspicuously displayed, unless

waived by the Transportation Division of the Commission *or, if the vehicle is a Transportation Network Operator Vehicle, be identified by a removable insignia as specified in Regulation .24 of this chapter, and in the Transportation Network Company's digital platform by providing the Transportation Network Operator Vehicle license plate number and a picture of the Transportation Network Operator*; and

[(6)**]** *(5)* (text unchanged)

(6) After July 1, 2016, not exceed more than 10 model years of age, unless the vehicle already has a Commission permit, and proof of semi-annual safety inspections, conforming to the requirements of part B(2) of this regulation is submitted to the Commission, or the vehicle is an historic motor vehicle as defined in Transportation Article, §13-936, Annotated Code of Maryland, or the vehicle exceeds 10,000 pounds Gross Vehicle Weight Rating.

B. Inspection.

(1) **[**At the direction of the Commission**]** *Except for vehicles over 10,000 pounds Gross Vehicle Weight Rating (GVWR),* an owner of a motor vehicle *or a Transportation Network Operator* shall **[**present**]** *have* the motor vehicle **[**for inspection**]** *inspected and certified annually by a* **[**Commission representative**]** *facility licensed by the State to perform motor vehicle safety inspections, no later than the annual anniversary of the date the vehicle permit was issued, or as otherwise directed by the Commission*.

(2) The Commission may accept an inspection certificate issued by a facility licensed by an adjacent state or the District of Columbia to perform motor vehicle safety inspections, if the Commission determines or has previously determined that the vehicle inspection standards of that jurisdiction are materially the same as those adopted by the Maryland State Police.

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

[(3)**]** *(4)* A representative of the Commission, after inspection and a determination that a motor vehicle does not comply with the requirements of this chapter, may require:

(a)—(b) (text unchanged)

(c) That *a Transportation Network Operator or* an owner of a motor vehicle, which has been removed from service for repair, provide evidence of the repair.

[(4)**]** *(5)* The Commission may require an owner of a motor vehicle, *a Transportation Network Operator, or a Transportation Network Company on behalf of a Transportation Network Operator,* to provide a**[**n**]** *valid* inspection certificate **[**from a facility licensed by the State to perform Motor vehicle inspections**]** *to verify the inspection required under this section.*

(6) Upon receipt of a customer complaint, the Commission may order a motor carrier, or vehicle operator, including a Transportation Network Operator, to present the subject vehicle for inspection by a Commission representative. In the alternative, if the complaint alleges a safety issue that is addressed by the annual safety inspection, the Commission may require the motor carrier, operator, or Transportation Network Operator to have the vehicle inspected in a licensed facility conforming to the requirements of §B(1) or (2) of this regulation, and provide an inspection certificate to the Commission.

(7) At the direction of the Commission, an owner of a motor vehicle over 10,000 pounds Gross Vehicle Weight Rating (GVWR) shall present the motor vehicle for inspection by a Commission representative.

.12 Operation of Motor Vehicle.

A. Driver. An owner *or a Transportation Network Company* shall ensure that:

(1)—(3) (text unchanged)

(4) A driver of a motor vehicle is provided information and training about the requirements of laws governing non-discrimination and accessibility, including the Americans with Disabilities Act, to the extent applicable.

[B. Reserve Equipment.

(1) An owner shall maintain sufficient reserve or substitute equipment to ensure that the authorized schedule on file with the Commission is maintained.

(2) Reserve and substitute equipment shall comply with the requirements for motor vehicle equipment and safety under Regulation .11 of this chapter.**]**

[C.**]***B.* Carrying Capacity.

(1) The number of passengers transported by a motor vehicle may not exceed the number authorized by the vehicle list associated with a permit and on file with the Commission, *and may not exceed the manufacturer's rated seating capacity*.

(2) (text unchanged)

[D.**]***C.* **[**Accident**]** *Fatality* Report. An owner, *Transportation Network Operator, or Transportation Network Company* shall report in writing, to the Commission, an accident involving a motor vehicle *that results in a fatality*.

[E.**]***D.* Maintenance Record. A continuous maintenance record shall be kept for each motor vehicle *in accordance with state and federal laws and regulations*.

.19 Prohibited Conduct.

A. *A Transportation Network Company, Transportation Network Operator, or* **[**A**]** *an* owner of a motor vehicle used in the transportation of a person for hire, which is not licensed as a taxicab by a county or by the Commission, may not:

(1) (text unchanged)

(2) Equip the motor vehicle with a dome light or *taxi* meter;

(3) (text unchanged)

(4) Dispatch a motor vehicle to pick up a customer calling for a taxicab; *or*

(5) Accept or dispatch a motor vehicle from a telephone number identified or advertised as providing taxicab service.**[**; or**]**

[(6) Advertise the transportation of a person for hire, unless the advertisement includes the permit number issued by the Commission.**]**

B. An owner of a motor vehicle may not permit or direct an operator of a motor vehicle in the transportation of a person for hire to:

(1) (text unchanged)

(2) Discharge an individual at random *except at the request of the individual*; **[**or**]**

(3) Solicit an individual at a public or private taxicab stand or at Baltimore/Washington International *Thurgood Marshall* Airport*; or*

(4) Solicit an individual on the street.

C. A Transportation Network Company may not permit or direct a Transportation Network Operator to:

(1) Pick up an individual hailing the motor vehicle from the street or through any means other than the digital platform used by the Transportation Network Company;

(2) Discharge an individual at random except at the request of the individual;

(3) Solicit an individual at a public or private taxicab stand or at Baltimore/Washington International Thurgood Marshall Airport; or

(4) Solicit an individual on the street.

D. A permit issued by the Public Service Commission does not convey authority to operate on the property of Baltimore /Washington International Thurgood Marshall Airport.

.20 Transportation Network Company.

A. A Transportation Network Company shall:

(1) Have a permit from the Commission authorizing its operation;

(2) Register with the Maryland State Department of Assessments;

(3) Maintain a registered agent in Maryland;

(4) Comply with all insurance requirements applicable to Transportation Network Companies, and ensure that Transportation Network Operators operating under its permit comply with all Commission Transportation Network Operator licensing requirements, vehicle inspections, and insurance requirements;

(5) Maintain a current registry of all Transportation Network Operators, vehicles and TNC platform activity associated with the TNC and, upon request, make the registry available for Commission review to assure compliance with this chapter;

(6) Provide Transportation Network Operators with a Transportation Network Company identification as defined under 20.95.01.24A(6) and 20.95.01.24A(7);

(7) Provide the following information on its website:

(a) The Transportation Network Company's customer service telephone number or electronic mail address;

(b) The procedure for reporting a complaint; and

(c) A telephone number and electronic mail address for the Maryland Public Service Commission.

B. Insurance.

(1) A Transportation Network Company shall maintain, or require its Transportation Network Operators to maintain primary insurance coverage in the amounts and types specified in Public Utilities Article, §10-405, Annotated Code of Maryland;

(2) A Transportation Network Company shall provide proof of insurance as required by Public Utilities Article, §10-405(d), Annotated Code of Maryland; and

(3) A Transportation Network Company shall ensure that Transportation Network Company or Transportation Network Operator insurance coverage is in effect during Transportation Network Coverage Period One, Transportation Network Coverage Period Two, and Transportation Network Coverage Period Three;

(4) A Transportation Network Operator, a Transportation Network Company, or a combination of both shall maintain primary motor vehicle insurance that:

(a) *Recognizes that the Transportation Network Operator is a Transportation Network Operator or otherwise uses a motor vehicle to transport passengers for hire; and*

(b) Covers the Transportation Network Operator while the Transportation Network Operator is providing Transportation Network Services.

(c) Complies with the requirements of Public Utilities Article, §10-405, Annotated Code of Maryland.

(5) If the primary insurance required by Public Utilities Article, §10-405, Annotated Code of Maryland is maintained by a Transportation Network Operator and lapses or fails to provide the amount of coverage required, then the insurance maintained by a Transportation Network Company shall provide such coverage from the first dollar of a claim and provide for the duty to defend such claim pursuant to Public Utilities Article, §10-405(c), Annotated Code of Maryland.

C. A company that received a motor carrier permit prior to the effective date of these regulations may operate as a Transportation Network Company without obtaining another permit, provided the company otherwise complies with all statutory and regulatory requirements applicable to Transportation Network Companies.

.21 Transportation Network Operator's Licenses.

A. An individual who wishes to operate as a Transportation Network Operator shall apply for a Transportation Network Operator's License, which may be done through a TNC.

B. A TNC may file with the Commission an application for a temporary operator's license on behalf of a Transportation Network Operator.

C. Once a TNC submits a completed application for a temporary operator's license, the Commission shall render a decision on the application and issue or deny a temporary license within a reasonable period following the receipt of a completed application. An application for a temporary operator's license shall not be considered complete unless it includes a background check as described in Public Utilities Article, §10-404(b), Annotated Code of Maryland that was performed within the twelve months preceding the date of the application.

D. During the review process described in §(C) of this regulation, a Transportation Network Operator whose application is pending before the Commission is authorized to operate as a Transportation Network Operator on a provisional basis until the Commission renders a decision on the application for temporary license.

E. After April 1, 2016, upon expiration of a temporary operator's license issued by the Commission, a Transportation Network Operator who wishes to continue operating as a Transportation Network Operator shall provide a fingerprint supported State and FBI background investigators' record check to the Commission, unless the Commission has granted the Transportation Network Operator's Transportation Network Company a waiver under Public Utilities Article, §10-404(e), Annotated Code of Maryland.

F. The Commission shall issue a Transportation Network Operator's License of up to 3 years to a Transportation Network Operator upon receipt of a fingerprint supported State and FBI background investigators record check, unless the results of the record checks show that the applicant has been convicted of a crime or driving offense that bears a direct relationship to the applicant's fitness to serve the public as a for-hire driver.

G. If the Commission has granted a Transportation Network Company a waiver under Public Utilities Article, §10-404(e), Annotated Code of Maryland, the Commission shall issue the Transportation Network Operator a Transportation Network Operator's License of up to 3 years upon completing its review of a qualifying application, unless the results of the background checks show that the applicant has been convicted of a crime or driving offense that bears a direct relationship to the applicant's fitness to serve the public as a for-hire driver.

H. In order to obtain a waiver under Public Utilities Article, §10-404(e), Annotated Code of Maryland, a Transportation Network Company must demonstrate that the background check it uses meets the requirements of Public Utilities Article, §10-404(b), Annotated Code of Maryland and is as comprehensive and accurate as complying with the supplemental criminal background check as set forth under Public Utilities Article, §10-404(b), Annotated Code of Maryland.

I. A person who holds a valid passenger-for-hire driver's license issued by the Commission may obtain a Transportation Network Operator's License with the same expiration date as the passenger-for-hire driver's license, without providing a new background check, provided that the person otherwise complies with all statutory and regulatory provisions applicable to Transportation Network Operators.

.22 Transportation Network Operator.

A. A Transportation Network Operator shall:

(1) Comply with all applicable Commission, vehicle inspection, and insurance requirements;

(2) Accept only transportation arranged through a TNC's digital network and shall not solicit or accept street-hails;

(3) Display a TNC identification defined under Regulation .24A(6 and (7) of this chapter at any time that the operator is logged onto a TNC's digital network;

(4) Possess a valid driver's license;

(5) Be at least 18 years of age, and have at least 6 months of licensed driving experience; and

(6) Upon request, provide the Commission with a valid motor vehicle safety inspection certificate issued by a licensed facility conforming to the requirements of Regulation .11B(1) and (2) of this chapter.

.23 Transportation Network Company Operator Vehicle Permits.

A. An individual who wishes to operate as a Transportation Network Operator may apply for a vehicle permit through a TNC.

B. A TNC is authorized to file with the Commission an application for a vehicle permit.

C. The Commission shall issue a vehicle permit for a Transportation Network Operator Vehicle upon receipt and review of a complete application. An application will be deemed complete if it contains:

(1) A copy of the valid vehicle registration for the Transportation Network Operator Vehicle;

(2) A copy of a valid safety inspection certificate for the Transportation Network Operator Vehicle issued by a licensed facility conforming to the requirements of Regulation .11B(1) and (2) of this chapter; and

(3) Proof that the vehicle complies with all insurance requirements set forth in Public Utilities Article, §10-405, Annotated Code of Maryland.

D. Once a TNC submits a completed application for a permit, the Commission shall render a decision on the application and issue or deny a permit within a reasonable period following the receipt of a completed application.

E. A Transportation Network Operator whose application is pending before the Commission is authorized to operate their Transportation Network Operator Vehicle on a provisional basis until the Commission renders a decision on the application.

.24 Transportation Network Company Operator Vehicle.

A. A Transportation Network Operator Vehicle shall:

(1) Have, or have applied for and not been denied, a permit from the Commission authorizing its operation;

(2) Have a manufacturers rated seating capacity of no more than 8 passengers including the driver;

(3) Not exceed more than 10 model years age, except as provided in Regulation .11A(6) of this chapter.;

(4) Comply with all required equipment and minimum safety standards as defined in Regulation .11 of this chapter;

(5) Comply with all insurance requirements as defined in Public Utilities Article, §10-405, Annotated Code of Maryland; and

(6) At all times while engaged on the TNC platform display on the vehicle a consistent and distinctive TNC identification, approved by the Commission, consisting of a logo, insignia, or emblem. The TNC identification shall be:

(a) Sufficiently large and color contrasted so as to be readable during daylight hours at a distance of at least 50 fee;,

(b) Reflective or otherwise patently visible in darkness, and

(c) Displayed in a manner that complies with Maryland motor vehicle laws.

(7) The TNC identification may take the form of a removable device.

.25 Accessibility and Non-Discrimination.

A. For purposes of this regulation, "Accessible" means fully and equally accessible to and independently usable by individuals with disabilities so that the individuals are able to acquire the same information, engage in the same interactions, and enjoy the same services as users without disabilities, with substantially equivalent ease of use.

B. By July 1, 2016, a carrier or TNC that operates five or more vehicles under its permit shall:

(1) Ensure that the company's websites and mobile applications are accessible to the blind and visually impaired and the deaf and hard of hearing; and

(2) Provide a report to the Commission Staff, on how the company intends to increase access to wheelchair accessible public or private vehicle-for-hire service to individuals with disabilities.

C. A company that provides for-hire transportation, including a Transportation Network Company shall not:

(1) Impose additional or special charges on an individual with a disability for providing services to accommodate the individual; or

(2) Require an individual with a disability to be accompanied by an attendant.

D. If an owner, operator, or Transportation Network Operator accepts a ride request from a passenger with a disability who uses a mobility device, upon picking up the passenger, the operator or Transportation Network Operator shall stow the passenger's mobility equipment in the vehicle if the vehicle is capable of stowing the equipment.

E. If a passenger or driver determines that the vehicle is not capable of stowing the equipment, the owner or Transportation Network Company may not charge a trip cancellation fee or, if such fee is charged, shall provide the passenger with a refund in a timely manner.

F. All companies that provide for-hire transportation, and all Transportation Network Operators, shall comply with all applicable laws related to accommodation of service animals.

G. All companies that provide for-hire transportation, including Transportation Network Companies, shall provide their drivers detailed information and appropriate training regarding the requirements of laws governing non-discrimination and accessibility, including the Americans with Disabilities Act, prior to allowing them to provide service to passengers to the extent applicable.

H. By July 1 of each year, a carrier or TNC that operates five or more vehicles under its permit , shall report to the Commission Staff:

(1) the steps it has taken during the preceding twelve months to ensure and upgrade the accessibility of the company's services; and

(2) the number of complaints or other notifications received regarding an inability or failure to accommodate a person with a disability.

I. Transportation Network Companies, Transportation Network Operators, owners, and operators that provide platforms allowing drivers to rate passengers shall ensure that such ratings are not based on unlawful discrimination, and that drivers do not discriminate against passengers or potential passengers on the basis of geographic endpoints of the ride, race, color, national origin, religion, sex, disability, age, or sexual orientation/identity.

J. The Maryland Office of People's Counsel shall have access to the reports filed under §B and H of this regulation, upon request.

DAVID J. COLLINS
Executive Secretary

Title 31
MARYLAND INSURANCE ADMINISTRATION

Subtitle 03 INSURANCE PRODUCERS AND OTHER INSURANCE PROFESSIONALS

Notice of Proposed Action

[16-013-P]

The Insurance Commissioner proposes to:

(1) Amend Regulation **.09** under **COMAR 31.03.06 Surplus Lines**; and

(2) Repeal existing Regulation **.04** under **COMAR 31.03.07 Installment Vendors Doing Business in Maryland (Such as Auto Dealers, Boat Dealers, Appliance Dealers, Loan Companies**).

Statement of Purpose

The purpose of this action is to:

(1) Amend the consumer disclosure regarding surplus lines insurance in Regulation .09B of COMAR 31.03.06 to advise consumers that surplus lines insurance products are not covered by the Maryland Life and Health Insurance Guaranty Corporation; and

(2) Repeal Regulation .04 of COMAR 31.03.07, as recommended in the Maryland Insurance Administration's Regulatory Review and Evaluation Act Report for this Chapter. This regulation, which was last amended in 2006, advises that the Maryland Insurance Administration "will, in the near future, inspect installment vendors" operations to determine whether or not the referenced provisions of the Insurance Article, Annotated Code of Maryland, are being observed and carried out." This regulation is no longer necessary.

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 Catherine Grason, Director of Regulatory Affairs, Maryland Insurance Administration, 200 St. Paul Place, Ste. 2700, Baltimore, MD 21202, or call 410-468-2201, or email to insuranceregreview.mia@maryland.gov, or fax to 410-468-2020. Comments will be accepted through February 8, 2016. A public hearing has not been scheduled.

31.03.06 Surplus Lines

Authority: Insurance Article, §§2-109, 3-304, 3-306, 3-307, 3-311—3-313, **[**and**]** 3-325(c), *9-301(f), 9-303(5), 9-401(i)(l), and 9-405(b),* Annotated Code of Maryland

.09 Disclosure Form.

A. (text unchanged)

B. Form.

DISCLOSURE REGARDING SURPLUS LINES INSURANCE.

Please Read the Following Carefully Before Purchasing Insurance From a Surplus Lines Insurer.

This policy is issued by a surplus lines insurer that has been approved by the Maryland Insurance Administration to issue insurance policies in the surplus lines insurance market. Surplus lines insurers are not under the jurisdiction of the Maryland Insurance Administration and do not possess a certificate of authority to transact insurance business in the State of Maryland. Because surplus lines insurers are not under the jurisdiction of the Maryland Insurance Administration, your ability to seek assistance from the State if you have a problem with your insurance company is limited.

[The**]** Property and Casualty Insurance Guaranty Corporation *and Maryland Life and Health Insurance Guaranty Corporation* **[**provide a fund**]** *provide funds* that **[**permits**]** *permit certain* claimants or policyholders to receive payment of covered claims if their insurance company becomes insolvent (i.e., bankrupt) and is unable to pay the claims. However, **[**this fund does**]** *these funds do* not apply to surplus lines insurers, *as a surplus lines insurer is not a member insurer of the Property and Casualty Insurance Guaranty Corporation or the Maryland Life and Health Insurance Guaranty Corporation*. If a surplus lines insurer becomes insolvent (i.e. bankrupt), any claim that you have against the surplus lines insurer will not be covered by the **[**fund**]** *funds* administered by Property and Casualty Insurance Guaranty Corporation *and Maryland Life and Health Insurance Guaranty Corporation*.

If you have any questions regarding this disclosure or surplus lines insurance, please contact the Maryland Insurance Administration at 410-468-2340.

C.—D. (text unchanged)

ALFRED W. REDMER, Jr.
Insurance Commissioner

Subtitle 15 UNFAIR TRADE PRACTICES

Notice of Proposed Action

[16-012-P]

The Insurance Commissioner proposes to:

(1) Amend Regulations **.01—.07** under **COMAR 31.15.04 Solicitation of Annuity and Deposit Fund Contracts**; and

(2) Adopt new Regulations **.01—.09** under a new chapter, **COMAR 31.15.16 Annuity Disclosure**.

Statement of Purpose

The purpose of this action is to adopt the National Association of Insurance Commissioners' (NAIC) "Annuity Disclosure Model Regulation," Model MDL-245. This Model Regulation addresses many of the same issues found in current COMAR 31.15.04, but in more detail. Model MDL-245 was adopted by the NAIC in 1999 and has been amended in 2011 and 2013. Maryland's current chapter, COMAR 31.15.04, which applies to both annuities and deposit fund contracts, has not been amended since its adoption in January 1980. The NAIC Model provides more detailed requirements for annuity illustrations and conforms COMAR to the modern annuity marketplace.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The amendments to this chapter will have a minimal economic impact on insurers issuing annuities in Maryland.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
Compliance costs	(-)	Minimal
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 amendments will have a minimal impact on insurers that issue annuities in Maryland. Some insurers may incur additional administrative costs related to implementing the more detailed annuity disclosures required by the adoption of the NAIC Model. Larger insurers who issue annuities in the national or regional markets would likely see some cost savings, as their annuity disclosures would no longer need to be written to comply with the outdated Maryland regulations. The Commissioner does not believe that any additional costs will be significant, relative to the benefit to the insurer through the use of a national standard annuity disclosure and the benefit to the consumer of the improved disclosure that these amendments provide.

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 Catherine Grason, Director of Regulatory Affairs, Maryland Insurance Administration, 200 St. Paul Place, Ste. 2700, Baltimore, Maryland 21202, or call 410-468-2201, or email to insuranceregreview.mia@maryland.gov, or fax to 410-468-2020. Comments will be accepted through February 8, 2016. A public hearing has not been scheduled.

31.15.04 Solicitation of [Annuity and] Deposit Fund Contracts

Authority: Insurance Article, §§2-109 and 27-202, Annotated Code of Maryland

.01 Unfair Trade Practice.

The solicitation or sale of **[**annuities or**]** deposit fund contracts not in conformity with this chapter shall be deemed an Unfair Trade Practice in violation of Insurance Article, Title 27, Annotated Code of Maryland.

.02 Purpose.

A. The purpose of this chapter is to require insurers to deliver to prospects for **[**annuity contracts or for**]** deposit funds accepted in conjunction with life insurance policies or annuity contracts, information which helps the prospect select **[**an annuity or**]** *a* deposit fund**[**, or both,**]** appropriate to the prospect's needs, improves the prospect's understanding of the basic features of the plan under consideration and improves the prospect's ability to evaluate the relative benefits of similar plans.

B. (text unchanged)

.03 Scope.

A. To the extent provided here, this chapter shall apply to any solicitation, negotiation, or procurement of **[**annuity contracts or**]** deposit funds accepted in conjunction with individual life insurance policies or with annuity contracts **[**which are subject to this chapter,**]** occurring within this State. The chapter shall apply to an issuer of life insurance policies or annuity contracts including fraternal benefit societies.

B. This chapter shall apply to**[**:

(1) Individual deferred annuities other than:

(a) Variable annuities,

(b) Investment annuities; and

(2)**]** **[**Deposit**]***deposit* funds (that is, arrangements under which amounts to accumulate at interest are paid in addition to life insurance premiums or annuity considerations under provisions of individual life insurance policies or annuity contracts).

C. This chapter does not apply to:

[(1) Group annuity contracts whose cost is borne in whole or in part by the annuitant's employer or by an association of which the annuitant is a member, provided the employer or the association bears all or part of the cost of the same or similar contracts insuring not less than ten employees or members. The cost of a contract may not be deemed to be borne by an annuitant's employer to the extent the annuitant's salary is reduced or the annuitant foregoes a salary increase.

(2) Immediate annuity contracts.**]**

[(3)**]** *(1)*—**[**(4)**]** *(2)* (text unchanged)

.04 Contract Summary.

A. For the purposes of this chapter, "contract summary" means a written statement describing the elements of the **[**annuity contract and**]** deposit fund, including but not limited to:

(1) A prominently placed title as follows: STATEMENT OF BENEFIT INFORMATION. (This shall be followed by an identification of the **[**annuity contract or**]** deposit fund**[**, or both,**]** to which the statement applies.)

(2) (text unchanged)

(3) The full name and home office or administrative office address of the insurer which will **[**issue the annuity contract or**]** administer the deposit fund.

(4) The death benefits for the deposit fund**[**, and for the annuity contract during the deferred period, and the form of the annuity payout. In the case where a choice of annuity payout form is provided, this item shall show the payout options guaranteed and the form of annuity payout selected in §A(6), (7), and (9) of this regulation**]**.

[(5) A prominent statement that the contract does not provide cash surrender values if that is the case.

(6) The amount of the guaranteed annuity payments at the scheduled commencement of the annuity, based on the assumption that all scheduled considerations are paid and there are no prior withdrawals from or partial surrenders of the contract and no indebtedness to the insurer on the contract.

(7) Illustrative Annuity Payments.

(a) On the same basis as §A(6) of this regulation except for guarantees, illustrative annuity payments not greater in amount than those based on (i) the current dividend scale and the interest rate currently used to accumulate dividends under these contracts, or the current excess interest rate credited by the insurer, and (ii) current annuity purchase rates.

(b) A dividend scale or excess interest rate which has been publicly declared by the insurer with an effective date not more than 2 months after the date of declaration shall be considered a current dividend scale or current excess interest rate.**]**

[(8)**]** *(5)* For **[**annuity contracts or**]** deposit funds for which guaranteed cash surrender values at any duration are less than the total considerations paid, a prominent statement that this **[**contract or**]** fund may result in loss if kept for only a few years, together with a reference to the schedule of guaranteed cash surrender values required by **[**§A(9)(c)**]** *§A(6)(b)* of this regulation.

[(9)**]** *(6)* The following amounts, when applicable, for the first 5 contract years and representative contract years thereafter sufficient to clearly illustrate the patterns of considerations and benefits, including but not limited to the 10th and 20th contract years and at least one age from 60 through 65 **[**or the scheduled commencement of annuity payments, if any, whichever is earlier**]**:

[(a) The gross annual or single consideration for the annuity contract.**]**

[(b)**]** (a) (text unchanged)

[(c)**]** (b) The total guaranteed cash surrender value at the end of the year **[**or, if no guaranteed cash surrender values are provided, the total guaranteed paid-up annuity at the end of the year. Values for a deposit fund shall be shown separately from those for a basic contract.**]**

[(d)**]** (c) Total Illustrative Cash Value.

(i) The total illustrative cash value **[**or paid-up annuity**]** at the end of the year, not greater in amount than that based on **[**(aa) the current dividend scale and the interest rate currently used to accumulate dividends under these contracts or] the current excess interest rate credited by the insurer**[**, and (bb) current annuity purchase rates**]**.

(ii) (text unchanged)

[(10)**]** *(7)*— **[**(11)**]** *(8)* (text unchanged)

B. The contract summary shall be a separate document. All information required to be disclosed shall be set out in such a manner as not to minimize or render any portion obscure. Any amounts which remain level for 2 or more contract years may be represented by a single number if it is clearly indicated what amounts are applicable for each contract year. **[**Amounts in §A(4), (6), (7), and (9) of this regulation shall, in the case of flexible premium annuity contracts, be determined either according to an anticipated pattern of consideration payments or on the assumption that considerations payable will be $1,000 per year. If not specified in the contract, annuity payments shall be assumed to commence at age 65 or 10 years from issue, whichever is later.**]** Zero amounts shall be displayed as zero and may not be displayed as blank spaces.

.05 Disclosure Requirements.

A. The insurer shall provide to all prospective purchasers a contract summary before accepting **[**the applicant's initial consideration for the annuity contract, or in the case of a deposit fund, before acceptance of**]** the applicant's initial consideration for the associated life insurance policy or annuity contract, unless the **[**annuity contract or**]** associated life insurance policy or annuity contract for which the application is made provides for an unconditional refund period of at least 10 days or unless the contract summary contains such an unconditional refund offer, in which event the contract summary shall be delivered with or before the delivery of the **[**annuity contract or**]** associated life insurance policy or annuity contract.

B. (text unchanged)

.06 General Regulations.

A.—E. (text unchanged)

F. Sales promotion literature and contract forms may not state or imply that **[**annuity contracts or**]** deposit funds are the same as savings accounts or deposits in banking or savings institutions. The use of passbooks which resemble savings bank passbooks is prohibited.

.07 Failure to Comply.

A.—C. (text unchanged)

D. Any insurer, agent, representative, officer, or employee of an insurer who fails to comply with the requirements of this chapter shall be subject to such disciplinary action and penalties as may be appropriate under *the* Insurance Article, Annotated Code of Maryland. This action may include the suspension or revocation of the license of the insurer or of the agent or both. The Commissioner may also impose monetary fines **[**of $100 to $50,000 on an insurer and of $25 to $500 on an agent**]** *as set forth in the Insurance Article, Annotated Code of Maryland,* for each offense. In addition, the Commissioner may order the insurer or the agent, or both, to make restitution to any person who has suffered financial injury or damage as a result of any violation of this chapter by the insurer or agent.

31.15.15 Annuity Disclosure

Authority: Insurance Article, §§2-109 and 27-202, Annotated Code of Maryland

.01 Purpose.

A. The purpose of this chapter is to provide standards for the disclosure of certain minimum information about annuity contracts to protect consumers and foster consumer education.

B. The chapter specifies the minimum information which must be disclosed, the method for disclosing the information, and the use and content of illustrations, if used, in connection with the sale of annuity contracts.

C. The goal of this chapter is to ensure that purchasers of annuity contracts understand certain basic features of annuity contracts.

.02 Applicability and Scope.

A. This chapter applies to all group and individual annuity contracts and certificates except:

(1) Immediate and deferred annuities that contain no non-guaranteed elements;

(2) Annuities used to fund:

(a) An employee pension plan which is covered by the Employee Retirement Income Security Act (ERISA),

(b) A plan described by Sections 401(a), 401(k) or 403(b) of the Internal Revenue Code, where the plan, for purposes of ERISA, is established or maintained by an employer,

(c) A governmental or church plan defined in Section 414 of the Internal Revenue Code,

(d) A deferred compensation plan of a state or local government or a tax exempt organization under Section 457 of the Internal Revenue Code; or

(e) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

(3) Non-registered variable annuities issued exclusively to an accredited investor or qualified purchaser as those terms are defined by the Securities Act of 1933 (15 U.S.C. Section 77a et seq.), the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.), or the regulations promulgated under either of those acts, and

offered for sale and sold in a transaction that is exempt from registration under the Securities Act of 1933 (15 U.S.C. Section 77a et seq.);

(4) Transactions involving variable annuities and other registered products in compliance with Securities and Exchange Commission (SEC) rules and Financial Industry Regulatory Authority (FINRA) rules relating to disclosures and illustrations, provided that compliance with Regulation .04 of this chapter shall be required upon the effective date of this chapter, unless, or until such time as, the SEC has adopted a summary prospectus rule or FINRA has approved for use a simplified disclosure form applicable to variable annuities or other registered products.

(5) Structured settlement annuities;

(6) Charitable gift annuities; and

(7) Funding agreements.

B. Notwithstanding §A(2) of this regulation, this chapter shall apply to annuities used to fund a plan or arrangement that is funded solely by contributions an employee elects to make, whether on a pre-tax or after-tax basis, and where the insurer has been notified that plan participants may choose from among two or more fixed annuity providers and there is a direct solicitation of an individual employee by an insurance producer for the purchase of an annuity contract. As used in this subsection, direct solicitation shall not include any meeting held by an insurance producer solely for the purpose of educating or enrolling employees in the plan or arrangement;

C. Notwithstanding §A(5) of this regulation, the delivery of the Buyer's Guide is required in sales of variable annuities, and when appropriate, in sales of other registered products.

D. Nothing in this section shall limit the Commissioner's ability to enforce the provisions of this chapter or to require additional disclosure.

.03 Definitions.

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

B. Term Defined.

(1) "Buyer's Guide" means the National Association of Insurance Commissioners' approved annuity buyer's guide applicable to the contract under consideration.

(2) "Charitable gift annuity" means an agreement described in Insurance Article, §16-114, Annotated Code of Maryland between an educational or religious organization, hospital, or community foundation and one or more donors for annuity payments.

(3) "Commissioner" means the Maryland Insurance Commissioner.

(4) "Contract owner" means the owner named in the annuity contract or certificate holder in the case of a group annuity contract.

(5) "Determinable elements" means elements that are derived from processes or methods that are guaranteed at issue and not subject to company discretion, but where the values or amounts cannot be determined until some point after issue. These elements include the premiums, credited interest rates (including any bonus), benefits, values, non-interest based credits, charges or elements of formulas used to determine any of these. These elements may be described as guaranteed but not determined at issue. An element is considered determinable if it was calculated from underlying determinable elements only, or from both determinable and guaranteed elements.

(6) "Funding agreement" means a contract described in Insurance Article, §16-113, Annotated Code of Maryland, whereby an insurer may accept and accumulate funds and make one or more payments at future dates in amounts that are not based on mortality or morbidity contingencies.

(7) "Generic name" means a short title descriptive of the annuity contract being applied for or illustrated, such as "single premium deferred annuity."

(8) Guaranteed Elements.

(a) "Guaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, non-interest based credits, charges or elements of formulas used to determine any of these, that are guaranteed or have determinable elements at issue.

(b) An element is considered guaranteed if all of the underlying elements that go into its calculation are guaranteed.

(9) "Illustration" means a personalized presentation or depiction prepared for and provided to an individual consumer that includes non-guaranteed elements of an annuity contract over a period of years.

(10) "Insurance Producer" has the meaning stated in Insurance Article, § 1-101(u), Annotated Code of Maryland.

(11) "Insurer" has the meaning stated in Insurance Article, § 1-101(v), Annotated Code of Maryland.

(12) "Market value adjustment" or "MVA" feature means a positive or negative adjustment that may be applied to the account value and/or cash value of the annuity upon withdrawal, surrender, contract annuitization or death benefit payment based on either the movement of an external index or on the company's current guaranteed interest rate being offered on new premiums or new rates for renewal periods, if that withdrawal, surrender, contract annuitization or death benefit payment occurs at a time other than on a specified guaranteed benefit date.

(13) Non-Guaranteed Elements.

(a) "Non-guaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, dividends, non-interest based credits, charges or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue.

(b) An element is considered non-guaranteed if any of the underlying non-guaranteed elements are used in its calculation.

(14) "Registered product" means an annuity contract or life insurance policy subject to the prospectus delivery requirements of the Securities Act of 1933.

(15) "Structured settlement annuity" has the meaning stated in Insurance Article, §9-401(n), Annotated Code of Maryland,

.04 Standards for the Disclosure Document and Buyer's Guide.

A. Where the application for an annuity contract is taken in a face-to-face meeting, the applicant shall at or before the time of application be given both the disclosure document described in §C of this regulation and the Buyer's Guide, if any.

B. Applications Taken in Other Than Face-to-Face Meetings.

(1) Where the application for an annuity contract is taken by means other than in a face-to-face meeting, the applicant shall be sent both the disclosure document and the Buyer's Guide no later than 5 business days after the completed application is received by the insurer.

(2) With respect to an application received as a result of a direct solicitation through the mail:

(a) Providing a Buyer's Guide in a mailing inviting prospective applicants to apply for an annuity contract shall be deemed to satisfy the requirement that the Buyer's Guide be provided no later than 5 business days after receipt of the application.

(b) Providing a disclosure document in a mailing inviting a prospective applicant to apply for an annuity contract shall be deemed to satisfy the requirement that the disclosure document be provided no later than 5 business days after receipt of the application.

(3) With respect to an application received via the Internet:

(a) Taking reasonable steps to make the Buyer's Guide available for viewing and printing on the insurer's website shall be deemed to satisfy the requirement that the Buyer's Guide be provided no later than 5 business day of receipt of the application.

(b) Taking reasonable steps to make the disclosure document available for viewing and printing on the insurer's website shall be deemed to satisfy the requirement that the disclosure document be provided no later than 5 business days after receipt of the application.

(4) A solicitation for an annuity contract provided in other than a face-to-face meeting shall include a statement:

(a) That the proposed applicant may contact the insurance department of the State for a free annuity Buyer's Guide; or

(b) That the prospective applicant may contact the insurer for a free annuity Buyer's Guide.

(5) Free Look Period.

(a) Where the Buyer's Guide and disclosure document are not provided at or before the time of application, a free look period of no less than 15 days shall be provided for the applicant to return the annuity contract without penalty.

(b) The free look period required by subsection (5)(a) of this regulation shall run concurrently with any other free look provided under state law or regulation.

C. At a minimum, the following information shall be included in the disclosure document required to be provided under this regulation:

(1) The generic name of the contract;

(2) The company product name, if different from the generic name of the contract;

(3) The form number of the contract;

(4) The fact that the product is an annuity;

(5) The insurer's legal name, physical address, website address and telephone number;

(6) A description of the contract and its benefits, emphasizing its long-term nature, including examples where appropriate, and including:

(a) The guaranteed and non-guaranteed elements of the contract, and their limitations, if any, including for fixed indexed annuities, the elements used to determine the index-based interest, such as the participation rates, caps or spread, and an explanation of how they operate;

(b) An explanation of the initial crediting rate, or for fixed indexed annuities, an explanation of how the index-based interest is determined, specifying any bonus or introductory portion, the duration of the rate, and the fact that rates may change from time to time and are not guaranteed;

(c) Periodic income options both on a guaranteed and non-guaranteed basis;

(d) Any value reductions caused by withdrawals from or surrender of the contract;

(e) How values in the contract can be accessed;

(f) The death benefit, if available, and how it will be calculated;

(g) A summary of the federal tax status of the contract and any penalties applicable on withdrawal of values from the contract; and

(h) Impact of any rider, including, but not limited to, a guaranteed living benefit or long-term care rider;

(7) A listing of the specific dollar amount or percentage charges and fees with an explanation of how they apply; and

(8) Information about the current guaranteed rate or indexed crediting rate formula, if applicable, for new contracts that contains a clear notice that the rate is subject to change.

D. Insurers shall define terms used in the disclosure statement in language that facilitates the understanding by a typical person within the segment of the public to which the disclosure statement is directed.

.05 Standards for Annuity Illustrations.

A. An insurer or insurance producer may elect to provide a consumer an illustration at any time, provided that the illustration is in compliance with this section and:

(1) Is clearly labeled as an illustration;

(2) Includes a statement referring consumers to the disclosure document and Buyer's Guide provided to them at time of purchase for additional information about their annuity; and

(3) Is prepared by the insurer or third party using software that is authorized by the insurer prior to its use, provided that the insurer maintains a system of control over the use of illustrations.

B. An illustration furnished to an applicant for a group annuity contract or contracts issued to a single applicant on multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the multiple lives covered.

C. The illustration shall not be provided unless accompanied by the disclosure document referenced in Regulation .04 of this chapter.

D .When using an illustration, the illustration shall not:

(1) Describe non-guaranteed elements in a manner that is misleading or has the capacity or tendency to mislead;

(2) State or imply that the payment or amount of non-guaranteed elements is guaranteed; or

(3) Be incomplete.

E. Costs and fees of any type shall be individually noted and explained.

F. An illustration shall conform to the following requirements:

(1) The illustration shall be labeled with the date on which it was prepared;

(2) Each page, including any explanatory notes or pages, shall be numbered and show its relationship to the total number of pages in the disclosure document (for example., the fourth page of a seven-page disclosure document shall be labeled "page 4 of 7 pages");

(3)The assumed dates of premium receipt and benefit payout within a contract year shall be clearly identified;

(4) If the age of the proposed insured is shown as a component of the tabular detail, it shall be issue age plus the numbers of years the contract is assumed to have been in force;

(5) The assumed premium on which the illustrated benefits and values are based shall be clearly identified, including rider premium for any benefits being illustrated;

(6) Any charges for riders or other contract features assessed against the account value or the crediting rate shall be recognized in the illustrated values and shall be accompanied by a statement indicating the nature of the rider benefits or the contract features, and whether or not they are included in the illustration;

(7) Guaranteed death benefits and values available upon surrender, if any, for the illustrated contract premium shall be shown and clearly labeled guaranteed;

(8) The non-guaranteed elements underlying the non-guaranteed illustrated values shall be no more favorable than current non-guaranteed elements and shall not include any assumed future improvement of such elements;

(9) Non-guaranteed elements used in calculating non-guaranteed illustrated values at any future duration shall reflect any planned changes, including any planned changes that may occur after expiration of an initial guaranteed or bonus period;

(10) In determining the non-guaranteed illustrated values for a

fixed indexed annuity, the index-based interest rate and account value shall be calculated for 3 different scenarios:

(a) One to reflect historical performance of the index for the most recent 10 calendar years;

(b) One to reflect the historical performance of the index for the continuous period of 10 calendar years out of the last 20 calendar years that would result in the least index value growth (the "low scenario"); and

(c) One to reflect the historical performance of the index for the continuous period of 10 calendar years out of the last 20 calendar years that would result in the most index value growth (the "high scenario");

(11) The following requirements apply to the non-guaranteed illustrated values:

(a) The most recent 10 calendar years and the last 20 calendar years are defined to end on the prior December 31, except for illustrations prepared during the first 3 months of the year, for which the end date of the calendar year period may be the December 31 prior to the last full calendar year;

(b) If any index utilized in determination of an account value has not been in existence for at least 10 calendar years, indexed returns for that index shall not be illustrated.

(c) If the fixed indexed annuity provides an option to allocate account value to more than one indexed or fixed declared rate account, and one or more of those indexes has not been in existence for at least 10 calendar years, the allocation to the indexed account or accounts that have not been in existence for at least 10 calendar years shall be assumed to be zero;

(d) If any index utilized in determination of an account value has been in existence for at least ten calendar years but less than 20 calendar years, the 10 calendar year periods that define the low and high scenarios shall be chosen from the exact number of years the index has been in existence;

(e) The non-guaranteed element or elements, such as caps, spreads, participation rates or other interest crediting adjustments, used in calculating the non-guaranteed index-based interest rate shall be no more favorable than the corresponding current element or elements;

(f) If a fixed indexed annuity provides an option to allocate the account value to more than one indexed or fixed declared rate account:

(i) The allocation used in the illustration shall be the same for all 3 scenarios; and

(ii) The 10 calendar year periods resulting in the least and greatest index growth periods shall be determined independently for each indexed account option.

(g) The geometric mean annual effective rate of the account value growth over the 10 calendar year period shall be shown for each scenario;

(h) If the most recent 10 calendar year historical period experience of the index is shorter than the number of years needed to fulfill the requirement of §H of this regulation, the most recent 10 calendar year historical period experience of the index shall be used for each subsequent 10 calendar year period beyond the initial period for the purpose of calculating the account value for the remaining years of the illustration;

(i) The low and high scenarios:

(i) Need not show surrender values (if different than account values);

(ii) Shall not extend beyond 10 calendar years, and therefore are not subject to the requirements of § H of this regulation beyond § H(1)(a) of this regulation; and

(iii) May be shown on a separate page.

(j) A graphical presentation shall also be included comparing the movement of the account value over the 10 calendar year period for the low scenario, the high scenario and the most recent 10 calendar year scenario; and

(k) The low and high scenarios shall reflect the irregular nature of the index performance and should trigger every type of adjustment to the index-based interest rate under the contract.

(l) The effect of the adjustments described in §F(11)(k) of this regulation shall be clear; for example, additional columns showing how the adjustment applied may be included.

(m) If an adjustment to the index-based interest rate is not triggered in the illustration (because no historical values of the index in the required illustration range would have triggered it), the illustration shall so state;

(12) The guaranteed elements, if any, shall be shown before corresponding non-guaranteed elements and shall be specifically referred to on any page of an illustration that shows or describes only the non-guaranteed elements (for example., "see page 1 for guaranteed elements");

(13) The account or accumulation value of a contract, if shown, shall be identified by the name this value is given in the contract being illustrated and shown in close proximity to the corresponding value available upon surrender;

(14) The value available upon surrender shall be identified by the name this value is given in the contract being illustrated and shall be the amount available to the contract owner in a lump sum after deduction of surrender charges, bonus forfeitures, contract loans, contract loan interest and application of any market value adjustment, as applicable;

(15) Illustrations may show contract benefits and values in graphic or chart form in addition to the tabular form;

(16) Any illustration of non-guaranteed elements shall be accompanied by a statement indicating that:

(a) The benefits and values are not guaranteed;

(b) The assumptions on which they are based are subject to change by the insurer; and

(c) Actual results may be higher or lower.

(17) Illustrations based on non-guaranteed credited interest and non-guaranteed annuity income rates shall contain equally prominent comparisons to guaranteed credited interest and guaranteed annuity income rates, including any guaranteed and non-guaranteed participation rates, caps or spreads for fixed indexed annuities;

(18) The annuity income rate illustrated shall not be greater than the current annuity income rate unless the contract guarantees are in fact more favorable;

(19) Illustrations shall be concise and easy to read;

(20) Key terms shall be defined and then used consistently throughout the illustration;

(21) Illustrations shall not depict values beyond the maximum annuitization age or date;

(22)Annuitization benefits shall be based on contract values that reflect surrender charges or any other adjustments, if applicable; and

(23) Illustrations shall show both annuity income rates per $1,000 and the dollar amounts of the periodic income payable.

G. An annuity illustration shall include a narrative summary that includes the following unless provided at the same time in a disclosure document:

(1) A brief description of any contract features, riders or options, guaranteed and nonguaranteed, shown in the basic illustration and the impact they may have on the benefits and values of the contract;

(2) A brief description of any other optional benefits or features that are selected, but not shown in the illustration and the impact they have on the benefits and values of the contract;

(3) Identification and a brief definition of column headings and key terms used in the illustration;

(4) A statement containing in substance the following:

(a) For other than fixed indexed annuities:

"This illustration assumes the annuity's current nonguaranteed elements will not change. It is likely that they ***will*** *change and actual values will be higher or lower than those in this illustration but will not be less than the minimum guarantees.*

The values in this illustration are ***not*** *guarantees or even estimates of the amounts you can expect from your annuity. Please review the entire Disclosure Document and Buyer's Guide provided with your Annuity Contract for more detailed information.";*

(b) For fixed indexed annuities:

"This illustration assumes the index will repeat historical performance and that the annuity's current non-guaranteed elements, such as caps, spreads, participation rates or other interest crediting adjustments, will not change. It is likely that the index ***will not*** *repeat historical performance, the non-guaranteed elements* ***will*** *change, and actual values will be higher or lower than those in this illustration but will not be less than the minimum guarantees.*

The values in this illustration are ***not*** *guarantees or even estimates of the amounts you can expect from your annuity. Please review the entire Disclosure Document and Buyer's Guide provided with your Annuity Contract for more detailed information."; and*

(5) Additional explanations as follows:

(a) Minimum guarantees shall be clearly explained;

(b) The effect on contract values of contract surrender prior to maturity shall be explained;

(c) Any conditions on the payment of bonuses shall be explained;

(d) For annuities sold as an individual retirement annuity (IRA), qualified plan or in another arrangement subject to the required minimum distribution (RMD) requirements of the Internal Revenue Code, the effect of RMDs on the contract values shall be explained;

(e) For annuities with recurring surrender charge schedules, a clear and concise explanation of what circumstances will cause the surrender charge to recur; and

(f) A brief description of the types of annuity income options available shall be explained, including:

(i) The earliest or only maturity date for annuitization (as the term is defined in the contract);

(ii) For contracts with an optional maturity date, the periodic income amount for at least one of the annuity income options available based on the guaranteed rates in the contract, at the later of age 70 or 10 years after issue, but in no case later than the maximum annuitization age or date in the contract;

(iii) For contracts with a fixed maturity date, the periodic income amount for at least one of the annuity income options available, based on the guaranteed rates in the contract at the fixed maturity date; and

(iv) The periodic income amount based on the currently available periodic income rates for the annuity income option in item (ii) or item (iii) of this subsection, if desired.

H. Following the narrative summary, an illustration shall include a numeric summary which shall include at minimum, numeric values at the following durations:

(1) The first 10 contract years, or the surrender charge period if longer than 10 years, including any renewal surrender charge period or periods;

(2) Every 10th contract year up to the later of 30 years or age 70; and

(3) One of the following:

(a) Required annuitization age; or

(b) Required annuitization date.

I. If the annuity contains a market value adjustment (MVA) the following provisions apply to the illustration:

(1) The MVA shall be referred to as such throughout the illustration;

(2) The narrative shall include an explanation, in simple terms, of the potential effect of the MVA on the value available upon surrender;

(3) The narrative shall include an explanation, in simple terms, of the potential effect of the MVA on the death benefit;

(4) A statement, containing in substance the following, shall be included:

"When you make a withdrawal the amount you receive may be increased or decreased by a Market Value Adjustment (MVA). If interest rates on which the MVA is based go up after you buy your annuity, the MVA likely will decrease the amount you receive. If interest rates go down, the MVA will likely increase the amount you receive."

(5) Illustrations shall describe both the upside and the downside aspects of the contract features relating to the MVA;

(6) The illustrative effect of the MVA shall:

(a) Be shown under at least one positive and one negative scenario;

(b) Appear on a separate page; and

(c) Be clearly labeled that it is information demonstrating the potential impact of a MVA;

(7) Actual MVA floors and ceilings as listed in the contract shall be illustrated; and

(8) If the MVA has significant characteristics not addressed by §I(1)—(6) of this regulation, the effect of such characteristics shall be shown in the illustration.

J. A narrative summary for a fixed indexed annuity illustration shall also include the following unless provided at the same time in a disclosure document:

(1) An explanation, in simple terms, of the elements used to determine the index-based interest, including but not limited to, the following elements:

(a) The Index or indexes which will be used to determine the index-based interest;

(b) The Indexing Method—such as point-to-point, daily averaging, or monthly averaging;

(c) The Index Term—the period over which indexed-based interest is calculated;

(d) The Participation Rate, if applicable;

(e) The Cap, if applicable; and

(f) The spread, if applicable;

(2) The narrative shall include an explanation, in simple terms, of how index-based interest is credited in the indexed annuity;

(3) The narrative shall include a brief description of the frequency with which the company can re-set the elements used to determine the index-based credits, including the participation rate, the cap, and the spread, if applicable; and

(4) If the product allows the contract holder to make allocations to a declared-rate segment, then the narrative shall include a brief description of:

(a) Any options to make allocations to a declared-rate segment, both for new premiums and for transfers from the indexed-based segments; and

(b) Differences in guarantees applicable to the declared-rate segment and the indexed-based segments.

K. A numeric summary for a fixed indexed annuity illustration shall include, at a minimum, the following elements:

(1) The assumed growth rate of the index in accordance with §F(10)—(11) of this regulation;

(2) The assumed values for the participation rate, cap and spread, if applicable; and

(3) The assumed allocation between indexed-based segments and declared-rate segment, if applicable, in accordance with §F(10)—(11) of this regulation.

L. If the contract is issued other than as applied for, a revised illustration conforming to the contract as issued shall be sent with the contract, except that non-substantive changes, including, but not limited to changes in the amount of expected initial or additional premiums and any changes in amounts of exchanges pursuant to Section 1035 of the Internal Revenue Code, rollovers or transfers, which do not alter the key benefits and features of the annuity as applied for, will not require a revised illustration unless requested by the applicant.

.06 Report to Contract Owners.

For annuities in the payout period that include non-guaranteed elements, and for deferred annuities in the accumulation period, the insurer shall provide each contract owner with a report, at least annually, on the status of the contract that contains at least the following information:

A. The beginning and end date of the current report period;

B. The accumulation and cash surrender value, if any, at the end of the previous report period and at the end of the current report period;

C. The total amounts, if any, that have been credited, charged to the contract value or paid during the current report period; and

D. The amount of outstanding loans, if any, as of the end of the current report period.

.07 Penalties.

A. In addition to any other penalties provided by the laws of this State, an insurer or insurance producer that violates a requirement of this chapter shall be subject to such disciplinary action and penalties as may be appropriate under Insurance Article, Title 27, Annotated Code of Maryland.

B. The action described in §A of this regulation may include the suspension or revocation of the license of the insurer or of the insurance producer or both.

C. In addition to the actions described in §§A and B of this regulation, the Commissioner may:

(1) Impose monetary fines for each offense; and

(2) Order the insurer or the insurance producer, or both, to make restitution to any person who has suffered financial injury or damage as a result of any violation of this chapter by the insurer or insurance producer.

.08 Severability.

If any provision of this chapter or its application to any person or circumstance is for any reason held to be invalid by any court of law, the remainder of the chapter and its application to other persons or circumstances shall not be affected.

.09 Record Keeping.

A. Insurers or insurance producers shall maintain or be able to make available to the Commissioner records of the information collected from the consumer and other information provided in the disclosure statement, including illustrations, for 3 years after the contract is delivered by the insurer.

B. An insurer is permitted, but shall not be required, to maintain documentation on behalf of an insurance producer.

C. Records required to be maintained by this regulation may be maintained in paper, photographic, microprocess, magnetic, mechanical or electronic media or by any process that accurately reproduces the actual document.

ALFRED W. REDMER, Jr.
Insurance Commissioner

Title 33
STATE BOARD OF ELECTIONS
Subtitle 09 VOTING SYSTEMS — CERTIFICATION AND GENERAL REQUIREMENTS
33.09.06 Implementation and Use

Authority: Election Law Article, §§2-102(b)(4) and 2-202(b), Annotated Code of Maryland

Notice of Proposed Action

[15-414-P]

The State Board of Elections proposes to adopt new Regulation **.03** under **COMAR 33.09.06 Implementation and Use**. This action was considered by the State Board of Elections at its November 13, 2015 meeting, notice of which was given in accordance with General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to move the criteria for determining voting equipment allocation from the specific system regulations to the general system requirements. Since these factors apply regardless of the voting system used in the State, it is more appropriate to be in COMAR 33.09. No substantive changes were made to the text, but terms were updated to reflect the new voting system.

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 February 8, 2016. A public hearing has not been scheduled.

.03 Equipment Allocation.

A. For a regularly scheduled primary or general election, the State Administrator, in consultation with the local boards, shall determine the amount of voting equipment assigned to each voting location.

B. For purposes of determining the amount of voting equipment under §A of this regulation, the State Administrator shall consider:

(1) The estimated turnout for early voting and absentee voting;

(2) Historical turnout for each precinct;

(3) The length of the ballot; and

(4) Any other factor deemed to impact turnout and the length of the time to vote.

C. For a special election, the local board may determine the amount of voting equipment to be provided in each polling place. However, each voting location shall contain at least one precinct tabulator and accessible ballot marking device.

LINDA H. LAMONE
State Administrator of Elections

Subtitle 10 VOTING SYSTEMS — SYSTEM REQUIREMENTS AND PROCEDURES

Notice of Proposed Action

[15-415-P]

The State Board of Elections proposes to:

(1) Adopt new Regulations **.01—.29** under a new chapter, **COMAR 33.10.01 EVS Voting Solution**; and

(2) Recodify existing Regulations **.01—.41** under C**OMAR 33.10.11 Model ES-2000** to be Regulations **.01—.41** under **COMAR 33.10.03 Model ES-2000**.

This action was considered by the State Board of Elections at its November 13, 2015 meeting, notice of which was given in accordance with General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to include voting system specific regulations for the new system. Most of the proposed changes are technical in nature but are updated to reflect the terminology used with the new voting system and how elections are conducted with this system.

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 February 8, 2016. A public hearing has not been scheduled.

33.10.01 EVS Voting Solution

Authority: Election Law Article, §§2-102(b)(4), 2-202(b), and 11-201, Annotated Code of Maryland

.01 Definitions.

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

B. Terms Defined.

(1) "Audio ballot" means a ballot presented in an audio format, containing the same contest order and selections as the corresponding paper or visual ballot.

(2) "Audio-tactile keypad" means an assistive device used by a voter to navigate and make selections on the ballot marking device.

(3) Ballot Box.

(a) "Ballot box" means a sealable container for receiving and securing voted ballots at a voting location.

(b) "Ballot box" is the compartment attached to the precinct tabulator for receiving voted ballots.

(4) "Ballot" means a pre-printed ballot marked by the voter or a ballot activation card used with the ballot marking device.

(5) "Ballot activation card" means the card used with the ExpressVote unit and scanned by a precinct tabulator or high speed tabulator.

(6) "Ballot marking device" means the:

(a) Device used to create a voter-verifiable paper record; and

(b) Accessible device for voters with disabilities as required by Election Law Article, §9-102(f), Annotated Code of Maryland.

(7) "Ballot transfer bin" means a sealable container inside the ballot box that is used to capture and transfer voted ballots to the local board or counting center.

(8) "Counting center" means one or more locations designated by the local board for tabulating votes.

(9) "DS200 precinct tabulator" means the precinct tabulator in the EVS voting solution.

(10) "DS850 high speed tabulator" means the high speed tabulator in the EVS voting solution.

(11) "Election Management System" means the central database of a voting system.

(12) "ElectionWare" means the election management system in the EVS voting solution.

(13) "Emergency Ballot Compartment" is a separate compartment of the precinct tabulator into which voted ballots can be inserted if the tabulator is unable to scan and tabulate votes.

(14) "ExpressVote unit" means the ballot marking device in the EVS voting solution.

(15) "EVS voting solution" means the voting system manufactured by Election Systems and Software.

(16) "High speed tabulator" means the high speed scanning and tabulating equipment used by certain local boards to tabulate ballots.

(17) "Judges' manual" means the manual developed under COMAR 33.02.03.01 for election judges.

(18) "Memory device" means an external hard drive that plugs into a USB port.

(19) "Precinct tabulator" means the scanning and tabulating equipment used by local boards to tabulate ballots.

(20) "Privacy sleeve" means a folder provided by the local board to ensure the secrecy of the voter's ballot while the voter carries the ballot from the voting booth to the precinct tabulator.

(21) "Test deck" means a preaudited group of ballots that contains:

(a) For the precinct tabulator and high-speed tabulator:

(i) Predetermined number of valid votes for each candidate, each write-in position, and each voting option on a question that appears on the ballot; and

(ii) One or more ballots that have been improperly voted or that have votes in excess of the number allowed by law, in order to test the ability of the system to reject the votes; and

(b) For the ballot marking device, at least one selection in each contest in each ballot style; and

(c) One or more blank ballots.

(22) "Test script" means an algorithm to mark ballots to ensure that the voting system produces expected results for all contests.

(23) "Totals report" means a printed report that shows the votes tabulated on a specific voting unit.

(24) "Voter-verifiable paper record" has the meaning stated in Election Law Article, §9-102, Annotated Code of Maryland.

(25) Voting Booth.

(a) "Voting booth" means an enclosed area in which a voter makes selections privately.

(b) "Voting booth" is the enclosed area for the ballot marking device and the enclosed area for a voter marking a paper ballot by hand.

(26) "Voting location" means a polling place or early voting center.

(27) "Voting unit" means the:

(a) DS200 precinct tabulator with an attached ballot box; or

(b) DS850 high speed tabulator.

(28) "Zero report" means a printed report that shows all contests on a specific voting unit have no votes cast.

.02 System Description.

A. Precinct Tabulator. The precinct tabulator is digital scanning and tabulating equipment with a:

(1) Liquid crystal display and touch panel interface;

(2) Removable memory device to store ballot images and election results;

(3) Thermal printer; and

(4) Battery back-up.

B. Ballot Marking Device.

(1) The ballot marking device is an accessible device with a thermal printer and battery back-up.

(2) The ballot marking device includes:

(a) An audio-tactile keypad;

(b) Connected headphones; and

(c) Plug and play option for certain assistive technologies.

C. High Speed Tabulator.

(1) The high speed tabulator is digital scanning and tabulating equipment used in a counting center.

(2) The high speed tabulator includes:

(a) Liquid crystal display and touch panel interface;

(b) Removable memory device to store ballot images and election results; and

(c) Printers.

D. Election Management System. The Election Management System is the software that:

(1) Defines the election;

(2) Creates the ballot layout;

(3) Programs the memory devices; and

(4) Creates reports, audit logs, and archives.

E. Election Reporting Manager. Election reporting manager is software that collects and tabulates votes from the tabulators and produces various result reports and audit logs.

F. Ballot Box. The ballot box is the plastic case on which the precinct tabulator sits and into which voted ballots are stored.

.03 System Specifications—In General.

A. Privacy.

(1) The tabulators shall store digital ballots images randomly to preserve the secrecy of the digital ballot images.

(2) Each ballot marking device shall include a voting booth.

B. Auditability. The tabulators shall provide a vote cast record of all ballots cast and audit log of alerts provided to voters and tabulator events and errors.

C. Memory Device.

(1) Each precinct tabulator and high speed tabulator shall have a memory device that stores ballot images and reads selections marked or printed on a ballot.

(2) Each ballot marking device shall have a memory device that identifies the ballot style to display.

(3) Each memory device shall have both a human-readable label and an electronically recognizable identifier.

(4) The label and identifier shall match before the memory device is used in any operation related to vote counting.

D. Ballot Selections. Ballot selections shall be made directly on a ballot using a marking instrument approved by the system's manufacturer or by using the ballot marking device.

E. Public and Protective Counters.

(1) Public Counter.

(a) Each tabulator shall have a public counter that:

(i) Is visible from the outside of the voting unit; and

(ii) During any period of voting, shows the total number of voters who used the voting unit during that period.

(b) The public counter shall:

(i) Be set at zero at the beginning of each election; and

(ii) Register once each time a ballot is scanned and tabulated during that election.

(2) Protective Counter.

(a) Each tabulator shall have a protective counter that shows the total number of voters who have operated the voting unit since it was first put in service.

(b) The protective counter shall:

(i) Not be reset; and

(ii) Register once each time a voter marks or casts a ballot during any election.

F. Changes to Software and Logic. After preelection testing of the system, as prescribed by Regulations .14 and .15 of this chapter, any hardware, software, or firmware changes shall be completely documented in each component's internal audit log and be capable of being printed.

G. Actions Taken to Change Conditions.

(1) The system shall be capable of printing from its audit trail:

(a) Actions taken by operators to change conditions; and

(b) The time of occurrence.

(2) System operators shall record in a logbook all actions to change conditions that cannot be printed from the audit trail. That logbook, as well as all reports produced by the printer, shall be retained by the local board.

.04 System Specifications—DS200 Precinct Tabulator.

A. Capability. If the DS200 unit is used as a precinct tabulator, the unit shall automatically print a totals report immediately once the election is ended on the tabulator.

B. Use in Counting Center. The DS200 unit may also be used as a counting center tabulator.

.05 System Specifications—ExpressVote Unit.

A. Capability. The ExpressVote unit shall:

(1) Display a voter's correct ballot;

(2) Allow a voter to make and change selections on a touchscreen interface, and

(3) Print a ballot activation card with the voter's selections.

B. The voting booth used with the ExpressVote unit shall be constructed and controlled so that, while voting is in progress, an individual may not:

(1) Tamper with the device; or

(2) Unless assisting a voter as authorized by law, see or know the voter's selections.

C. Audio Ballot.

(1) The ExpressVote unit shall be capable of presenting an audio ballot.

(2) The audio ballot shall include instructions for:

(a) Adjusting volume of the speech;

(b) Selecting a candidate;

(c) Navigating through the contest list;

(d) Entering the name of a write-in candidate;

(e) Marking the ballot; and

(f) Printing the ballot.

.06 System Specifications—DS850 High Speed Tabulator.

The DS850 unit shall be used as a counting center tabulator.

.07 System Specifications—Ballot Box.

A. A ballot box shall:

(1) Be designed to ensure the secrecy and security of the ballots placed in it;

(2) Be attached to the precinct tabulator; and

(3) Have an emergency ballot compartment.

B. Each ballot box shall have a slot opening that is:

(1) Big enough to allow easy passage of ballots to be scanned and tabulated by the DS200 precinct tabulator; and

(2) Capable of being sealed or locked.

.08 System Specifications—Voting Booth.

A. In General. A voting booth shall be designed to provide privacy for the voter while voting.

B. Early Voting. A voting booth used during early voting shall be equipped with a ballot marking device.

C. Election Day. A voting booth used on election day shall have a fixed surface of writing height on which to vote.

D. Accessibility Requirements. Each voting location shall have at least one voting booth to accommodate voters who need or prefer to sit while voting or use a wheelchair.

.09 System Management.

A. Control. The State Administrator shall maintain management control over the voting system and all support personnel provided by the vendor.

B. Transfer to Vendor for Repairs. If any equipment is transferred to a vendor for repairs, the equipment:

(1) May not be used for voting or any other election purposes while it is under the vendor's control; and

(2) Shall be tested by the State Board or local board before it may be used for voting or any other election purposes.

C. Elections Not Governed by Election Law Article, Annotated Code of Maryland.

(1) Upon request of a local board, the State Board shall make the voting system available for a municipal election or other election not governed by Election Law Article, Annotated Code of Maryland, on terms and conditions that are satisfactory to the local board and consistent with the State's agreement with the vendor.

(2) The State Board is not responsible for any costs associated with conducting a municipal election or other election not governed by Election Law Article, Annotated Code of Maryland.

.10 Voting Options.

In addition to the general requirements of COMAR 33.09.02, the system shall prevent the voter from voting or alert the voter that the voter has voted:

A. For more candidates for any office than the number for which the voter is entitled to vote;

B. For a candidate for the same office more than once; or

C. On any question more than once.

.11 Voting Equipment—Distribution.

A. Early Voting Center. Each early voting center shall have:

(1) At least two precinct tabulators with ballot boxes and two ballot transfer bins; and

(2) The number of ballot marking devices as determined by the State Administrator under COMAR 33.17.04.03A.

B. Election Day. Each precinct shall have:

(1) At least one precinct tabulator with a ballot box and one ballot transfer bin;

(2) At least one ballot marking device unit; and

(3) The number of voting booths as determined by the State Administrator under COMAR 33.09.06.03.

.12 Recording Votes.

A. Accuracy. The system shall record votes accurately.

B. How Recorded. Votes shall be recorded on the memory device as:

(1) Summary totals for each candidate and question; and

(2) Individual ballot images of each voter's ballot, randomized so as to protect voter secrecy.

.13 Ballot Totaling and Reporting.

A. In General. The voting system shall be capable of totaling and reporting:

(1) The number of ballots voted in an election;

(2) The number of votes cast for a candidate;

(3) The number of votes cast for or against a question;

(4) The number of undervotes and overvotes in a contest; and

(5) In a primary election:

(a) The number of ballots voted in each party's primary; and

(b) The number of ballots voted in any nonpartisan ballot election.

B. Precinct Tabulator. When the election is ended, the precinct tabulator shall automatically tabulate and print the total votes cast on the voting unit for each candidate and for or against each question.

C. Election Reporting Manager. This component shall be capable of tabulating and reporting the total votes cast:

(1) For each candidate and for or against each question; and

(2) In each contest.

D. Report Criteria. The voting system shall be capable of producing these reports by:

(1) Precinct;

(2) Groups of precincts, such as districts, wards, and countywide; and

(3) Canvass.

.14 Preelection Testing—In General.

A. Test Required.

(1) For each election, a local board shall test the voting system components as defined in Regulation .02 of this chapter.

(2) The test shall be completed:

(a) For the voting equipment being used for early voting, at least 14 days before election day; and

(b) For the election management system and the voting equipment being used for election day and for absentee and provisional voting, at least 10 days before election day.

B. Scope of Testing. Testing is required for all equipment, whether it will be used during early voting, in a polling place, or in the counting center.

C. Manner of Testing. The test shall be conducted as specified in Regulation .15 of this chapter.

.15 Preelection Testing—When and How Conducted.

A. Processing Test Deck.

(1) The test shall be conducted by processing a separate test deck for each ballot style.

(2) For a precinct tabulator used as a precinct tabulator, the test deck shall include the ballot style or styles for that precinct.

(3) For a tabulator used as a counting center tabulator, the test deck shall include all ballot styles for that election.

B. Scope of Test Script.

(1) For each ballot marking device that will be used in a voting location, the test script shall be capable of certifying that:

(a) All contests for each ballot style can be selected; and

(b) The printer accurately prints all selections for each ballot style for which the ballot shall be used.

(2) For a precinct tabulator that will be used in a voting location, the test script shall be capable of certifying that all contests for each ballot style can be accurately scanned and tabulated.

C. Test Results. If the voting system does not accurately count the test deck:

(1) The cause for the error shall be ascertained and corrected; and

(2) An errorless count shall be made before the voting system may be used in vote counting.

.16 Preelection Testing—Public Demonstration.

A. Demonstration Required. The local board shall conduct a public demonstration of the preelection testing.

B. Required Elements. At the public demonstration, the local board shall:

(1) Demonstrate how the preelection testing was conducted; and

(2) Allow the public to inspect the printouts of results from the preelection testing.

C. Notice.

(1) The local board shall provide written notice of the public demonstration to:

(a) The chairman of the county central committee of each political party;

(b) Each candidate who is not a candidate of a political party; and

(c) The State Administrator.

(2) The local board shall transmit this notice at least 10 days before the public demonstration is conducted.

D. Attendance. One representative of each political party and one representative of each candidate who is not a candidate of a political party is entitled to be present at the public demonstration.

E. Timing. The public demonstration shall be completed before any voting equipment is delivered to an early voting center.

.17 Ballots—In General.

A. Content and Arrangement. The content and arrangement of all ballots shall comply with Election Law Article, Title 9, Subtitle 2, Annotated Code of Maryland, and this chapter.

B. Printing.

(1) Typesetting, ink color, paper stock, and stock colors shall meet all specifications set by:

(a) Election Law Article, Annotated Code of Maryland;

(b) This chapter; and

(c) The voting system's manufacturer.

(2) Ballots shall be available at least 45 days before the election.

C. Printed Format—Placement of Contests, etc.

(1) If all contests cannot be placed on the front, contests shall be placed on both sides of the page.

(2) If all candidates and ballot questions cannot be placed on the front and back, the contests shall be divided into two or more pages.

(3) Whenever possible, the entire listing of a contest shall be printed on one side of the page.

D. Printed Format—Ballot Notices.

(1) If a ballot has contests printed on the front and back, the front shall contain a notice that other contests are printed on the back.

(2) If the ballot is more than one page, the back of the first page shall contain a notice that there is another page to the ballot.

(3) The last page of any ballot shall contain an end of ballot notice.

E. Write-In Spaces (General Elections). In a general election, write-in spaces shall be provided for each applicable office.

F. Ballot Stub.

(1) Each pre-printed ballot shall have an attached, single-perforated stub.

(2) Each ballot stub shall include:

(a) The same information that Election Law Article, Annotated Code of Maryland, requires for the ballot heading; and

(b) Serially numbered to facilitate ballot accounting.

G. Coding of Ballot Styles. Both machine-readable and human-readable coding shall be used to identify different ballot styles.

H. Countability. Ballots shall be both machine-countable and hand-countable.

.18 Ballots—Accounting.

A. Accounting Required. The election judges shall prepare an accounting of all ballots issued to a polling place, in accordance with written procedures and on forms provided by the local board and approved by the State Administrator.

B. Scope of Accounting. The accounting shall include the number of ballots:

(1) Furnished to the polling place;

(2) Issued to votes;

(3) Voted;

(4) Spoiled; and

(5) Not used.

.19 Opening the Polls.

A. In General. At least 30 minutes before polls open, a bipartisan pair of election judges shall unseal and turn on the voting equipment in accordance with the judges' manual.

B. Judges' Manual. The judges' manual shall provide detailed opening procedures, including:

(1) How to place and set up the voting equipment and privacy booths;

(2) How to prepare the voting equipment for voting, including printing, reviewing, and posting the zero reports;

(3) How to verify that the public counter for the precinct tabulator is zero and the correct precinct information displays;

(4) How to verify that the ballot box and ballot transfer bin are empty; and

(5) What instructions and materials to display.

.20 Voting Assistance—In General.

A. Demonstration Ballot to Be Available.

(1) The local board shall provide each voting location with an adequate supply of demonstration ballots and instructions for election judges to demonstrate how to vote.

(2) The demonstration ballot shall be:

(a) The ballot used for voter outreach;

(b) A specimen ballot for that voting location; or

(c) Sample ballot screens identical to those that will appear on the ballot marking device in that voting location.

B. Display of Ballot Contents. Each voting location shall display a list of all candidates and questions appearing on the ballot.

C. Instructions to Voter.

(1) At the request of a voter and in accordance with the election judges' manual, an election judge shall instruct the voter on how to mark or cast a ballot.

(2) The judges' manual shall include procedures for instructing voters on how to use the ballot marking device.

D. Providing Supplies. An election judge shall provide each voter marking a ballot manually with an acceptable writing device approved by the voting system's manufacturer.

.21 Voting Assistance—Spoiled Ballots.

A. Obtaining Replacement.

(1) Except as provided in §A(2) of this regulation, a voter who makes an error or otherwise spoils a ballot may return the ballot to an election judge and obtain another ballot.

(2) A voter may not be issued more than two replacement ballots.

B. Obscuring Prior Votes. Before the election judge accepts a spoiled ballot, the election judge shall instruct the voter to:

(1) If the voter manually marked one or more contests on the spoiled ballot, mark all of the voting positions in those contests to obscure the voter's selections; and

(2) If the voter used the ballot marking device to make selections, use a black marker provided by an election judge to obscure the barcodes printed on the ballot.

C. Spoiled Ballot Envelope. An election judge shall place all spoiled ballots in the spoiled ballot envelope.

.22 Precinct Tabulator—Attendance.

A. Placement of Precinct Tabulator. The precinct tabulator shall be placed so that the process of depositing ballots can be conveniently observed by the:

(1) Voter offering a ballot;

(2) Election judges; and

(3) Challengers and watchers.

B. Constant Attendance Required. From the time the polls are opened until the ballots are returned to the counting center, the precinct tabulator shall be attended by at least one election judge.

C. Election Judges' Duties. From the time the polls are opened until voting ends, the election judges attending the precinct tabulator shall make certain that:

(1) Only valid voted ballots are deposited in the precinct tabulator;

(2) Nothing is removed from the precinct tabulator without authorization by a chief judge; and

(3) The secrecy of each voter's ballot is preserved.

.23 Voting.

The judges' manual shall provide detailed procedures for issuing, marking, and tabulating ballots, replacing and securing a full ballot transfer bin, and basic troubleshooting of the ballot marking device and the precinct tabulator.

.24 Closing the Polls—In General.

A. In General. Immediately after the polls are closed, a bipartisan pair of elections shall perform the closing tasks in accordance with the judges' manual.

B. Judges' Manual. The judges' manual shall provide detailed closing procedures, including:

(1) How to tally voted ballots in the emergency ballot compartment;

(2) How to document the public counter and protective counter totals on the precinct tabulator;

(3) How to end the election;

(4) How to print, sign, and post total reports;

(5) How to remove the memory devices from the voting equipment;

(6) How to remove and seal the ballot transfer bin;

(7) How to seal and store the voting equipment; and

(8) How to return materials to the local board or counting center.

.25 Return of Materials from Voting Locations.

A. In General. The judges' manual shall provide detailed procedures for the secure, orderly, and accountable return of all election equipment and other election materials from voting locations.

B. Return of Priority Items.

(1) These procedures shall provide for the priority handling of:

(a) Memory devices;

(b) Voted ballots;

(c) Keys to access various voting system compartments;

(d) Reports printed from the precinct tabulators; and

(e) Supply bags.

(2) During early voting, the local board shall deliver those priority items that must be transported daily to the local board and shall be responsible for all items while in transit.

(3) For election day, the local board shall follow procedures established by the State Administrator for delivery of priority items.

(4) On delivery of these items to the local board or counting center, the local board shall:

(a) Give the election judges a receipt for the items; and

(b) Provide for the security of the items throughout the counting process.

C. Secure Storage. On their return to the local board or counting center, unused ballots, spoiled ballots, and all materials required for the official canvass shall be placed in secured storage.

.26 Generating Election Results.

A. Procedures. The State Administrator shall develop and issue written procedures for:

(1) Assembling memory devices and ballots returned from voting locations;

(2) Tabulating voted ballots that could not be tabulated by the precinct tabulator;

(3) Tabulating and reporting write-in votes;

(4) Manually entering results into the election management system;

(5) Reviewing, inspecting, and tabulating early voting and election day ballots;

(6) Reviewing, inspecting, and tabulating absentee and provisional ballots;

(7) Producing countywide results and other data, including totals from early voting, polling place voting, and absentee and provisional voting;

(8) Securing the premises where vote tabulation and aggregation are being conducted; and

(9) Defining who may be admitted to the premises while vote tabulation and aggregation is taking place.

B. Tabulating Write-In Votes (General Election.)

(1) In a general election, the results report produced by the precinct tabulator shall include the number of write-in votes cast in each contest.

(2) The ballot images shall contain the names of the individuals for whom voters cast write-in votes and shall copy write-in candidates into the election management system.

(3) After all memory devices from the precinct tabulators have been loaded, the election management system shall produce vote cast records and ballot images that include all write-in votes.

(4) From the vote cast record and ballot images, the local board shall tally and record the write-in votes cast.

(5) Write-in votes shall be reported as part of the official returns in accordance with State Administrator instructions.

.27 System Security—Permissible Use.

The voting system and its components may be used only for conducting elections and may not be used for any other election office purpose.

.28 System Security—Retention of Election Databases and Artifacts.

A. In General. Each time a local board creates a back-up database, the local board shall secure and retain that back-up database.

B. Test Deck. The local board shall secure and retain the test script and deck used during preelection testing required under Regulations .14 and .15 of this chapter.

C. How and Where.

(1) The election databases and test scripts and decks shall be retained in a secure location, designated by the local board, separate from the location of working copies.

(2) The election databases shall be stored on an external, non-rewritable memory device.

D. Duration. The election databases and test scripts and decks shall be retained for as long after the election as required by:

(1) Law or regulation;

(2) Court order; or

(3) State Administrator directive.

.29 System Security—Post-Tabulation Security.

A. Board to Develop Retention Plan.

(1) The local board shall develop a written plan for retaining and storing the following materials after an election:

(a) Memory devices;

(b) Voted and unvoted ballots;

(c) Voting system reports; and

(d) Other data processing materials related to the election.

(2) The plan shall be:

(a) Consistent with the Election Records Management Program established under COMAR 22.03.01; and

(b) Approved by the State Administrator.

B. Reassembly and Storage. After the votes have been tabulated, the local board shall:

(1) Reassemble, package and label all materials described in §A of this regulation; and

(2) Place them in a secure location, designated by the local board, until the period for challenging the election expires and for any additional period required by law or regulation.

C. Release for Recount or Verification. During the storage of election-related materials, the State Administrator or the local board may order the release of these materials for a recount or for election verification, after which the materials shall be returned to secure storage.

LINDA H. LAMONE
State Administrator

Title 36
MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY

Subtitle 01 GENERAL PROVISIONS

36.01.02 Administrative Procedures

Authority: State Government Article, §9-110**[**,**]***; General Provisions Article, §§4-101 — 4-601;* Annotated Code of Maryland

Notice of Proposed Action

[16-019-P]

The Maryland Lottery and Gaming Control Agency proposes to amend Regulation **.01** under **COMAR 36.01.02 Administrative Procedures**. This action was considered at the Maryland Lottery and Gaming Control Commission open meeting held on November 19, 2015, notice of which was given pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to reflect the legislative changes to Maryland's Public Information Act (PIA), delete obsolete or unnecessary provisions, replace terms for greater consistency with the terms used in the PIA, and structure the regulation in a manner that is consistent with how the Agency responds to PIA requests.

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, Baltimore, MD 21230, or call (410) 230-8781, or email to jbutler@maryland.gov, or fax to (410) 230-8727. Comments will be accepted through February 8, 2016. A public hearing has not been scheduled.

.01 Public Information Act Requests.

A. — B. (text unchanged)

C. Definitions.

(1) (text unchanged)

(2) Terms Defined.

(a) – (b) (text unchanged)

(c) "Application" means a request for access under the Act for a public record of the Agency.

(d) "Board" has the meaning stated in §4-101 of the Act.

(e) "Copy" means any form of reproduction using a photocopying machine or other reproduction technology, including a paper copy, an electronic copy, a printout, or an image.

[(c)**]** *(f)* "Custodian" **[**has the meaning stated in §4-101 of the Act.**]** *means:*

(i) The official custodian, as defined in General Provisions Article, §4-101, Annotated Code of Maryland;

(ii) The Director;

(iii) The PIA Coordinator; or

(iv) Any other authorized individual who has physical custody and control of a public record of the Agency.

(g) "Indigent" has the meaning stated in §4-206 of the Act.

(h) "Metadata" has the meaning stated in §4-205 of the Act.

(i) "PIA Coordinator" means the Agency employee who is responsible for accepting requests for public records.

(j) "Public Access Ombudsman" means the official appointed, under Title 4, Subtitle 1B of the Act, to resolve disputes under the Act.

[(d) "Official custodian" means the Director.

(e) "Prepare" includes reviewing documents to determine whether the information contained in them may be disclosed under the Act.**]**

[(f)**]** *(k)* "Public Record" has the meaning stated in §4-101 of the Act.

(l) "Reasonable fee" has the meaning stated in §4-206 of the Act.

D. (text unchanged)

E. Necessity for Written **[**Request**]** *Application*.

(1) **[**Inspection.**]** Except as otherwise provided in this regulation, an applicant that wishes to inspect a public record of the Agency shall submit a written application to the PIA Coordinator.

[(a) Except as otherwise provided in this regulation, the custodian shall make public records available for inspection by an applicant without demanding a written request.

(b) The custodian shall require a written request if the custodian reasonably believes that:

(i) The Act or any other law may prevent the disclosure of the record to the applicant; or

(ii) A written request will materially assist the Agency in responding to the request.

(2) Copies. If the applicant requests one or more copies of any public record of the Agency, the custodian may require a written request from the applicant.**]**

(2) An applicant need not submit a written application if:

(a) The applicant seeks to inspect a public record designated by the official custodian as available to any applicant immediately on request; or

(b) The PIA Coordinator waives the requirement for a written application.

F. **[**Contents of Written Request.] *Application to Inspect a Public Record*. **[**A written request shall:

(1) Contain the applicant's complete name and address;

(2) Be signed by the applicant; and

(3) Reasonably identify, by brief description, the public record sought.**]**

(1) An application shall be addressed to:

(a) The PIA Coordinator; or

(b) If the PIA Coordinator is not known, the Director.

(2) An application shall:

(a) Reasonably identify, by brief description, the public record sought; and

(b) Provide an address or other means by which the custodian may respond to the applicant's request.

[G. Request to Addressee.

(1) A written request for a public record of the Agency shall be addressed to the custodian of the record.

(2) If the custodian is unknown to the applicant, the request may be addressed to the Director.**]**

[H.**]** *G.* Response to **[**Written Request**]** *Application.*

(1) If the individual to whom the application is submitted is not an Agency custodian, within 10 work days after receiving the application the individual shall give the applicant:

(a) Notice of that fact; and

(b) If known, the name of the custodian and possible location of the public record.

[(1)**]** *(2)* If the custodian decides to grant **[**a request**]** *an application* for inspection, the custodian shall produce the record for inspection:

(a) (text unchanged)

(b) Within a reasonable period, not to exceed 30 days from the date of the **[**request**]** *application* if that period of time is needed to retrieve the public record and conduct any necessary review.

(3) If the custodian reasonably believes that it will take more than 10 work days to search for, retrieve, prepare, and produce the public record for inspection, the custodian shall indicate in writing or by electronic mail within 10 work days after receipt of the application:

(a) The amount of time that the custodian anticipates it will take to produce the public record;

(b) An estimate of the range of fees that may be charged to comply with the application for public records; and

(c) The reason why it will take more than 10 work days to produce the public record.

(4) If an applicant requests to inspect a public record and a custodian determines the record does not exist, the custodian shall notify the applicant of this determination:

(a) Immediately, if the custodian determines this on initial review of the application; or

(b) If the custodian determines this after a search for responsive records, promptly after the search is completed but not more than 30 days after receiving the application.

[(2)**]** *(5)* If the custodian **[**decides to deny**]** denies **[**a request**]** *an application* for inspection:

(a) — (b) (text unchanged)

[(3)**]** *(6)* If **[**a request**]** *an application* is denied, the custodian shall provide the applicant, at the time of the denial or within 10 work days, a written statement that gives:

(a) The **[**reasons**]** *reason* for the denial including, for records denied under §4-343 of the Act, a brief explanation of **[**;**]***:*

(i) Why denial is necessary; and

(ii) Why the harm from disclosure of the public record would be greater than the public interest in providing access to the information in the public record such that disclosure of the public record would be contrary to the public interest;

(b) (text unchanged)

(c) Without disclosing the protected information, a brief description of the undisclosed records that will enable the applicant to assess the applicability of the legal authority for the denial; and

[(c)**]** *(d)* Notice of the remedies available for review of the denial**[**; and

(d) Permission to inspect any part of the record that is:

(i) Subject to inspection; and

(ii) Reasonably severable.

(4) If a requested public record is not in the custody or control of the person to whom application is made, that person shall, within 10 work days after receipt of the request, notify the applicant:

(a) That the person does not have custody or control of the requested public record; and

(b) If the person knows:

(i) Of the name of the custodian of the public record; and

(ii) Of the location or possible location of the public record**]**.

[(5)**]** *(7) A time limit imposed by §G(2) and (3) of this regulation may be extended:*

(a) With the consent of the applicant, **[**any time limit imposed by §I(1) — (4) of this regulation may be extended**]** for an additional period of up to 30 days**[**.**]***; and*

(b) For the period of time during which a dispute initiated by the applicant is pending before the Public Access Ombudsman.

[I.] *H.* Notice *to* and Consideration of Views of Person Potentially Affected by Disclosure.

(1) — (2) (text unchanged)

I. Electronic Records.

(1) Except as provided in §I(3) and (4) of this regulation, the custodian shall provide an applicant with a copy of the public record in a searchable and analyzable electronic format if:

(a) The public record is in a searchable and analyzable electronic format;

(b) The applicant requests a copy of the public record in a searchable and analyzable electronic format; and

(c) The custodian is able to provide a copy of the public record, in whole or in part, in a searchable and analyzable electronic format that does not disclose information that is exempt from disclosure under the Act.

(2) The custodian shall provide a portion of the public record in a searchable and analyzable electronic format if:

(a) Requested by the applicant; and

(b) The custodian is able to do so by using the existing functions of the database or software program that contains the searchable an analyzable data.

(3) The custodian is not required to:

(a) Create or reconstruct a public record in an electronic format if the public record is not available in an electronic format; or

(b) Release an electronic record in a format that would jeopardize or compromise the security or integrity of the original record or any proprietary software in which the record is maintained.

(4) The custodian may remove metadata from an electronic document before providing the electronic record to an applicant by:

(a) Using a software program or function; or

(b) Converting the electronic record into a different searchable and analyzable format.

[J. Record Temporarily Unavailable. If a requested public record is in the custody and control of the person to whom written application is made, but is not immediately available for inspection or copying, the custodian shall promptly:

(1) Notify the applicant that the public record is not immediately available; and

(2) Schedule a date within a reasonable time for inspection or copying.

K. Records Destroyed or Lost. If a requested record has been destroyed or lost, the custodian to whom the application is made shall promptly:

(1) Notify the applicant of this fact within 10 work days of the request; and

(2) Explain the reasons why the public record cannot be produced.**]**

[L.**]** *J.* Review of Denial.

(1) If the custodian denies **[**a written request**]** *an application* to inspect or copy a public record of the Agency, the applicant may, **[**within 30 days after receipt of the notice of denial, request an administrative hearing**]** *file an action for judicial enforcement under §4-362 of the Act without pursuing the remedies set forth in §J(2) and (3) of this regulation.*

[(2) If the applicant requests a hearing:

(a) The hearing shall be governed by State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland; and

(b) The Director shall issue the final decision of the Agency unless the Director delegates final decision authority.

(3) If the hearing results in a total or partial denial of the request, the applicant may file an appropriate action in the circuit court under §4-362 of the Act.

(4) If the applicant does not request a hearing, the applicant may file an action for judicial enforcement under §4-362 of the Act without exhausting that administrative remedy.**]**

(2) If the custodian charges a fee of more than $350 under §L of this regulation, the applicant may, within 90 days after the date the fee is imposed, file a written complaint with the Board under General Provisions Article, §4-1A-05, Annotated Code of Maryland.

(3) The applicant and the custodian each may contact the Public Access Ombudsman to resolve, under General Provisions Article, Title 4, Subtitle 1B, Annotated Code of Maryland, a dispute relating to requests for public records.

[M. Disclosure Against Public Interest.

(1) Denial pending court order.

(a) If, in the opinion of the Director, disclosure of a public record of the Agency otherwise subject to disclosure under the Act would do substantial injury to the public interest, the Director may temporarily deny the request to obtain a court order allowing nondisclosure.

(b) The temporary denial shall be in writing to the applicant.

(2) Circuit Court Review.

(a) Within 10 work days after the denial, the Director shall apply to the appropriate circuit court for an order permitting continued denial or restriction of access.

(b) Notice of the Director's complaint shall be served on the applicant in the same manner provided for service of process by the Maryland Rules of Civil Procedure.**]**

K. Temporary Denial.

(1) If the act authorizes inspection of a public record but the custodian believes inspection would cause substantial injury to the public interest, the custodian may temporarily deny inspection.

(2) Within 10 work days after the denial, the custodian shall petition a circuit court to authorize continued denial of inspection.

(3) The petition shall be filed in:

(a) The circuit court for the county where the public record is located; or

(b) The Circuit Court for Baltimore City.

(4) The custodian's petition shall be served on the applicant as provided in the Maryland Rules.

[N.**]** *L.* Fees.

(1) **[**Fee Schedule for Copying and Certifying Copies of Records.

(a) Copies.

(i)**]** The fee for **[**each copy made by a photocopying machine within the Agency**]** *a photocopy of a public record of the Agency* is 25 cents per page.

[(ii) The fee for each copy made otherwise shall be based on the actual cost of reproduction.

(b) Certification of copies. If a person requests that a copy of a public record be certified as a true copy, an additional fee of $1 per page (or if appropriate, per item) shall be charged.

(c) Minimum fee. No charge will be made if the total fee is $1 or less.**]**

(2) The fee for a certified true copy of a public record is an additional fee of $1 per page.

(3) There is no charge if the total fee for copies is $10 or less.

[(2)**]** *(4)* Notwithstanding **[**§O(1)**]** *§L(1)* of this regulation, if [the fee for copies or certified copies of any public record is specifically prescribed by a law other than the Act or this regulation, the custodian shall charge the prescribed fee] *another law sets a fee for a copy, printout or photograph of a public record, that law applies*.

[(3)**]** *(5)* **[**If the custodian cannot copy a public record within the Agency, the custodian shall:

(a) Make arrangements for the prompt reproduction of the record at public or private facilities outside the Agency; and

(b) Collect from the applicant a fee to cover the actual cost of reproduction or direct the applicant to pay the cost of reproduction directly to the facility making the copy**]** *The custodian may charge for the cost of providing facilities for the reproduction of a public record if the custodian does not have the facilities*.

[(4)**]** *(6)* Before searching for, *retrieving, reviewing, preparing,* or copying a public record of the Agency, the custodian shall estimate the cost of reproduction and notify the applicant of the cost, and **[**either**]** *may*:

(a) — (b) (text unchanged)

[(5)**]** *(7) Search and Preparation Fee*.

(a) Except as provided in **[**§P(6)**]** *§L(8)* of this regulation, the Agency may charge a reasonable fee *to*:

[(a)**]** *(i)* **[**To search**]** *Search* for *and retrieve* requested public records; **[**and**]**

(ii) Review requested public records for potential disclosure; and

[(b)**]** *(iii)* **[**To prepare**]** *Prepare* public records for inspection and copying.

(b) The custodian shall determine the fee by multiplying the staff's or attorney's salary, prorated to an hourly basis, by the actual time attributable to the search for, retrieval of, review of, and preparation of public records for inspection and copying.

[(6)**]** *(8)* The custodian may not charge **[**any**]** *a* **[**search or preparation**]** fee for the first 2 hours [that an official or employee of the Agency spends to respond to a request for public records] *spent searching for, retrieving, reviewing and preparing a public record for inspection.*

[(7)**]** *(9)* Waiver or Reduction of Fee.

(a) The **[**official**]** custodian may waive or reduce any fee set under this regulation if[:

(i) The**]** *the* applicant requests a waiver, and*:*

[(ii)**]** *(i)* The custodian determines that the waiver or reduction is in the public interest**[**.**]***; or*

(ii) The applicant is indigent and files an affidavit verifying the facts that support a claim of indigency.

(b) **[**The official**]** *In determining whether a fee is in the public interest, the* custodian shall consider, among other relevant factors, the ability of the applicant to pay the fee.

[(8)**]** *(10)* If the applicant requests that copies of a public record be mailed or delivered to the applicant or a third party, the custodian may charge the applicant for the cost of postage or delivery.

[(9)**]** *(11)* If the applicant fails to respond to the custodian within 30 days of the notification under **[**§N(4)**]** *§L(11)* of this regulation, the custodian may deem the request withdrawn without further notification to the applicant.

[(10)**]** *(12)* An applicant's request to reopen a request deemed withdrawn under **[**§N(9)**]** *§L(11)* of this regulation shall be processed as a new request.

[O.**]** *M.* Time and Place of Inspection.

[(1)**]** An applicant may inspect **[**any**]** a public record of the Agency that the applicant is entitled to inspect during **[**the normal working hours**]** *a work day* of the Agency.

[(2) The place of inspection shall be the place where the public record is located unless the custodian, taking into account the applicant's express wish, determines that another place of inspection is more suitable and convenient.**]**

GORDON MEDENICA
Director

Subtitle 03 GAMING PROVISIONS

Notice of Proposed Action

[16-018-P]

The Maryland Lottery and Gaming Control Agency proposes to

(1) Amend Regulations **.12—.14** and **.16** under **COMAR 36.03.02 Investigation and Licensing**; and

(2) Amend Regulation **.04** under **COMAR 36.03.03 Video Lottery Operation License**.

This action was considered at the Maryland Lottery and Gaming Control Commission open meeting held on November 19, 2015, notice of which was given pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to (1) reflect legislative amendments effective October 1 that clarify that under COMAR 36.03.03.04, for an operation license applicant, a disqualifying conviction or act that was prosecuted or committed may be considered as having occurred "in any jurisdiction"; and (2) note that §F is deleted as no longer necessary; (3) reflect legislative amendments effective October 1 that no longer disqualify an applicant for the commission of an act that would be a crime of moral turpitude or gambling, so the explanation in §D is no longer necessary; (4) remove all references to "sponsored" licenses, as those can no longer be issued now that the Commission is authorized to issue "temporary" licenses effective July 1; (5) identify categories of licenses for which the application and license fee would be reduced, and a more abbreviated background investigation would be conducted; and (6) clarify that a manufacturer license applicant receives a reconsideration meeting if the application is recommended for denial.

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, Baltimore, MD 21230, or call (410) 230-8781, or email to jbutler@maryland.gov, or fax to (410) 230-8727. Comments will be accepted through February 8, 2016. A public hearing has not been scheduled.

36.03.02 Investigation and Licensing

Authority: State Government Article, §§9-1A-04, 9-1A-12, 9-1A-14, and 9-1A-15, Annotated Code of Maryland

.12 Video Lottery Employee Licenses.

A. (text unchanged)

B. License Categories. The Commission may issue a video lottery employee license that is a:

(1) — (3) (text unchanged)

(4) **[**Sponsored or temporary**]** *Temporary* principal employee license; or

(5) **[**Sponsored or temporary**]** *Temporary* gaming employee license.

C. (text unchanged)

[D. If the background investigation of an applicant reveals the commission of an act by the applicant that would constitute an offense of moral turpitude or gambling under State Government Article, §9-1A-14(c)(7), Annotated Code of Maryland, the Commission shall consider that information as follows:

(1) An act that was committed in any jurisdiction by an applicant shall disqualify the applicant if the act occurred within 7 years before the date of the application and would constitute a criminal offense involving moral turpitude or a gambling offense under the criminal laws of any jurisdiction, and the act:

(a) Was not prosecuted under the criminal laws of any jurisdiction; or

(b) Cannot be prosecuted under the criminal laws of any jurisdiction;

(2) If an act described in §D(1) of this regulation was prosecuted but did not result in a conviction, it may be considered by the Commission in determining whether the applicant has established the required qualification criteria; and

(3) The Commission shall determine the existence of an act described in this section by a preponderance of the evidence.**]**

[E.**]** *D.* — **[**I.**]** *H.* (text unchanged)

J. **[**Sponsored or**]** Temporary License.

(1) The Commission may issue to a video lottery employee license applicant a **[**sponsored or**]** temporary license to permit the individual to work legally as a video lottery employee before the Commission completes the full licensing process.

(2) A licensed facility operator, manufacturer, or contractor may submit an application for a **[**sponsored or**]** temporary license on behalf of an individual who is seeking a principal or gaming employee license.

(3) An application for a **[**sponsored or**]** temporary license shall be in a format designated by the Commission and shall include:

(a) — (c) (text unchanged)

(d) [For a temporary license, documentation**]** *Documentation* that the applicant has acknowledged, in writing, that the State is not financially responsible for any consequences resulting from termination of a temporary license under State Government Article, §9-1A-14(d)(4), Annotated Code of Maryland.

(4) The Commission may grant a **[**sponsored or**]** temporary license after:

(a) — (b) (text unchanged)

[(5) A sponsored license:

(a) Is valid for one nonrenewable 5-year term;

(b) Is not transferable to employment with a different facility operator, manufacturer, or contractor unless the new employer submits to the Commission a Certificate of Sponsorship for the sponsored licensee before the sponsored licensee commences employment with the new employer;

(c) Automatically converts to a principal, gaming, or nongaming employee license when the Commission notifies the sponsor that the individual meets the license qualification requirements under §C of this regulation; and

(d) May not be granted after July 1, 2015.**]**

[(6)**]** *(5)* — **[**(10)**]** *(9)* (text unchanged)

.13 Manufacturer Licenses.

A. — B. (text unchanged)

C. Application and License Fees.

(1) The application fee is:

(a) — (b) (text unchanged)

(c) $10,000 for a manufacturer of associated equipment and software; **[**and**]**

(d) $10,000 for a distributor or reseller of a video lottery terminal, a table game device, a central monitor and control system, or associated equipment and software*; and*

(e) $1,200 for a manufacturer that produces a product that:

(i) Is related to video lottery terminals, table games, or associated equipment and software that is intended for sale, lease, or other assignment to a licensee;

(ii) Does not have the ability to impact the integrity of a game; and

(iii) Is not essential to table game play.

(2) The license fee is:

(a) — (b) (text unchanged)

(c) $5,000 for a manufacturer of associated equipment and software; **[**and**]**

(d) $1,000 for a distributor or reseller of a video lottery terminal, a table game device, a central monitor and control system, or associated equipment and software*; and*

(e) $800 for a manufacturer that produces a product that is:

(i) Is related to video lottery terminals, table games, or associated equipment and software that is intended for sale, lease, or other assignment to a licensee;

(ii) Does not have the ability to impact the integrity of a game; and

(iii) Is not essential to table game play.

D. — F. (text unchanged)

.14 Contractor Licenses.

A. — C. (text unchanged)

D. Application and License Fees.

(1) *Application Fees.*

(a) **[**The**]** *Except as provided in §D(1)((b) of this regulation, the* application fee for **[**the Commission's qualification of**]** a contractor is $1,500**[**; and**]**.

(b) The application fee is $750 for a contractor that provides a service that is essential to the operation of a facility service, but has no contact with or access to a:

(i) Central operating system;

(ii) Facility's video lottery system;

(iii) Video lottery terminal; or

(iv) Table game.

(2) *License Fees.*

(a) **[**The**]** *Except as provided in §D(2)((b) of this regulation, the* license fee for a contractor is $2,500.

(b) The license fee is $800 for a contractor that provides a service that is essential to the operation of a facility service, but has no contact with or access to a:

(i) Central operating system;

(ii) Facility's video lottery system;

(iii) Video lottery terminal; or

(iv) Table game.

E. Term; Renewal; Fees.

(1) — (2) (text unchanged)

(3) The Commission may renew the license if the contractor licensee:

(a) — (c) (text unchanged)

(d) Pays a *license* renewal fee *in the amount of the license fee that is required under §D(2)(a) or (b) of this regulation.*

F. (text unchanged)

.16 Denial of a License.

A. Denial of a Video Lottery Employee, *Manufacturer,* or Contractor License.

(1) **[**In**]** *Except for an operation license, in* addition to the hearing requirements in §B of this regulation, the following process shall precede a hearing on the denial of a video lottery employee or contractor license.

(2) After reviewing an application submitted for a video lottery employee, *manufacturer,* or contractor license, the Director may recommend that the Commission deny the **[**applicant**]** *application* of an applicant who:

(3) If the Director recommends that the Commission deny a video lottery employee, *manufacturer,* or contractor license, the Director, or the Director's designee, shall promptly provide the applicant with written notice of the:

(a) — (c) (text unchanged)

(4) — (13) (text unchanged)

B. (text unchanged)

36.03.03 Video Lottery Operation License

Authority: State Government Article, §§9-1A-04, 9-1A-07, and 9-1A-08, Annotated Code of Maryland

.04 Qualification by the Commission.

A. — B. (text unchanged)

C. The Commission shall disqualify an applicant for an operation license on the basis of any of the following criteria:

(1) — (4) (text unchanged)

(5) Conviction of the applicant, or of any person required to be qualified as a condition of a license, of an offense under the laws of **[**the United States, or**]** any jurisdiction **[**within the United States,**]** that is a criminal offense involving moral turpitude or a gambling offense;

(6) — (8) (text unchanged)

(9) The **[**committing**]** *commission* of an act by the applicant, or a person who is required to be qualified as a condition of a license, *within the prior 7 years,* that would constitute an offense described under §C(5) of this regulation, even if the act **[**has not been**]** *was not prosecuted* or may not be prosecuted under the criminal laws of **[**the State**]** *any jurisdiction*; or

(10) (text unchanged)

D. — E. (text unchanged)

[F. Interpretation of §C(9) of this Regulation.

(1) An act that was committed in any jurisdiction by an applicant or a person who is required to be qualified shall disqualify the applicant or person if the act occurred within 7 years before the date of the application and would constitute a criminal offense involving moral turpitude or a gambling offense under the criminal laws of any jurisdiction, and the act:

(a) Was not prosecuted under the criminal laws of any jurisdiction; or

(b) Cannot be prosecuted under the criminal laws of any jurisdiction.

(2) If an act described in §F(1) of this regulation was prosecuted but did not result in a conviction, it may be considered by the Commission in determining whether the applicant or person has established the required qualification criteria.

(3) The Commission must determine the existence of an act described in §F of this regulation by a preponderance of the evidence.]

GORDON MEDENICA
Director

Errata

COMAR 10.34.39

At 42:26 Md. R. 1633 (December 28, 2015), column 2, line 27 from the bottom:

For: adopt new Regulations **.01—.05** under a new chapter, **COMAR**

Read: adopt new Regulations **.01—.04** under a new chapter, **COMAR**

At 42:26 Md. R. 1634 (December 28, 2015), column 2, line 15 from the bottom:

For: ***.05 Record Keeping.***

Read: ***.04 Record Keeping.***

[16-01-29]

Special Documents

DEPARTMENT OF THE ENVIRONMENT

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in "DATES."

DATES: July 1-31, 2015.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel, telephone: (717) 238-0423, ext. 1312; fax: (717) 238-2436; e-mail: joyler@srbc.net. Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR §806.22(f) for the time period specified above:

Approvals By Rule Issued Under 18 CFR §806.22(f):

Talisman Energy USA Inc., Pad ID: Roy 03 039, ABR-20100630.R1, Wells Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: July 6, 2015.

Talisman Energy USA Inc., Pad ID: Harnish 01 032, ABR-20100647.R1, Canton Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: July 6, 2015.

Talisman Energy USA Inc., Pad ID: Wray 03 058, ABR-20100649.R1, Wells Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: July 6, 2015.

Talisman Energy USA Inc., Pad ID: Schucker 03 006, ABR-20100654.R1, Columbia Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: July 6, 2015.

Talisman Energy USA Inc., Pad ID: Morgan 01 073, ABR-20100693.R1, Armenia Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: July 6, 2015.

Talisman Energy USA Inc., Pad ID: Lyon 01 078, ABR-20100696.R1, Troy Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: July 6, 2015.

Talisman Energy USA Inc., Pad ID: Feusner 03 053, ABR-201006100.R1, Columbia Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: July 6, 2015.

Talisman Energy USA Inc., Pad ID: White 03 025, ABR-201006101.R1, Columbia Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: July 6, 2015.

XTO Energy Incorporated, Pad ID: Temple, ABR-20090714.R1, Moreland Township, Lycoming County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: July 6, 2015.

XTO Energy Incorporated, Pad ID: PA TRACT 8546H, ABR-201010070.R1, Chapman Township, Clinton County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: July 6, 2015.

XTO Energy Incorporated, Pad ID: Houseweart 8527H, ABR-201009028.R1, Pine Township, Columbia County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: July 6, 2015.

Seneca Resources Corporation, Pad ID: C09-A, ABR-201507001, Shippen Township, Cameron County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: July 8, 2015.

Seneca Resources Corporation, Pad ID: C09-J, ABR-201507002, Shippen Township, Cameron County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: July 8, 2015.

Chesapeake Appalachia, LLC, Pad ID: Crystal, ABR-201011009.R1, North Towanda Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: July 8, 2015.

Chesapeake Appalachia, LLC, Pad ID: Lytwyn, ABR-201011028.R1, Smithfield Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: July 8, 2015.

Chesapeake Appalachia, LLC, Pad ID: Taylor, ABR-201011034.R1, Orwell Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: July 8, 2015.

Chesapeake Appalachia, LLC, Pad ID: Roeber, ABR-201011037.R1, Wyalusing Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: July 8, 2015.

Chesapeake Appalachia, LLC, Pad ID: Epler, ABR-201011041.R1, Albany Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: July 8, 2015.

Chesapeake Appalachia, LLC, Pad ID: Comstock, ABR-201011053.R1, Rome Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: July 8, 2015.

Chesapeake Appalachia, LLC, Pad ID: Dunny, ABR-201011066.R1, Windham Township, Wyoming County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: July 8, 2015.

EXCO Resources (PA), LLC, Pad ID: Barto Unit #1H, #2H, ABR-20090514.R1, Penn Township, Lycoming County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: July 8, 2015.

EXCO Resources (PA), LLC, Pad ID: Zinck Unit #1H, ABR-20090718.R1, Watson Township, Lycoming County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: July 8, 2015.

EXCO Resources (PA), LLC, Pad ID: Bower Unit #1H Drilling Pad, ABR-20090815.R1, Penn Township, Lycoming County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: July 8, 2015.

Cabot Oil & Gas Corporation, Pad ID: KrisuleviczV P1, ABR-201102027.R1, Auburn Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.5750 mgd; Approval Date: July 14, 2015.

Cabot Oil & Gas Corporation, Pad ID: LymanJ P1, ABR-201104018.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.5750 mgd; Approval Date: July 14, 2015.

Cabot Oil & Gas Corporation, Pad ID: Augustine P1, ABR-201105002.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.5750 mgd; Approval Date: July 14, 2015.

Chesapeake Appalachia, LLC, Pad ID: Primrose, ABR-201011035.R1, Standing Stone Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: July 14, 2015.

Chesapeake Appalachia, LLC, Pad ID: Penecale, ABR-201011060.R1, North Branch Township, Wyoming County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: July 14, 2015.

EXCO Resources (PA), LLC, Pad ID: Maguire Unit Drilling Pad #1, ABR-20090923.R1, Watson Township, Lycoming County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: July 14, 2015.

EXCO Resources (PA), LLC, Pad ID: Kitzmiller Drilling Pad #1, ABR-20100546.R1, Jordan Township, Lycoming County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: July 14, 2015.

EXCO Resources (PA), LLC, Pad ID: Fulmer Drilling Pad #1, ABR-20100616.R1, Penn Township, Lycoming County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: July 14, 2015.

EXCO Resources (PA), LLC, Pad ID: Poor Shot East Drilling Pad #2, ABR-20100681.R1, Anthony Township, Lycoming County, Pa.; Consumptive Use of Up to 8.0000 mgd; Approval Date: July 14, 2015.

SWN Production Company, LLC, Pad ID: NR-19-Walker Diehl, ABR-201507003, Oakland Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: July 17, 2015.

Cabot Oil & Gas Corporation, Pad ID: ArnoneJ P1, ABR-201507004, Brooklyn Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.2500 mgd; Approval Date: July 17, 2015.

Cabot Oil & Gas Corporation, Pad ID: BistisM P1, ABR-201507005, Lathrop Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.2500 mgd; Approval Date: July 17, 2015.

Cabot Oil & Gas Corporation, Pad ID: LambertR P1, ABR-201507006, Gibson Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.2500 mgd; Approval Date: July 17, 2015.

EXCO Resources (PA), LLC, Pad ID: Falk Unit #1H, ABR-20090920.R1, Penn Township, Lycoming County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: July 20, 2015.

Cabot Oil & Gas Corporation, Pad ID: WarrinerR P5, ABR-20100519.R1, Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.5750 mgd; Approval Date: July 21, 2015.

Cabot Oil & Gas Corporation, Pad ID: Daniels Pad, ABR-201010018.R1, Gibson Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.9900 mgd; Approval Date: July 21, 2015.

Cabot Oil & Gas Corporation, Pad ID: StalterD P1, ABR-201011030.R1, Lenox Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.5750 mgd; Approval Date: July 21, 2015.

Cabot Oil & Gas Corporation, Pad ID: DerianchoF P1, ABR-201011055.R1, Bridgewater Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.5750 mgd; Approval Date: July 21, 2015.

Cabot Oil & Gas Corporation, Pad ID: HawleyJ P1, ABR-201103009.R1, Forest Lake Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.5750 mgd; Approval Date: July 21, 2015.

Cabot Oil & Gas Corporation, Pad ID: ZickJ P1, ABR-201003020.R1, Lenox Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.5750 mgd; Approval Date: July 21, 2015.

Chesapeake Appalachia, LLC, Pad ID: Norton, ABR-201011008.R1, Elkland Township, Sullivan County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: July 21, 2015.

EOG Resources, Inc., Pad ID: Housknecht 3H, ABR-20090422.R1, Springfield Township, Bradford County, Pa.; Consumptive Use of Up to 0.4900 mgd; Approval Date: July 21, 2015.

EOG Resources, Inc., Pad ID: Housknecht 1H, ABR-20090423.R1, Springfield Township, Bradford County, Pa.; Consumptive Use of Up to 1.9990 mgd; Approval Date: July 21, 2015.

EOG Resources, Inc., Pad ID: PHC 4H, ABR-20090501.R1, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: July 21, 2015.

EOG Resources, Inc., Pad ID: PHC 5H, ABR-20090502.R1, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: July 21, 2015.

EOG Resources, Inc., Pad ID: PHC 9H, ABR-20090503.R1, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 0.9990 mgd; Approval Date: July 21, 2015.

EOG Resources, Inc., Pad ID: PHC 11V, ABR-20090720.R1, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 0.9999 mgd; Approval Date: July 21, 2015.

EOG Resources, Inc., Pad ID: PHC Pad R, ABR-20100690.R1, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: July 21, 2015.

EOG Resources, Inc., Pad ID: PHC 10V, ABR-20090719.R1, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 0.9999 mgd; Approval Date: July 21, 2015.

EXCO Resources (PA), LLC, Pad ID: Taylor (Pad 33), ABR-20100611.R1, Burnside Township, Centre County, Pa.; Consumptive Use of Up to 8.0000 mgd; Approval Date: July 21, 2015.

Talisman Energy USA Inc., Pad ID: Boor 03 010, ABR-20100665.R1, Columbia Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: July 21, 2015.

Seneca Resources, Pad ID: D08-M, ABR-201507007, Norwich Township, McKean County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: July 22, 2015.

Range Resources Appalachia, LLC, Pad ID: Ogontz 3, ABR-20090606.R1, Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: July 23, 2015.

Range Resources Appalachia, LLC, Pad ID: McWilliams 1, ABR-20090607.R1, Cogan House Township, Lycoming County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: July 23, 2015.

Range Resources Appalachia, LLC, Pad ID: Genter 3, ABR-20100153.R1, Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: July 23, 2015.

Range Resources Appalachia, LLC, Pad ID: Dog Run Hunting Club Unit, ABR-20100456.R1, Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: July 23, 2015.

Range Resources Appalachia, LLC, Pad ID: Harman, Lewis Unit #1H, ABR-20100554.R1, Moreland Township, Lycoming County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: July 23, 2015.

Range Resources Appalachia, LLC, Pad ID: Ogontz Fishing Club Unit #12H - #17H, ABR-20100648.R1, Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: July 23, 2015.

Range Resources Appalachia, LLC, Pad ID: Lone Walnut H.C. Unit #3H Drilling Pad, ABR-201007031.R1, Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: July 23, 2015.

Chesapeake Appalachia, LLC, Pad ID: Ruth, ABR-201507008, Meshoppen Township, Wyoming County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: July 27, 2015.

Chesapeake Appalachia, LLC, Pad ID: M&M Estates, ABR-201011013.R1, Fox Township, Sullivan County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: July 27, 2015.

SWEPI LP, Pad ID: Young 431, ABR-20100561.R1, Shippen Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: July 27, 2015.

SWEPI LP, Pad ID: Mitchell 456, ABR-20100615.R1, Jackson Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: July 27, 2015.

Talisman Energy USA Inc., Pad ID: 02 205 DCNR 594, ABR-201008040.R1, Bloss Township, Tioga County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: July 27, 2015.

Talisman Energy USA Inc., Pad ID: 02 101 Olson, ABR-201209024.R1, Hamilton Township, Tioga County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: July 27, 2015.

XTO Energy Incorporated, Pad ID: Marquardt, ABR-20090712.R1, Penn Township, Lycoming County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: July 27, 2015.

EXCO Resources (PA), LLC, Pad ID: Litke 1H, 2H, ABR-20090425.R1, Burnside Township, Centre County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: July 31, 2015.

EXCO Resources (PA), LLC, Pad ID: Litke (7H & 8H), ABR-20090426.R1, Burnside Township, Centre County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: July 31, 2015.

EXCO Resources (PA), LLC, Pad ID: Snyder Unit #1, ABR-20090430.R1, Franklin Township, Lycoming County, Pa.; Consumptive Use of Up to 8.0000 mgd; Approval Date: July 31, 2015.

EXCO Resources (PA), LLC, Pad ID: Spotts Unit Drilling Pad #1, ABR-20090921.R1, Mifflin Township, Lycoming County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: July 31, 2015.

EXCO Resources (PA), LLC, Pad ID: Stroble Unit Drilling Pad #1, ABR-20090924.R1, Mifflin Township, Lycoming County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: July 31, 2015.

EXCO Resources (PA), LLC, Pad ID: Poor Shot Unit Drilling Pad #1, ABR-20090925.R1, Anthony Township, Lycoming County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: July 31, 2015.

EXCO Resources (PA), LLC, Pad ID: Poor Shot East Unit Drilling Pad #1, ABR-20091002.R1, Anthony Township, Lycoming County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: July 31, 2015.

EXCO Resources (PA), LLC, Pad ID: Kensinger 3H Drilling Pad #1, ABR-20100205.R1, Penn Township, Lycoming County, Pa.; Consumptive Use of Up to 8.0000 mgd; Approval Date: July 31, 2015.

EXCO Resources (PA), LLC, Pad ID: Myers Drilling Pad #1, ABR-20100416.R1, Penn Township, Lycoming County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: July 31, 2015.

EXCO Resources (PA), LLC, Pad ID: Warner Drilling Pad #1, ABR-20100451.R1, Franklin Township, Lycoming County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: July 31, 2015.

AUTHORITY: Pub. L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: October 2, 2015.

STEPHANIE L. RICHARDSON
Secretary to the Commission

[16-01-36]

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Rescinded for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the approved by rule projects rescinded by the Susquehanna River Basin Commission during the period set forth in "DATES."

DATES: July 1-31, 2015.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel, telephone: (717) 238-0423, ext. 1312; fax: (717) 238-2436; e-mail: joyler@srbc.net. Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, being rescinded for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR §806.22(e) and §806.22(f) for the time period specified above:

Rescinded ABR(e) Issued June 1-31, 2015

Marcellus GTL, LLC, Altoona Project, ABR-201307005, Blair and Allegheny Townships, Blair County, Pa.: Rescind Date: July 29, 2015.

Rescinded ABR(f) Issued July 1-31, 2015

Chief Oil & Gas, LLC, Pad ID: Inderlied Drilling Pad, ABR-201304020, Lathrop Township, Susquehanna County, Pa.; Rescind Date: June 5, 2015.

Energy Incorporated, Pad ID: Everbe Farms Unit B, ABR-201202024, Franklin Township, Lycoming County, Pa.; Rescind Date: June 24, 2015.

XTO Energy Incorporated, Pad ID: Free Library Unit E, ABR-201107024, Beech Creek Township, Clinton County, Pa.; Rescind Date: June 24, 2015.

XTO Energy Incorporated, Pad ID: PA Tract Unit H, ABR-201206018, Chapman Township, Clinton County, Pa.; Rescind Date: June 24, 2015.

XTO Energy Incorporated, Pad ID: PA Tract K, ABR-201208014, Chapman Township, Clinton County, Pa.; Rescind Date: June 24, 2015.

XTO Energy Incorporated, Pad ID: Shaner8507H, ABR-201011019, Jordon Township, Lycoming County, Pa.; Rescind Date: June 24, 2015.

XTO Energy Incorporated, Pad ID: West Brown A, ABR-201210008, Moreland Township, Lycoming County, Pa.; Rescind Date: June 24, 2015.

XTO Energy Incorporated, Pad ID: West Brown B, ABR-201209005, Moreland Township, Lycoming County, Pa.; Rescind Date: June 24, 2015.

WPX Energy Appalachia, LLC, Pad ID: S. Farver 1V, ABR-201008102, Benton Township, Columbia County, Pa.; Rescind Date: June 24, 2015.

WPX Energy Appalachia, LLC, Pad ID: Campbell Well Pad, ABR-201012010, Benton Township, Columbia County, Pa.; Rescind Date: June 24, 2015.

SWN Production Company, LLC, Pad ID: Wells Pad, ABR-201011014, Benton Township, Lackawanna County, Pa.; Rescind Date: June 24, 2015.

SWN Production Company, LLC, Pad ID: NR-19 WALKER-DIEHL PAD, ABR-201412009, Oakland Township, Susquehanna County, Pa.; Rescind Date: June 24, 2015.

SWEPI, LP, Pad ID: Fox 813, ABR-201007006, Gaines Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

SWEPI, LP, Pad ID: Geiser 907, ABR-201104003, Abbott Township, Potter County, Pa.; Rescind Date: June 25, 2015.

SWEPI, LP, Pad ID: Granger 850, ABR-201101004, Gaines Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

SWEPI, LP, Pad ID: Granger 853, ABR-201203017, Gaines Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

SWEPI, LP, Pad ID: McConnell 471, ABR-201012055, Charleston Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

SWEPI, LP, Pad ID: Palmer 809, ABR-201006106, Chatham Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

SWEPI, LP, Pad ID: Ritter 828, ABR-201008136, Gaines Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

SWEPI, LP, Pad ID: Schimmell 828, ABR-201010052, Farmington Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

SWEPI, LP, Pad ID: Sherman 498, ABR-201009101, Richmond Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

SWEPI, LP, Pad ID: Smith 140, ABR-201007079, Charleston Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

SWEPI, LP, Pad ID: State 811, ABR-201009020, Elk Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

SWEPI, LP, Pad ID: State 814, ABR-201010007, Elk Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

SWEPI, LP, Pad ID: State 816, ABR-201010039, Elk Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

SWEPI, LP, Pad ID: State 818, ABR-201010038, Elk Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

SWEPI, LP, Pad ID: State 819, ABR-201007039, Gaines Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

SWEPI, LP, Pad ID: State 820, ABR-201010037, Gaines Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

SWEPI, LP, Pad ID: State 824, ABR-201007041, Gaines Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

SWEPI, LP, Pad ID: State 825, ABR-201007042, Gaines Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

SWEPI, LP, Pad ID: State 826, ABR-201007043, Shippen Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

SWEPI, LP, Pad ID: State 827, ABR-201010036, Elk Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

SWEPI, LP, Pad ID: State 841, ABR-201010035, Elk Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

SWEPI, LP, Pad ID: State 842, ABR-201010047, Elk Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

SWEPI, LP, Pad ID: State 843, ABR-201010048, Elk Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

SWEPI, LP, Pad ID: State 844, ABR-201009021, Elk Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

SWEPI, LP, Pad ID: Stewart 805, ABR-201007003, Elk Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

SWEPI, LP, Pad ID: Wood 513R, ABR-201007014, Rutland Township, Tioga County, Pa.; Rescind Date: June 30, 2015.

Chesapeake Appalachia, LLC, Pad ID: Gunn, ABR-201101006, Rome Township, Bradford County, Pa.; Rescind Date: July 1, 2015.

Chesapeake Appalachia, LLC, Pad ID: Lantz, ABR-201102025, Sheshequin Township, Bradford County, Pa.; Rescind Date: July 1, 2015.

Chesapeake Appalachia, LLC, Pad ID: King, ABR-201103050, Sheshequin Township, Bradford County, Pa.; Rescind Date: July 1, 2015.

Anadarko E&P Onshore, LLC, Pad ID: Abel, ABR-201010062, Shrewsbury Township, Sullivan County, Pa.; Rescind Date: July 27, 2015.

Anadarko E&P Onshore, LLC, Pad ID: COP Tr 231 Pad E, ABR-201007097, Boggs Township, Sullivan County, Pa.; Rescind Date: July 27, 2015.

Anadarko E&P Onshore, LLC, Pad ID: Field, ABR-201010020, Cherry Township, Sullivan County, Pa.; Rescind Date: July 27, 2015.

Anadarko E&P Onshore, LLC, Pad ID: Jason M. Phillips Pad A, ABR-201007070, Cogan House Township, Lycoming County, Pa.; Rescind Date: July 27, 2015.

Anadarko E&P Onshore, LLC, Pad ID: Kohler, ABR-201009103, Liberty Township, Tioga County, Pa.; Rescind Date: July 27, 2015.

Anadarko E&P Onshore, LLC, Pad ID: Marilyn Ely, ABR-201008143, Gamble Township, Lycoming County, Pa.; Rescind Date: July 27, 2015.

Anadarko E&P Onshore, LLC, Pad ID: Maurice D Bieber Pad A, ABR-201008024, Cascade Township, Lycoming County, Pa.; Rescind Date: July 27, 2015.

Anadarko E&P Onshore, LLC, Pad ID: Stephen M Sleboda Pad A, ABR-201112008, Cascade Township, Lycoming County, Pa.; Rescind Date: July 27, 2015.

Chesapeake Appalachia, LLC, Pad ID: Lyon, ABR-201201038, Tuscarora Township, Bradford County, Pa.; Rescind Date: July 31, 2015.

XTO Energy Incorporated, Pad ID: King Unit, ABR-20091225.R1, Shrewsbury Township, Lycoming County, Pa.; Rescind Date: July 31, 2015.

AUTHORITY: Pub. L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: October 8, 2015.

STEPHANIE L. RICHARDSON
Secretary to the Commission.

[16-01-35]

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in "DATES."

DATES: August 1-31, 2015.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel, telephone: (717) 238-0423, ext. 1312; fax: (717) 238-2436; e-mail: joyler@srbc.net. Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR §806.22(f) for the time period specified above:

Approvals By Rule Issued Under 18 CFR §806.22(f):

EOG Resources, Inc., Pad ID: PHC 7H, ABR-20090722.R1, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 1.9999 mgd; Approval Date: August 6, 2015.

Chevron Appalachia, LLC, Pad ID: Hutton Unit #1H, ABR-20090518.R1, Chest Township, Clearfield County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: August 11, 2015.

Chevron Appalachia, LLC, Pad ID: Lytle Unit Drilling Pad #1H, ABR-20100104.R1, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: August 11, 2015.

Chevron Appalachia, LLC, Pad ID: Shannon Land & Mining Drilling Pad #1, ABR-20100628.R1, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: August 11, 2015.

Chevron Appalachia, LLC, Pad ID: Snow Shoe 2, ABR-201011007.R1, Snow Shoe Township, Centre County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: August 11, 2015.

Chevron Appalachia, LLC, Pad ID: Snow Shoe 4, ABR-201011042.R1, Snow Shoe Township, Centre County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: August 11, 2015.

Chevron Appalachia, LLC, Pad ID: Smithmyer Drilling Pad #1, ABR-201101020.R1, Clearfield Township, Cambria County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: August 11, 2015.

Anadarko E&P Onshore, LLC, Pad ID: COP Tr 285 Pad G, ABR-201007002.R1, Grugan Township, Clinton County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: August 13, 2015.

Anadarko E&P Onshore, LLC, Pad ID: Robert C Ulmer Pad A, ABR-201007049.R1, Watson Township, Lycoming County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: August 13, 2015.

Anadarko E&P Onshore, LLC, Pad ID: COP Tr 343 Pad B, ABR-201007053.R1, Beech Creek Township, Clinton County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: August 13, 2015.

Anadarko E&P Onshore, LLC, Pad ID: COP Tr 285 Pad C, ABR-201007062.R1, Grugan Township, Clinton County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: August 13, 2015.

Anadarko E&P Onshore, LLC, Pad ID: COP Tr 290 Pad B, ABR-201008029.R1, McHenry Township, Lycoming County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: August 13, 2015.

Anadarko E&P Onshore, LLC, Pad ID: COP Tr 289 Pad D, ABR-201008030.R1, McHenry Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: August 13, 2015.

EOG Resources, Inc., Pad ID: COP Pad C, ABR-201008027.R1, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: August 14, 2015.

EOG Resources, Inc., Pad ID: COP Pad J, ABR-201009022.R1, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: August 14, 2015.

EOG Resources, Inc., Pad ID: COP Pad N, ABR-201103001.R1, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: August 14, 2015.

EOG Resources, Inc., Pad ID: COP Pad O, ABR-201103030.R1, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: August 14, 2015.

Chief Oil & Gas, LLC, Pad ID: Curtin Drilling Pad #1, ABR-201012034.R1, Albany Township, Bradford County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: August 14, 2015.

SWEPI LP, Pad ID: Barbine 292, ABR-20100614.R1, Charleston Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: August 14, 2015.

SWEPI LP, Pad ID: Erickson 423, ABR-20100618.R1, Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: August 14, 2015.

SWEPI LP, Pad ID: Hege 426, ABR-20100622.R1, Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: August 14, 2015.

SWEPI LP, Pad ID: Allen 620, ABR-20100623.R1, Charleston Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: August 14, 2015.

SWEPI LP, Pad ID: Hazelton 424, ABR-20100626.R1, Shippen Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: August 14, 2015.

SWEPI LP, Pad ID: Pierson 810, ABR-20100633.R1, Gains Township, Tioga County, Pa.; Consumptive Use of Up to 4.9900 mgd; Approval Date: August 14, 2015.

SWEPI LP, Pad ID: Doan 893, ABR-20100670.R1, Deerfield Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: August 14, 2015.

Cabot Oil & Gas Corporation, Pad ID: KingD P1, ABR-201009010.R1, Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.5750 mgd; Approval Date: August 14, 2015.

Cabot Oil & Gas Corporation, Pad ID: CosnerW P1, ABR-201009047.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.5750 mgd; Approval Date: August 14, 2015.

Anadarko E&P Onshore, LLC, Pad ID: COP Tr 356 Pad D, ABR-201007052.R1, Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: August 14, 2015.

Anadarko E&P Onshore, LLC, Pad ID: COP Tr 357 Pad B, ABR-201007072.R1, Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: August 14, 2015.

Anadarko E&P Onshore, LLC, Pad ID: COP Tr 356 Pad A, ABR-201007073.R1, Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: August 14, 2015.

Anadarko E&P Onshore, LLC, Pad ID: COP Tr 285 Pad E, ABR-201007074.R1, Grugan Township, Clinton County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: August 14, 2015.

Anadarko E&P Onshore, LLC, Pad ID: COP Tr 357 Pad A, ABR-201007075.R1, Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: August 14, 2015.

Anadarko E&P Onshore, LLC, Pad ID: Clearview HC Pad A, ABR-201007076.R1, Gamble Township, Lycoming County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: August 14, 2015.

Anadarko E&P Onshore, LLC, Pad ID: COP Tr 356 Pad I, ABR-201007114.R1, Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: August 14, 2015.

Anadarko E&P Onshore, LLC, Pad ID: COP Tr 356 Pad F, ABR-201007124.R1, Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: August 14, 2015.

Anadarko E&P Onshore, LLC, Pad ID: COP Tr 285 Pad F, ABR-201008007.R1, Chapman Township, Clinton County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: August 14, 2015.

Anadarko E&P Onshore, LLC, Pad ID: COP Tr 285 Pad D, ABR-201008013.R1, Chapman Township, Clinton County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: August 14, 2015.

Anadarko E&P Onshore, LLC, Pad ID: Charles J McNamee Pad B, ABR-201008016.R1, Cascade Township, Lycoming County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: August 14, 2015.

Anadarko E&P Onshore, LLC, Pad ID: Elbow Pad C, ABR-201008017.R1, Cogan House Township, Lycoming County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: August 14, 2015.

Anadarko E&P Onshore, LLC, Pad ID: COP Tr 285 Pad H, ABR-201008018.R1, Chapman Township, Clinton County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: August 14, 2015.

Anadarko E&P Onshore, LLC, Pad ID: COP Tr 344 Pad B, ABR-201008019.R1, Grugan Township, Clinton County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: August 14, 2015.

Anadarko E&P Onshore, LLC, Pad ID: COP Tr 356 Pad H, ABR-201008020.R1, Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: August 14, 2015.

Anadarko E&P Onshore, LLC, Pad ID: Elbow Pad A, ABR-201008055.R1, Cogan House Township, Lycoming County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: August 14, 2015.

Anadarko E&P Onshore, LLC, Pad ID: Brian K Frymire Pad A, ABR-201008056.R1, Cascade Township, Lycoming County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: August 14, 2015.

Anadarko E&P Onshore, LLC, Pad ID: Ann M. Mercier Pad A, ABR-201007071.R1, Cogan House Township, Lycoming County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: August 18, 2015.

SWEPI LP, Pad ID: Shelman 291, ABR-20100659.R1, Charleston Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: August 18, 2015.

SWEPI LP, Pad ID: Hauswirth 516, ABR-20100688.R1, Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: August 18, 2015.

SWEPI LP, Pad ID: Martin 806, ABR-20100691.R1, Gaines Township, Tioga County, Pa.; Consumptive Use of Up to 4.9900 mgd; Approval Date: August 18, 2015.

Talisman Energy USA Inc., Pad ID: Roy 03 046, ABR-20100629.R1, Wells Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: August 18, 2015.

Talisman Energy USA Inc., Pad ID: Roy 03 040, ABR-20100650.R1, Wells Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: August 18, 2015.

Talisman Energy USA Inc., Pad ID: Shedden 01 075, ABR-201007004.R1, Granville Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: August 18, 2015.

Talisman Energy USA Inc., Pad ID: Noble 03 029, ABR-201007011.R1, Wells Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: August 18, 2015.

Talisman Energy USA Inc., Pad ID: Yurkanin 03 014, ABR-201007033.R1, Columbia Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: August 18, 2015.

Talisman Energy USA Inc., Pad ID: McMurray 01 031, ABR-201007054.R1, Canton Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: August 18, 2015.

Talisman Energy USA Inc., Pad ID: 05 080 Young, ABR-201007080.R1, Warren Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: August 18, 2015.

Talisman Energy USA Inc., Pad ID: Thorp 03 049, ABR-201007082.R1, Wells Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: August 18, 2015.

Talisman Energy USA Inc., Pad ID: Watson 03 051, ABR-201007084.R1, Columbia Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: August 18, 2015.

Talisman Energy USA Inc., Pad ID: 05 006 Ugliuzza L, ABR-201007086.R1, Pike Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: August 18, 2015.

Talisman Energy USA Inc., Pad ID: Cummings 01 081, ABR-201007088.R1, Troy Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: August 18, 2015.

Talisman Energy USA Inc., Pad ID: Kirkowski 01 066, ABR-201007091.R1, Canton Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: August 18, 2015.

Talisman Energy USA Inc., Pad ID: Feusner 03 044, ABR-201007094.R1, Columbia Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: August 18, 2015.

Talisman Energy USA Inc., Pad ID: Feusner 03 045, ABR-201007095.R1, Columbia Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: August 18, 2015.

Talisman Energy USA Inc., Pad ID: Walters 05 001, ABR-201007096.R1, Herrick Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: August 18, 2015.

Talisman Energy USA Inc., Pad ID: 05 004 Cooley P, ABR-201007099.R1, Orwell Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: August 18, 2015.

Talisman Energy USA Inc., Pad ID: 05 002 Warner Valley Farm LLC, ABR-201007130.R1, Pike Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: August 18, 2015.

EOG Resources, Inc., Pad ID: PHC 23H/24H, ABR-20090917.R1, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: August 24, 2015.

EOG Resources, Inc., Pad ID: PHC 28H/29H, ABR-20090918.R1, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: August 24, 2015.

EOG Resources, Inc., Pad ID: PHC 20V, ABR-20100156.R1, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 0.9990 mgd; Approval Date: August 24, 2015.

EOG Resources, Inc., Pad ID: PHC Pad S, ABR-201009023.R1, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: August 24, 2015.

EOG Resources, Inc., Pad ID: PPHC Pad B, ABR-201103023.R1, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: August 24, 2015.

EOG Resources, Inc., Pad ID: PHC Pad Z, ABR-201103024.R1, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: August 24, 2015.

SWEPI LP, Pad ID: Broadbent 466, ABR-20100673.R1, Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: August 24, 2015.

SWEPI LP, Pad ID: Zeafla 747, ABR-20100682.R1, Jackson Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: August 24, 2015.

SWEPI LP, Pad ID: Camp Never Too Late 521, ABR-20100683.R1, Rutland Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: August 24, 2015.

SWEPI LP, Pad ID: Cruttenden 846, ABR-20100685.R1, Middlebury Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: August 24, 2015.

SWEPI LP, Pad ID: Anthony 564, ABR-201006111.R1, Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: August 24, 2015.

SWEPI LP, Pad ID: Costanzo 818, ABR-201006112.R1, Chatham Township, Tioga County, Pa.; Consumptive Use of Up to 1.0000 mgd; Approval Date: August 24, 2015.

SWEPI LP, Pad ID: Yaggie 704, ABR-201006113.R1, Union Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: August 24, 2015.

Anadarko E&P Onshore, LLC, Pad ID: Mac Pad A, ABR-201508001, Cascade Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: August 26, 2015.

Anadarko E&P Onshore, LLC, Pad ID: Brooks Family Pad A, ABR-201508002, Cascade Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: August 26, 2015.

Chesapeake Appalachia, LLC, Pad ID: Earnshaw, ABR-201508003, Mehoopany Township, Wyoming County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: August 26, 2015.

Cabot Oil & Gas Corporation, Pad ID: Teel P2, ABR-201508004, Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.2500 mgd; Approval Date: August 26, 2015.

SWEPI LP, Pad ID: Gee 848W, ABR-201508005, Middlebury Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: August 26, 2015.

EOG Resources, Inc., Pad ID: Ward M 1H, ABR-20090421.R1, Springfield Township, Bradford County, Pa.; Consumptive Use of Up to 1.9990 mgd; Approval Date: August 27, 2015.

EOG Resources, Inc., Pad ID: PHC 3H, ABR-20090424.R1, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 0.4990 mgd; Approval Date: August 27, 2015.

EOG Resources, Inc., Pad ID: SGL 90A Pad, ABR-201008049.R1, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: August 27, 2015.

EOG Resources, Inc., Pad ID: SGL 90D Pad, ABR-201103021.R1, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: August 27, 2015.

Tenaska Resources, LLC, Pad ID: Wilcox #1, ABR-20090803.R1, Covington Township, Tioga County, Pa.; Consumptive Use of Up to 0.9999 mgd; Approval Date: August 27, 2015.

Tenaska Resources, LLC, Pad ID: Strange, ABR-20100404.R1, Sullivan Township, Tioga County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: August 27, 2015.

Tenaska Resources, LLC, Pad ID: Golden Eagle, ABR-20100433.R1, Covington Township, Tioga County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: August 27, 2015.

Tenaska Resources, LLC, Pad ID: Chicken Hawk, ABR-20100434.R1, Sullivan Township, Tioga County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: August 27, 2015.

Tenaska Resources, LLC, Pad ID: Sparrow Hawk, ABR-201009044.R1, Covington Township, Tioga County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: August 27, 2015.

Tenaska Resources, LLC, Pad ID: Red Tailed Hawk, ABR-201011027.R1, Covington Township, Tioga County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: August 27, 2015.

EXCO Resources (PA), LLC, Pad ID: Dale Bower Drilling Pad #1, ABR-20100214.R1, Penn Township, Lycoming County, Pa.; Consumptive Use of Up to 8.0000 mgd; Approval Date: August 28, 2015.

EXCO Resources (PA), LLC, Pad ID: Emig Drilling Pad #1, ABR-20100452.R1, Cogan House Township, Lycoming County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: August 28, 2015.

AUTHORITY: Pub. L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: October 26, 2015.

STEPHANIE L. RICHARDSON
Secretary to the Commission

[16-01-34]

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in "DATES."

DATES: November 1-30, 2015.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel, telephone: (717) 238-0423, ext. 1312; fax: (717) 238-2436; e-mail: joyler@srbc.net. Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR §806.22 (f) for the time period specified above:

Approvals By Rule Issued Under 18 CFR §806.22(f):

Seneca Resources Corporation, Pad ID: Gamble Pad J, ABR-201511001, Gamble Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 6, 2015.

Seneca Resources Corporation, Pad ID: Gamble Pad I, ABR-201511002, Gamble Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 6, 2015.

EQT Production Company, Pad ID: Phoenix B, ABR-201511003, Morris Township, Tioga County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: November 6, 2015.

Cabot Oil & Gas Corporation, Pad ID: MyersR P1, ABR-201511004, Lathrop Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.2500 mgd; Approval Date: November 6, 2015.

Chesapeake Appalachia, LLC, Pad ID: Gary, ABR-201012019.R1, Rush Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: November 9, 2015.

Chesapeake Appalachia, LLC, Pad ID: Roland, ABR-201012021.R1, Wilmot Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: November 9, 2015.

Chesapeake Appalachia, LLC, Pad ID: Kinnarney, ABR-201012030.R1, Albany Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: November 9, 2015.

EOG Resources, Inc., Pad ID: Rightmire 1H Pad, ABR-201008082.R1, Ridgebury Township, Bradford County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: November 9, 2015.

EOG Resources, Inc., Pad ID: RIGHTMIRE 2H Pad, ABR-201008083.R1, Ridgebury Township, Bradford County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: November 9, 2015.

EOG Resources, Inc., Pad ID: WENGER Pad, ABR-201008118.R1, Springfield Township, Bradford County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: November 9, 2015.

EOG Resources, Inc., Pad ID: STURDEVANT 1H, ABR-201008155.R1, Ridgebury Township, Bradford County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: November 9, 2015.

EOG Resources, Inc., Pad ID: OBERKAMPER Pad, ABR-201009004.R1, Springfield Township, Bradford County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: November 9, 2015.

SWEPI LP, Pad ID: Hotchkiss 472, ABR-201009045.R1, Charleston Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 9, 2015.

SWEPI LP, Pad ID: Williams 889, ABR-201009051.R1, Deerfield Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 9, 2015.

SWEPI LP, Pad ID: Klettlinger 294, ABR-201009054.R1, Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 9, 2015.

SWEPI LP, Pad ID: Kindon 374, ABR-201010002.R1, Union Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 9, 2015.

Cabot Oil & Gas Corporation, Pad ID: RomeikaJ P1, ABR-201511005, Gibson Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.2500 mgd; Approval Date: November 13, 2015.

Chesapeake Appalachia, LLC, Pad ID: Franclaire, ABR-201012011.R1, Braintrim Township, Wyoming County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: November 13, 2015.

Chesapeake Appalachia, LLC, Pad ID: SGL 289A, ABR-201012015.R1, West Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: November 13, 2015.

Chesapeake Appalachia, LLC, Pad ID: Baltzley, ABR-201012020.R1, Rush Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: November 13, 2015.

SWEPI LP, Pad ID: Wolfe 1114, ABR-201007098.R1, Nelson Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 13, 2015.

SWEPI LP, Pad ID: Fish 826, ABR-201009027.R1, Middlebury Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 13, 2015.

SWEPI LP, Pad ID: Guindon 706, ABR-201009029.R1, Union Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 13, 2015.

SWEPI LP, Pad ID: Byrne 510, ABR-201009059.R1, Rutland Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 13, 2015.

SWEPI LP, Pad ID: Ingalls 710, ABR-201009080.R1, Liberty Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 13, 2015.

SWEPI LP, Pad ID: Smith 589, ABR-201009088.R1, Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 13, 2015.

SWEPI LP, Pad ID: Martin 421, ABR-201009089.R1, Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 13, 2015.

SWEPI LP, Pad ID: Schimmel 830, ABR-201009090.R1, Farmington Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 13, 2015.

SWEPI LP, Pad ID: Lopatofsky 287, ABR-201009091.R1, Charleston Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 13, 2015.

SWEPI LP, Pad ID: Worden 571, ABR-201009092.R1, Charleston Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 13, 2015.

Talisman Energy USA Inc., Pad ID: 05 035 Antisdel, ABR-201009015.R1, Warren and Windham Townships, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: November 13, 2015.

Talisman Energy USA Inc., Pad ID: 05 036 Antisdel, ABR-201009016.R1, Warren Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: November 13, 2015.

SWN Production Company, LLC, Pad ID: TI-14 Connolly A Pad, ABR-201511006, Liberty Township, Tioga County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: November 16, 2015.

SWN Production Company, LLC, Pad ID: TI-19 Connolly B Pad, ABR-201511007, Liberty Township, Tioga County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: November 16, 2015.

SWN Production Company, LLC, Pad ID: TI-22 Creek A - Pad, ABR-201511008, Liberty Township, Tioga County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: November 16, 2015.

Cabot Oil & Gas Corporation, Pad ID: JHHC P1, ABR-201511009, Jessup Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.2500 mgd; Approval Date: November 16, 2015.

Carrizo Marcellus, LLC, Pad ID: Yarasavage Well Pad, ABR-201102021.R1, Washington Township, Wyoming County, Pa.; Consumptive Use of Up to 2.1000 mgd; Approval Date: November 23, 2015.

Carrizo Marcellus, LLC, Pad ID: Kile, ABR-201103026.R1, Washington Township, Wyoming County, Pa.; Consumptive Use of Up to 2.1000 mgd; Approval Date: November 23, 2015.

Carrizo Marcellus, LLC, Pad ID: Mazzara, ABR-201103035.R1, Washington Township, Wyoming County, Pa.; Consumptive Use of Up to 2.1000 mgd; Approval Date: November 23, 2015.

Carrizo Marcellus, LLC, Pad ID: Baker West (Brothers), ABR-201103049.R1, Forest Lake Township, Susquehanna County, Pa.; Consumptive Use of Up to 2.1000 mgd; Approval Date: November 23, 2015.

Energy Corporation of America, Pad ID: Whitetail #1-5MH, ABR-201008112.R1, Goshen and Girard Townships, Clearfield County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: November 23, 2015.

Energy Corporation of America, Pad ID: Coldstream Affiliates #1MH, ABR-201007051.R1, Goshen Township, Clearfield County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: November 23, 2015.

Enerplus Resources (USA) Corporation, Pad ID: Winner 4H, ABR-201009094.R1, West Keating Township, Clinton County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: November 23, 2015.

EOG Resources, Inc., Pad ID: GHC Pad A, ABR-201009012.R1, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: November 23, 2015.

EOG Resources, Inc., Pad ID: COP Pad P, ABR-201009038.R1, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: November 23, 2015.

EOG Resources, Inc., Pad ID: SSHC Pad A, ABR-201009055.R1, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: November 23, 2015.

AUTHORITY: Pub. L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: December 14, 2015.

STEPHANIE L. RICHARDSON
Secretary to the Commission

[16-01-14]

SUSQUEHANNA RIVER BASIN COMMISSION
Projects Rescinded for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the approved by rule projects rescinded by the Susquehanna River Basin Commission during the period set forth in "DATES."

DATES: November 1-30, 2015.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel, telephone: (717) 238-0423, ext. 1312; fax: (717) 238-2436; e-mail: joyler@srbc.net. Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, being rescinded for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR §806.22(e) and §806.22(f) for the time period specified above:

Rescinded ABR Issued

Chesapeake Appalachia, LLC, Pad ID: Carter, ABR-201205015, North Towanda Township, Bradford County, Pa.; Rescind Date: November 19, 2015.

Chesapeake Appalachia, LLC, Pad ID: Gene, ABR-201209011, Overton Township, Bradford County, Pa.; Rescind Date: November 19, 2015.

Chesapeake Appalachia, LLC, Pad ID: Outback, ABR-201301015, Elkland Township, Sullivan County, Pa.; Rescind Date: November 19, 2015.

Chesapeake Appalachia, LLC, Pad ID: Rock Ridge, ABR-201108015, Towanda Township, Bradford County, Pa.; Rescind Date: November 19, 2015.

Chesapeake Appalachia, LLC, Pad ID: Walters, ABR-201305007, Mehoopany Township, Wyoming County, Pa.; Rescind Date: November 19, 2015.

Chesapeake Appalachia, LLC, Pad ID: Beaver Dam, ABR-201104009, Cherry and Colley Townships, Sullivan County, Pa.; Rescind Date: November 24, 2015.

WPX Energy Appalachia, LLC, Pad ID: Nayavich Well Pad, ABR-201105010, Sugarloaf Township, Columbia County, Pa.; Rescind Date: November 24, 2015.

Talisman Energy USA, Inc., Pad ID: 05 092 Upham, ABR-201009078.R1, Pike Township, Bradford County, Pa.; Rescind Date: November 27, 2015.

Range Resources-Appalachia, LLC, Pad ID: Carmen III Unit #1H Drilling Pad, ABR-201104005, Rush Township, Centre County, Pa.; Rescind Date: November 27, 2015.

AUTHORITY: Pub. L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: December 14, 2015.

STEPHANIE L. RICHARDSON
Secretary to the Commission

[16-01-15]

SUSQUEHANNA RIVER BASIN COMMISSION
18 CFR Part 806 — Review and Approval of Projects

AGENCY: Susquehanna River Basin Commission.

ACTION: Final rule.

SUMMARY: This document contains final rules that would amend the regulations of the Susquehanna River Basin Commission (Commission) to simplify and clarify the process for transferring approvals and to add sections dealing with general permits and modifications to approvals. These amendments are to be made effective upon publication of this rulemaking.

DATES: Effective December 11, 2015.

ADDRESSES: Susquehanna River Basin Commission, 4423 N. Front Street, Harrisburg, PA 17110-1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, Esq., General Counsel, telephone: 717-238-0423, ext. 1312; fax: 717-238-2436; e-mail: joyler@srbc.net. Also, for further information on the final rulemaking, visit the Commission's website at www.srbc.net.

SUPPLEMENTARY INFORMATION: Notice of proposed rulemaking was published in the Federal Register on September 21, 2015 (80 FR 56936); the New York Register on October 7, 2015; the Maryland Register on October 16, 2015; and the Pennsylvania Bulletin on October 17, 2015. The Commission convened a public hearing on October 29, 2015, in Grantville, Pennsylvania and a written comment period was held open through November 9, 2015.

General Comments

Comment*:* The rule will simplify the approval process for certain modifications and will be less burdensome on permittees and the Commission while still protecting the Susquehanna River Basin resources.

Comment: The proposed rule will assist in streamlining the administrative and permitting process and are positive changes.

Comment: The proposed rule should serve to provide great potential improvements for both the Commission and the regulated community.

Response*:* The Commission appreciates the comments.

Comments by Section, Part 806

Section 806.6—Transfer of approvals.

Comment: We appreciate § 806.6(b) addressing previously unpermitted withdrawals and uses of water, which should address actions that affect local water resources.

Response: The Commission appreciates the comment. This section is largely unchanged from the prior regulatory text.

Comment: The Commission should require approvals being transferred that are greater than 10 years old to perform a new or updated aquatic resource survey (ARS).

Response: The Commission disagrees with the comment. The transfer rule does not allow new project sponsors to increase the withdrawal or consumptive use of the project above what was previously approved. The Commission will be able to require an ARS, if appropriate and necessary, when these approvals expire and need to be renewed pursuant to 18 CFR 806.14.

Comment: The proposed rule will allow approvals where there is a change in ownership but no change in the project or the use of water to occur without the submittal of an entirely new application, and the Commission is to be commended for proposing this change.

Response: The Commission appreciates the comment.

Section 806.14—Contents of application.

Comment: The Commission proposed to add § 806.14(d) to set forth the application requirements for minor modifications. Section 806.14(a) should be correspondingly revised to include an exception for applications for minor modifications.

Response: The Commission agrees and will add the phrase "applications for minor modifications" in the first sentence of § 806.14(a) to clarify that the requirements of that paragraph do not apply to applications for minor modifications.

Section 806.15—Notice of application.

Comment: The next to last sentence of § 806.15(a) appears to contain grammatically incorrect language (which appears in the existing regulatory text). This should be corrected.

Response: The Commission agrees with the comment. The next to last sentence will be corrected to delete the word "for" and place two commas to make the sentence grammatically correct.

Comment: The intent of proposed rulemaking is that new paragraph (i) is meant to be the exclusive source of notice requirements for minor modification; however, no changes were proposed to paragraph (a) that make it clear that paragraph (a) does not apply to minor modifications. Paragraph (a) should be clarified.

Response: The Commission agrees with the comment and also finds it applicable to new paragraph (h). In the final rule, paragraph (a) will now begin with "Except with respect to paragraphs (h) and (i), …".

Comment: The extension of time allotted for notices to be published from 10 to 20 days allows ample time for all interested parties and the public to comment.

Response: The Commission appreciates with the comment.

806.17—General permits.

Comment: Section 806.17(d)(3) provides that a Notice of Intent (NOI) must be denied if the project does not meet the requirements of § 806.21(a) or (b). However, § 806.21(b) does not provide any requirements, but rather gives the Commission discretion to modify or deny a project if the Commission determines that the project is not in the best interest of the conversation, development, management or control of the basin's water resources or is in conflict with the Comprehensive Plan. The reference to § 806.21(b) should be removed or the standard placed verbatim into § 806.17(d)(3).

Response: The Commission does not agree with the proposed revisions of the commenter. However, the Commission agrees that the paragraph could be clarified in light of the comment. As a part of the final rule, the Commission will revise paragraph (d)(3) to read as set out in the regulatory text at the end of this document.

Comment: The Commission does not define "minimal adverse impacts" in § 806.17(a)(4).

Comment: The Commission should tier a determination of minimal adverse impacts, looking at the existing standards in 18 CFR 806.23 or adopting a "significance" inquiry as provided in the National Environmental Policy Act (NEPA).

Comment: The Commission should add a paragraph that provides that it shall not issue a general permit that creates or incites significant direct, indirect or cumulative impacts to water resources.

Response: The Commission agrees that § 806.17(a)(4) would be strengthened by a reference to the Commission's existing regulatory review standards. These standards are known and defined with respect to Commission reviews of consumptive uses, withdrawals and diversions. Conversely, the Commission does not agree that the inquiries under NEPA would provide clarity in a substantive review in establishing a general permit. In addition, adopting a new set of standards for general permits would add complexity and confusion to the process that is avoided by referencing the Commission's existing review standards. The Commission will revise the final rule so that § 806.17(a)(4) reads as set out in the regulatory text at the end of this document.

Comment: The proposed regulations seem to presume NOI issuance.

Response: The Commission disagrees with the comment. Part of the proposed rule includes § 806.17(d) entitled, "Denial of Coverage."

Comment: Public notice under the general permit procedure is inadequate. Specifically, the public is not afforded notice via the Federal Register of receipt of an NOI.

Response: The Commission agrees that the procedures do not set forth any requirement that the Commission publish receipt of NOIs. Accordingly, the Commission will amend the final rule to include a new paragraph (c)(9) to read as set out in the regulatory text at the end of this document.

Comment: Section 806.17(b)(3) should be revised to require the Commission to take into account the level of public interest and likelihood for controversy for any proposed general permit in determining whether to hold a public hearing.

Response: The Commission agrees with the comment. The Commission will amend § 806.17(b)(3) to read as set out in the regulatory text at the end of this document.

Comment: Section 806.17(c)(4) should be amended to provide for full Commission review and approval of general permits.

Response: No such revision is necessary. Section 806.17(b)(4) currently provides that the Commission will adopt and issue general permits. Paragraph (c)(4) provides that the approval of coverage under a general permit, shall be determined by the Executive Director unless the Commission establishes a different mechanism for approval when issuing the general permit. This process is similar to the existing process for approving projects under the Commission's Approvals By Rule in 18 CFR 806.22(e)(7) and (f)(10), where the Executive Director issues the approvals to project sponsors.

Comment: Section 806.17(c)(8) should be amended to require the project to conduct an aquatic resource survey (ARS) before any General Permit is renewed or amended.

Response: The Commission disagrees with the comment. The Commission currently requires projects to conduct an ARS on a case-by-case basis for individual applications for surface water withdrawals. The Commission does not believe that it would be appropriate to require ARSs to be conducted as a rule for every general permit NOI holder for renewal or amendment. The general permit procedures as proposed, however, are sufficiently broad to allow the Commission, as a part of the scope or application of a general permit developed by the Commission, to require an ARS from NOI applicants, if the Commission finds it appropriate for the type of activity being permitted.

Comment: The Commission is urged to specifically mandate adequate fees for general permit applications.

Response: The Commission appreciates the comment. The proposed rule provides that the Commission may set a fee for NOIs to any general permit. This allows the Commission to set a specific fee for NOIs under each particular general permit and tailor the fees to what is required of the NOI applicants and the Commission for each activity permitted.

806.18—Approval modifications.

Comment: Section 806.18(c)(8) should be revised to be grammatically consistent with paragraphs (c)(1) through (7).

Response: The Commission agrees with the comment. Paragraph (c)(8) is revised to read as set out in the regulatory text at the end of this document.

Comment: The word "flows" in § 806.18(d)(4) should be revised to "flow."

Response: The Commission agrees with the comment and has made this revision to the final rule.

Comment: Aside from the correction of typographical errors, every suggested minor modification category includes changes in permit terms that can result in significant adverse impacts to local water resources and should not be allowed as minor modifications.

Response: The Commission disagrees with the comment. In developing the list of minor modifications, the Commission examined the range of modification requests that it receives and carefully vetted those categories and developed them specifically because they do not pose significant adverse impacts to local water resources. Review of these types of modifications is largely administrative in nature and poses little to no risk to human health, safety or the environment.

Transition Issues

As a part of the Resolution adopting this final rule, the Commission also has set a reduced fee for applications for minor modifications at $750. Future adjustments may be made to this application fee during the regular annual adjustments to the Commission fee schedule.

List of Subjects in 18 CFR Part 806

Administrative practice and procedure, Water resources.

Accordingly, for the reasons set forth in the preamble, the Susquehanna River Basin Commission amends 18 CFR part 806 as follows:

PART 806—REVIEW AND APPROVAL OF PROJECTS

1. The authority citation for part 806 continues to read as follows:

Authority: Secs. 3.4, 3.5(5), 3.8, 3.10, and 15.2, Pub. L. 91-575, 84 Stat. 1509 *et seq*.

Subpart A—General Provisions

2. Amend § 806.4 by adding paragraph (a)(9) and revising paragraph (c) to read as follows:

§ 806.4 Projects requiring review and approval.

(a) * * *

(9) Any project subject to coverage under a general permit issued under § 806.17.

* * * * *

(c) Any project that did not require Commission approval prior to January 1, 2007, and not otherwise exempt from the requirements of paragraph (a)(1)(iv), (a)(2)(v), or (a)(3)(iv) of this section, pursuant to paragraph (b) of this section, may be undertaken by a new project sponsor upon a change of ownership pending action on a transfer application under § 806.6.

3. Revise § 806.6 to read as follows:

§ 806.6 Transfer of approvals.

(a) An existing Commission approval may be transferred to a new project sponsor by the Executive Director provided:

(1) The application for transfer is submitted within 90 days of a transfer or change in ownership of a project.

(2) The new project sponsor operates the project subject to the same terms and conditions of the existing approval pending approval of the transfer application.

(3) Any noncompliance by the existing project sponsor associated with the project or by the new project sponsor associated with other projects is resolved to the Commission's satisfaction.

(4) If the existing approval is greater than 10 years old, the transfer shall be conditioned to require the submission of an updated metering and monitoring plan consistent with the requirements of § 806.30.

(5) If the existing project has an unapproved withdrawal, consumptive use and/or diversion listed in paragraph (b) of this section, the transfer shall be conditioned to require the submission of a new application for review and approval of the unapproved withdrawal, consumptive use and/or diversion consistent with §§ 806.4 and 806.14.

(6) Any modifications proposed by the new project sponsor shall be subject to a separate application and review process under §§ 806.14 and 806.18.

(b) Previously unapproved activities associated with a project subject to transfer under paragraph (a) of this section include:

(1) The project has an associated pre-compact consumptive water use that has not been subject to approval or had mitigation approved by the Commission.

(2) The project has an associated diversion that was initiated prior to January 23, 1971.

(3) The project has an associated groundwater withdrawal that was initiated prior to July 13, 1978, and that has not been approved by the Commission.

(4) The project has an associated surface water withdrawal that was initiated prior to November 11, 1995, and that has not been approved by the Commission.

(5) The project has a consumptive water use approval and has an associated withdrawal that has not been approved by the Commission.

(c) Upon undergoing a change of name that does not affect ownership or control of the project, the project sponsor must request a reissuance of the project's approval by the Executive Director within 90 days from the date of the change.

Subpart B—Application Procedure

4. Amend § 806.14 by revising paragraph (a) introductory text and adding paragraph (d) to read as follows:

§ 806.14 Contents of applications.

(a) Except with respect to applications to renew an existing Commission approval, applications for minor modifications, and Notices of Intent for approvals by rule and general permits, applications shall include, but not be limited to, the following information and, where applicable, shall be submitted on forms and in the manner prescribed by the Commission. Renewal applications shall include such information that the Commission determines to be necessary for the review of same, shall be subject to the standards set forth in subpart C of this part, and shall likewise be submitted on forms and in the manner prescribed by the Commission.

* * * * *

(d) Applications for minor modifications must be complete and will be on a form and in a manner prescribed by the Commission. Applications for minor modifications must contain the following:

(1) Description of the project;

(2) Description of all sources, consumptive uses and diversions related to the project;

(3) Description of the requested modification;

(4) Statement of the need for the requested modification;

(5) Demonstration that the anticipated impact of the requested modification will not adversely impact the water resources of the basin; and

(6) Any other information that the Commission or Executive Director deems necessary.

5. Amend § 806.15 by revising paragraph (a) and adding paragraphs (h) and (i) to read as follows:

§ 806.15 Notice of application.

(a) Except with respect to paragraphs (h) and (i) of this section, any project sponsor submitting an application to the Commission shall provide notice thereof to the appropriate agency of the member State, each municipality in which the project is located, and the county planning agency of each county in which the project is located. The project sponsor shall also publish notice of submission of the application at least once in a newspaper of general circulation serving the area in which the project is located. The project sponsor shall also meet any of the notice requirements set forth in paragraphs (b) through (f) of this section, if applicable. All notices required under this section shall be provided or published no later than 20 days after submission of the application to the Commission and shall contain a description of the project, its purpose, the requested quantity of water to be withdrawn, obtained from sources other than withdrawals, or consumptively used, and the address, electronic mail address, and phone number of the project sponsor and the Commission. All such notices shall be in a form and manner as prescribed by the Commission.

* * * * *

(h) For Notices of Intent (NOI) seeking coverage under a general permit, the project sponsor shall provide the NOI to the appropriate agency of the member State and each municipality and county planning agency in which the project is located and any additional notice identified in the general permit.

(i) For applications for minor modifications, the project sponsor shall provide notice of the application to the appropriate agency of the member State and each municipality and county planning agency in which the project is located.

6. Add § 806.17 to read as follows:

§ 806.17 General permits.

(a) *Coverage and purpose*. The Commission may issue a general permit, in lieu of issuing individual approvals, for a specifically described category of diversions, water withdrawals and consumptive uses that:

(1) Involve the same or substantially similar types of operations or activities;

(2) Require the same limitations or operating conditions, or both;

(3) Require the same or similar monitoring and reporting; and

(4) Will result in minimal adverse impacts consistent with §§ 806.21 through 806.24.

(b) *Procedure for issuance.* (1) At least 30 days prior to the issuance of a general permit, the Commission shall publish notice in the *Federal Register* and the member jurisdiction administrative bulletins of the intent to issue a general permit.

(2) At least 30 days shall be provided for interested members of the public and Federal, State and local agencies to provide written comments on a proposed general permit.

(3) The Commission or Executive Director may, in its discretion, hold a public hearing on a proposed general permit, taking into account the level of public interest and likelihood of controversy.

(4) The issuance of a general permit adopted by the Commission will be published in the *Federal Register* and the member jurisdiction administrative bulletins. This notice shall set forth the effective date of the general permit.

(c) *Administration of general permits.* General permits may be issued, amended, suspended, revoked, reissued or terminated under this section.

(1) Any general permit issued under this section shall set forth the applicability of the permit and the conditions that apply to any diversion, withdrawal or consumptive use authorized by such general permit.

(2) The Commission may fix a term to any general permit issued.

(3) A project sponsor shall obtain permission to divert, withdraw or consumptively use water in accordance with a general permit by

filing a Notice of Intent (NOI) with the Commission, in a form and manner determined by the Commission.

(4) Approval of coverage under a general permit shall be determined by the Executive Director or by any other manner that the Commission shall establish for any general permit.

(5) The Commission may set a fee for NOIs to any general permit.

(6) A project sponsor shall provide notice for NOIs in accordance with § 806.15(h) and any additional notice requirements that the Commission may adopt for any general permit.

(7) The requirements of § 806.16 apply to the review of NOIs to any general permit.

(8) Upon reissuance or amendment of a general permit, all project sponsors permitted to divert, withdraw or consumptively use water in accordance with the previous general permit shall be permitted to continue to operate with the renewed or modified general permit unless otherwise notified by the Commission.

(9) Notice of receipt of NOIs shall be published on the Commission's website and in any other manner that the Commission shall establish for any general permit.

(d) *Denial of coverage.* The Executive Director will deny or revoke coverage under a general permit when one or more of the following conditions exist:

(1) The project or project sponsor does not or can no longer meet the criteria for coverage under a general permit.

(2) The diversion, withdrawal or consumptive use, individually or in combination with other similar Commission regulated activities, is causing or has the potential to cause adverse impacts to water resources or competing water users.

(3) The project does not comport with § 806.21(a) or (b).

(4) The project includes other diversions, withdrawals or consumptive uses that require an individual approval and the issuance of both an individual approval and a general permit for the project would constitute an undue administrative burden on the Commission.

(5) The Executive Director determines that a project cannot be effectively regulated under a general permit and is more effectively regulated under an individual approval.

(e) *Requiring an individual approval*. If coverage is denied or revoked under paragraph (d) of this section, the project sponsor shall be notified in writing. The notice will include a brief statement for the reasons for the decision. If coverage under a general permit was previously granted, the notice will also include a deadline for submission of an application for an individual approval. Timely submission of a complete application will result in continuation of coverage of the applicable withdrawal, consumptive use or diversion under the general permit, until the Commission takes final action on the pending individual approval application.

(f) *Action of the Commission.* Action by the Executive Director denying or revoking coverage under a general permit under paragraph (d) of this section, or requiring an individual approval under paragraph (e) of this section, is not a final action of the Commission until the project sponsor submits and the Commission takes final action on an individual approval application.

7. Add § 806.18 to read as follows:

§ 806.18 Approval modifications.

(a) *General.* A project sponsor shall submit an application for modification of a current approval prior to making a change in the design, operational plans, or use as presented in the application upon which the approval was originally issued, and that will affect the terms and conditions of the current approval.

(b) *Applications for modification.* A project sponsor may apply for a modification of a current approval by submitting an application for modification to the Commission.

(c) *Minor modifications.* The following are minor modifications:

(1) Correction of typographical errors;

(2) Changes to monitoring or metering conditions;

(3) Addition of sources of water for consumptive use;

(4) Changes to the authorized water uses;

(5) Changes to conditions setting a schedule for developing, implementing, and/or reporting on monitoring, data collection and analyses;

(6) Changes to the design of intakes;

(7) Increases to total system limits that were established based on the projected demand of the project; and

(8) Modifications of extraction well network used for groundwater remediation systems.

(d) *Major modifications.* Major modifications are changes not considered to be minor modifications. Major modifications may include, but are not limited to:

(1) Increases in the quantity of water withdrawals, consumptive uses or diversions;

(2) Increases to peak day consumptive water use;

(3) Increases to the instantaneous withdrawal rate or changes from a single withdrawal rate to a varied withdrawal rate;

(4) Changes affecting passby flow requirements; and

(5) Changes that have the potential for adverse impacts to water resources or competing water users.

(e) *Notice and approval.* (1) Applications for modifications are subject to the notice requirements of § 806.15.

(2) The Commission or Executive Director may approve, approve with conditions or deny an application for minor modification, or direct that an application for major modification be made.

(3) The Commission may approve, approve with conditions or deny an application for major modification.

Dated: December 7, 2015.

STEPHANIE L. RICHARDSON
Secretary to the Commission

[16-01-13]

SUSQUEHANNA RIVER BASIN COMMISSION
Actions Taken at December 4, 2015, Meeting

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: As part of its regular business meeting held on December 4, 2015, in Harrisburg, Pennsylvania, the Commission took the following actions: 1) approved or tabled the applications of certain water resources projects; 2) accepted settlements in lieu of penalty from Seneca Resources Corporation and Schreiber Foods, Inc.; and 3) took additional actions, as set forth in the Supplementary Information below.

DATES: December 4, 2015.

ADDRESSES: Susquehanna River Basin Commission, 4423 N. Front Street, Harrisburg, PA 17110-1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel, telephone: (717) 238-0423, ext. 1312; fax: (717) 238-2436; e-mail: joyler@srbc.net. Regular mail inquiries may be sent to the above address. See also Commission website at www.srbc.net.

SUPPLEMENTARY INFORMATION: In addition to the actions taken on projects identified in the summary above and the listings below, the following items were also presented or acted upon at the

business meeting: 1) adoption of a resolution urging President Obama and the United States Congress to provide full funding for the Groundwater and Streamflow Information Program, thereby supporting the Susquehanna Flood Forecast & Warning System; 2) approval of a rulemaking action to simplify and revise the rules for transfer of approvals, create a category for minor modifications, and establish a procedure for the Commission to issue general permits; 3) adoption of a resolution updating the Commission's investment policy statement; 4) approval/ratification of two contractual agreements; and 5) a report on delegated settlements with the following project sponsors, pursuant to SRBC Resolution 2014-15: Bon Air Country Club, in the amount of $5,000; Byler Golf Management, Inc., doing business as Iron Valley Golf Club, in the amount of $4,000; P.H. Glatfelter Company, in the amount of $7,000; The Lion Brewery, Inc., in the amount of $1,000; and Irem Temple Golf Club, in the amount of $7,500.

Compliance Matters:

The Commission approved settlements in lieu of civil penalty for the following projects:

Seneca Resources Corporation (Multiple Approvals by Rule), multiple municipalities, multiple counties, Pa. - $75,000.

Schreiber Foods, Inc., Shippensburg Borough, Cumberland County, Pa. - $44,500.

Project Applications Approved:

The Commission approved the following project applications:

Project Sponsor: Byler Golf Management, Inc. Project Facility: Iron Valley Golf Course, Cornwall Borough, Lebanon County, Pa. Modification to authorize additional water use purpose (Docket Nos. 19981206 and 19981206-1).

Project Sponsor and Facility: Cabot Oil & Gas Corporation (Tunkhannock Creek), Lenox Township, Susquehanna County, Pa. Surface water withdrawal of up to 1.500 mgd (peak day).

Project Sponsor and Facility: Montgomery Water and Sewer Authority, Clinton Township, Lycoming County, Pa. Groundwater withdrawal of up to 0.398 mgd (30-day average) from Well 4.

Project Sponsor and Facility: Sugar Hollow Water Services, LLC (Susquehanna River), Eaton Township, Wyoming County, Pa. Renewal of surface water withdrawal of up to 1.500 mgd (peak day) (Docket No. 20111214).

Project Sponsor and Facility: SWN Production Company, LLC (Susquehanna River), Great Bend Township, Susquehanna County, Pa. Renewal of surface water withdrawal of up to 2.000 mgd (peak day) (Docket No. 20111217).

Project Sponsor and Facility: SWN Production Company, LLC (Susquehanna River), Great Bend Township, Susquehanna County, Pa. Modification to increase surface water withdrawal by an additional 1.750 mgd (peak day), for a total of up to 2.500 mgd (peak day) (Docket No. 20140302).

Project Sponsor and Facility: SWN Production Company, LLC (Tioga River), Hamilton Township, Tioga County, Pa. Surface water withdrawal of up to 1.500 mgd (peak day).

Project Sponsor and Facility: Village of Sidney, Delaware County, N.Y. Modification to extend the approval term of the groundwater withdrawal approval (Docket No. 19860201) to provide time for development of a replacement source for existing Well 2-88.

Project Applications Tabled:

The Commission tabled action on the following project applications:

Project Sponsor: Aqua Pennsylvania, Inc. Project Facility: Midway Manor System, Kingston Township, Luzerne County, Pa. Application for groundwater withdrawal of up to 0.115 mgd (30-day average) from Dug Road Well.

Project Sponsor: Aqua Pennsylvania, Inc. Project Facility: Midway Manor System, Kingston Township, Luzerne County, Pa. Application for groundwater withdrawal of up to 0.038 mgd (30-day average) from Hilltop Well.

Project Sponsor: Aqua Pennsylvania, Inc. Project Facility: Midway Manor System, Kingston Township, Luzerne County, Pa. Application for groundwater withdrawal of up to 0.216 mgd (30-day average) from Midway Well 1.

Project Sponsor: Aqua Pennsylvania, Inc. Project Facility: Midway Manor System, Kingston Township, Luzerne County, Pa. Application for groundwater withdrawal of up to 0.110 mgd (30-day average) from Midway Well 2.

Project Sponsor and Facility: East Berlin Area Joint Authority, Reading Township, Adams County, Pa. Application for groundwater withdrawal of up to 0.072 mgd (30-day average) from Well 1.

Project Sponsor and Facility: East Berlin Area Joint Authority, Reading Township, Adams County, Pa. Application for groundwater withdrawal of up to 0.108 mgd (30-day average) from Well 2.

Project Sponsor and Facility: East Berlin Area Joint Authority, East Berlin Borough, Adams County, Pa. Application for groundwater withdrawal of up to 0.058 mgd (30-day average) from Well 4.

Project Sponsor and Facility: East Berlin Area Joint Authority, East Berlin Borough, Adams County, Pa. Application for renewal with modification to increase groundwater withdrawal limit by an additional 0.048 mgd (30-day average), for a total of up to 0.072 mgd (30-day average) from Well 5 (Docket No. 19860601).

Project Sponsor and Facility: East Cocalico Township Authority, East Cocalico Township, Lancaster County, Pa. Application for groundwater withdrawal of up to 0.059 mgd (30-day average) from Well 3A.

Project Sponsor and Facility: East Cocalico Township Authority, East Cocalico Township, Lancaster County, Pa. Application for groundwater withdrawal of up to 0.028 mgd (30-day average) from Well 4.

Project Sponsor and Facility: East Cocalico Township Authority, East Cocalico Township, Lancaster County, Pa. Application for groundwater withdrawal of up to 0.056 mgd (30-day average) from Well 5.

Project Sponsor and Facility: East Cocalico Township Authority, East Cocalico Township, Lancaster County, Pa. Application for groundwater withdrawal of up to 0.022 mgd (30-day average) from Well 6.

Project Sponsor and Facility: East Cocalico Township Authority, East Cocalico Township, Lancaster County, Pa. Application for groundwater withdrawal of up to 0.046 mgd (30-day average) from Well 7.

Project Sponsor and Facility: Furman Foods, Inc., Point Township, Northumberland County, Pa. Application for renewal of groundwater withdrawal of up to 0.320 mgd (30-day average) from Well 1 (Docket No. 19850901).

Project Sponsor and Facility: Furman Foods, Inc., Point Township, Northumberland County, Pa. Application for renewal of groundwater withdrawal of up to 0.190 mgd (30-day average) from Well 4 (Docket No. 19850901).

Project Sponsor and Facility: Furman Foods, Inc., Point Township, Northumberland County, Pa. Application for renewal of groundwater withdrawal of up to 0.090 mgd (30-day average) from Well 7 (Docket No. 19850901).

Project Sponsor and Facility: Mount Joy Borough Authority, Mount Joy Borough, Lancaster County, Pa. Modification to increase combined withdrawal limit by an additional 0.199 mgd (30-day average), for a total combined withdrawal limit of 1.800 mgd (30-day average) from Wells 1 and 2 (Docket No. 20110617).

Project Sponsor: Pennsylvania Department of Environmental Protection, Bureau of Conservation and Restoration. Project Facility: Cresson Mine Drainage Treatment Plant, Cresson Borough, Cambria County, Pa. Application for groundwater withdrawal from Argyle Stone Bridge Well of up to 6.300 mgd (30-day average) from four sources.

Project Sponsor: Pennsylvania Department of Environmental Protection, Bureau of Conservation and Restoration. Project Facility: Cresson Mine Drainage Treatment Plant, Cresson Township, Cambria County, Pa. Application for groundwater withdrawal from Cresson No. 9 Well of up to 6.300 mgd (30-day average) from four sources.

Project Sponsor: Pennsylvania Department of Environmental Protection, Bureau of Conservation and Restoration. Project Facility: Cresson Mine Drainage Treatment Plant, Gallitzin Township, Cambria County, Pa. Application for groundwater withdrawal from Gallitzin Shaft Well 2A (Gallitzin Shaft #2) of up to 6.300 mgd (30-day average) from four sources.

Project Sponsor: Pennsylvania Department of Environmental Protection, Bureau of Conservation and Restoration. Project Facility: Cresson Mine Drainage Treatment Plant, Gallitzin Township, Cambria County, Pa. Application for groundwater withdrawal from Gallitzin Shaft Well 2B (Gallitzin Shaft #1) of up to 6.300 mgd (30-day average) from four sources.

Project Application Approved Involving a Diversion:

The Commission approved the following project application involving a diversion:

Project Sponsor: Seneca Resources Corporation. Project Facility: Impoundment 1, receiving groundwater from Seneca Resources Corporation Wells 5H and 6H and Clermont Wells 1, 3, and 4, Norwich and Sergeant Townships, McKean County, Pa. Modification to add two additional sources (Clermont Well 2 and Clermont North Well 2) and increase the into-basin diversion from the Ohio River Basin by an additional 0.504 mgd (peak day), for a total of up to 1.977 mgd (peak day) (Docket No. 20141216).

AUTHORITY: Pub.L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: December 15, 2015.

STEPHANIE L. RICHARDSON
Secretary to the Commission

[16-01-16]

General Notices

Notice of ADA Compliance

The State of Maryland is committed to ensuring that individuals with disabilities are able to fully participate in public meetings. Anyone planning to attend a meeting announced below who wishes to receive auxiliary aids, services, or accommodations is invited to contact the agency representative at least 48 hours in advance, at the telephone number listed in the notice or through Maryland Relay.

BOARD OF ARCHITECTS

Subject: Public Meeting
Date and Time: January 27, 2016, 10 a.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: James A. Baseman (410) 230-6263

[16-01-26]

ATHLETIC COMMISSION

Subject: Public Meeting
Date and Time: January 27, 2016, 11 a.m. — 1 p.m.; Additional Dates: February 24 and March 30, 2016
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Patrick Pannella (410) 230-6223

[16-01-31]

GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

Subject: Public Meeting
Date and Time: January 14, 2016, 1 — 3 p.m.
Place: GOCCP, 300 E. Joppa Rd., Ste. 1105, Baltimore, MD
Add'l. Info: Children's Justice Act Committee Meeting
Contact: Jessica Wheeler (410) 821-2844

[16-01-07]

DEPARTMENT OF HEALTH AND MENTAL HYGIENE/MEDICAID PHARMACY AND THERAPEUTICS COMMITTEE

Subject: Call for Physician, Pharmacist, and Consumer Nominations for the Maryland Medicaid Program's Pharmacy and Therapeutics (P&T) Committee
Add'l. Info: The Maryland Department of Health and Mental Hygiene (DHMH) is currently recruiting physicians, pharmacists, and consumers to serve on the Maryland Medicaid Program's Pharmacy and Therapeutics (P&T) Committee.

The Committee shall be composed of no fewer than 12 members, appointed by the Secretary for a 3-year term. At least five members shall be physicians licensed in Maryland (with one being a psychiatrist); five members shall be pharmacists licensed in Maryland (with one having expertise with mental health drugs); and two members shall be consumer representatives residing in the State.

Duties and Powers of Committee

RULES: The Committee shall operate under Standard Operating Procedures and comply with rules adopted by DHMH, including notice of any meeting of the Committee pursuant to the requirements of the Administrative Procedures Act.

REGULAR MEETINGS: The Committee shall meet at least twice a year, and may meet at other times at the discretion of DHMH. To the extent feasible, the Committee shall review all drug classes included in the Preferred Drug List at least every 12 months. Executive sessions shall be closed to the public.

ATTENDANCE: Members of the Committee may be removed if they miss two consecutive Committee meetings.

PREFERRED DRUG LIST DEVELOPMENT: The Committee reviews classes of medications and recommends to DHMH which medications should be included in the Preferred Drug List for prescribing to Medicaid recipients. The Preferred Drug List is composed of cost-effective, medically appropriate drug therapies for Medicaid recipients. The Committee shall develop its Preferred Drug List recommendations by considering the clinical efficacy, safety, and cost effectiveness of drug products. Analyses shall be based upon reviews of relevant clinical information, including but not limited to FDA-approved labeling, supporting studies, published head to head comparisons, and peer-reviewed medical journal articles.

PRIOR AUTHORIZATION: The Committee may also make recommendations to DHMH regarding the prior authorization of any prescribed drug covered by Medicaid.

Magellan Medicaid Administration is currently providing administrative and technical support to the Department of Health and Mental Hygiene with regard to the P&T Committee.

Deadline to submit an application to serve on the Maryland Medicaid Program's Pharmacy and Therapeutics (P&T) Committee is Friday, February 19, 2016. For an application packet or further information, please contact Gina Homer, Medical Care Program Specialist, Maryland Medicaid Pharmacy Program, Dept. of Health and Mental Hygiene, Suite 407-A, 201 W. Preston Street, Baltimore, MD 21201-2399, phone/voice mail (410)767-1749, or email gina.homer@maryland.gov
Contact: Gina Homer (410) 767-1749

[16-01-10]

HOME IMPROVEMENT COMMISSION

Subject: Public Meeting
Date and Time: February 4, 2016, 10 a.m. — 12 p.m.
Place: 500 N. Calvert St., 2nd Fl. Conf. Rm., Baltimore, MD
Contact: David Finneran (410) 230-6169

[16-01-04]

MARYLAND INSURANCE ADMINISTRATION

Subject: Public Hearing
Date and Time: January 22, 2016, 10 a.m. — 1 p.m.
Place: Community College of Baltimore County, Center for the Arts, Theater, 800 S. Rolling Rd., Catonsville, MD
Add'l. Info: The purpose of the hearing is to provide consumers, insurance companies, and other interested parties the opportunity to share statements or testimony about the state of the long-term care insurance industry, including issues related to rate increase requests, claims handling, policy holder protections, and ideas for regulatory matters for long-term care insurance. Interested parties are invited to attend the hearing and to provide oral comments. Interested parties are also encouraged to submit informational written comments. Written information, comments, and RSVPs may be submitted to Adam Zimmerman by January 20, 2016, either by email to adam.zimmerman@maryland.gov or by mail to 200 St. Paul Place, Suite 2700, Baltimore, MD 21202 or by fax to 410-468-2038.

Any questions regarding this matter should be directed to Adam Zimmerman, Actuarial Analyst, by January 20, 2016, by phone to 410-468-2048 or by email to adam.zimmerman@maryland.gov.
Contact: Adam Zimmerman (410) 468-2048

[16-01-38]

MARYLAND INSURANCE ADMINISTRATION

Subject: Public Meeting
Date and Time: January 26, 2016, 10 a.m. — 12 p.m.
Place: Maryland Insurance Administration, 200 St. Paul Pl., 22nd Fl., Francis Scott Key Conference Rm., Baltimore, MD
Add'l. Info: Pursuant to Insurance Article, 10-110, Annotated Code of Maryland, the Insurance Commissioner will hold a meeting of the Continuing Education Producer Advisory Boards for Property and Casualty and Life and Health to review continuing education courses, examinations, and other matters relating to the education and qualification of insurance producers.
Contact: Katrina Lawhorn (410) 468-2178
[16-01-12]

BOARD OF EXAMINERS OF LANDSCAPE ARCHITECTS

Subject: Public Meeting
Date and Time: January 19, 2016, 1:30 p.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: James A. Baseman (410) 230-6263
[16-01-27]

MARYLAND STATE LOTTERY AND GAMING CONTROL COMMISSION

Subject: Public Meeting
Date and Time: January 28, 2016, 10 a.m. — 12 p.m.
Place: Montgomery Park Business Center, 1800 Washington Blvd., Ste. 330, Baltimore, MD
Contact: Marie A. Torosino (410) 230-8790
[16-01-28]

MARYLAND HEALTH CARE COMMISSION

Subject: Public Meeting
Date and Time: January 21, 2016, 1 p.m.
Place: 4160 Patterson Ave., Rm. 100, Baltimore, MD
Contact: Valerie Wooding (410) 764-3460
[16-01-05]

MARYLAND HEALTH CARE COMMISSION

Subject: Public Meeting
Date and Time: February 18, 2016, 1 p.m.
Place: 4160 Patterson Ave., Rm. 100, Baltimore, MD
Contact: Valerie Wooding (410) 764-3460
[16-01-06]

MARYLAND HEALTH CARE COMMISSION

Subject: Receipt of Application
Add'l. Info: December 22, 2015 the Maryland Health Care Commission (MHCC) received a Certificate of Need application submitted by Chesapeake Treatment Center d/b/a New Directions and The Right Moves — Matter No. 15-24-2371 — Conversion of 8 of the existing 29 AJSO (adjudicated juvenile sex offenders) RTC beds at the facility to use as a highly specialized program for transition-age youth (ages 18 through 20). These non-AJSO RTC beds would be dedicated to transitional youth in the custody of the Maryland Department of Juvenile Services for whom placement in another Maryland RTC facility has not been possible, or for whom clinically suitable services are not available in another Maryland facility; Proposed Cost: $80,000.

The MHCC shall review the application under Health-General Article, §19-101 et seq., Annotated Code of Maryland, and COMAR 10.24.01.

Any affected person may make a written request to the Commission to receive copies of relevant notices concerning the application. All further notices of proceedings on the application will be sent only to affected persons who have registered as interested parties.

Please refer to the Matter No. listed above in any correspondence on the application. A copy of the application is available, for review, in the office of the MHCC, during regular business hours by appointment, or on the Commission's website at www.mhcc.maryland.gov.

All correspondence should be addressed to Paul Parker, Deputy Director, Center for Health Care Facilities Planning & Development, MHCC, 4160 Patterson Avenue, Baltimore, Maryland 21215.
Contact: Ruby Potter (410) 764-3276
[16-01-37]

MINORITY BUSINESS ENTERPRISE ADVISORY COMMITTEE

Subject: Public Meeting
Date and Time: February 3, 2016, 8:30 a.m. — 5 p.m.
Place: MDOT Headquarters, 7201 Corporate Center Dr., Trainor Conf. Rm., 1st Fl., Hanover, MD
Contact: Sabrina Bass (410) 865-1240
[16-01-17]

MINORITY BUSINESS ENTERPRISE ADVISORY COMMITTEE

Subject: Public Meeting
Date and Time: February 17, 2016, 8:30 a.m. — 5 p.m.
Place: MDOT Headquarters, 7201 Corporate Center Dr., Trainor Conf. Rm., 1st Fl., Hanover, MD
Contact: Sabrina Bass (410) 865-1240
[16-01-18]

MINORITY BUSINESS ENTERPRISE ADVISORY COMMITTEE

Subject: Public Meeting
Date and Time: March 2, 2016, 8:30 a.m. — 5 p.m.
Place: MDOT Headquarters, 7201 Corporate Center Dr.,Trainor Conf. Rm., 1st Fl., Hanover, MD
Contact: Sabrina Bass (410) 865-1240
[16-01-19]

MINORITY BUSINESS ENTERPRISE ADVISORY COMMITTEE

Subject: Public Meeting
Date and Time: March 16, 2016, 8:30 a.m. — 5 p.m.
Place: MDOT Headquarters, 7201 Corporate Center Dr.,Trainor Conf. Rm., 1st Fl., Hanover, MD
Contact: Sabrina Bass (410) 865-1240
[16-01-20]

MINORITY BUSINESS ENTERPRISE ADVISORY COMMITTEE

Subject: Public Meeting
Date and Time: March 30, 2016, 8:30 a.m. — 5 p.m.
Place: MDOT Headquarters, 7201 Corporate Center Dr.,Trainor Conf. Rm., 1st Fl., Hanover, MD
Contact: Sabrina Bass (410) 865-1240
[16-01-21]

DEPARTMENT OF NATURAL RESOURCES/FISHERIES SERVICE

Subject: Public Notice — 2016 Recreational Black Sea Bass Fishery
Add'l. Info: The Secretary of the Maryland Department of Natural Resources, pursuant to COMAR 08.02.05.21F, announces that the recreational black sea bass fishery will be closed from 12:01 a.m. January 1, 2016, through 11:59 p.m. February 29, 2016. In order to implement the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for Black Sea Bass, the Department will establish the season, catch limit, and minimum size for

the recreational black sea bass fishery for the remainder of 2016 in a later notice.

Mark J. Belton
Secretary of Natural Resources

Contact: Tamara O'Connell (410) 260-8271

[16-01-22]

DEPARTMENT OF NATURAL RESOURCES/FISHERIES SERVICE

Subject: Public Notice — 2016 Summer Flounder Season, Size Limit and Creel Limit

Add'l. Info: The Secretary of the Maryland Department of Natural Resources, pursuant to COMAR 08.02.05.12F, announces the season, catch limit, and minimum size for the summer flounder fishery for 2016, effective 12:01 a.m. January 1, 2016.

- The season will be open January 1, 2016 through December 31, 2016.
- Recreational anglers may keep up to 4 summer flounder per person per day.
- The recreational minimum size for summer flounder is 16 inches in all Maryland State waters.
- The commercial hook and line minimum size for summer flounder is 16 inches in all Maryland State waters other than the study area described in COMAR 08.02.05.12G, where the minimum size is 14 inches during the study period.
- The commercial minimum size for summer flounder caught by gear other than hook and line is 14 inches.
- All other rules remain the same.

Mark J. Belton
Secretary of Natural Resources

Contact: Tamara O'Connell (410) 260-8271

[16-01-23]

DEPARTMENT OF NATURAL RESOURCES/FISHERIES SERVICE

Subject: Public Notice — 2016 Atlantic Coast Recreational Striped Bass Creel Limit

Add'l. Info: The Secretary of the Maryland Department of Natural Resources, pursuant to COMAR 08.02.15.12H, announces that to implement the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for Striped Bass the 2016 recreational creel limit for striped bass in the State waters of the Atlantic Ocean, its coastal bays, and their tributaries will be the same as the 2015 season. Effective 12:01 a.m. Monday, January 1, 2016, a person may not take or possess more than one striped bass per day from those waters. All other rules remain the same.

Mark J. Belton
Secretary of Natural Resources

Contact: Tamara O'Connell (410) 260-8271

[16-01-24]

BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

Subject: Public Meeting
Date and Time: February 10, 2016, 9:30 a.m. — 1 p.m.
Place: 4201 Patterson Ave., Baltimore, MD
Contact: Andrea Hill (410) 764-4750

[16-01-08]

BOARD OF EXAMINERS IN OPTOMETRY

Subject: Public Meeting on Regulations
Date and Time: January 27, 2016, 12 — 2 p.m.
Place: Metro Executive Bldg., 4201 Patterson Ave., Baltimore, MD
Add'l. Info: The Regulatory Review Committee will discuss and review COMAR 10.28.03, .04, .05 and .06.
Contact: Patricia G. Bennett (410) 764-4710

[16-01-33]

BOARD OF PODIATRIC MEDICAL EXAMINERS

Subject: Public Meeting
Date and Time: January 14, 2016, 1 p.m.
Place: 4201 Patterson Ave., Baltimore, MD
Contact: Sheri Henderson (410) 764-4785

[16-01-01]

BOARD OF PODIATRIC MEDICAL EXAMINERS

Subject: Public Meeting
Date and Time: February 11, 2016, 1 p.m.
Place: 4201 Patterson Ave., Baltimore, MD
Contact: Sheri Henderson (410) 764-4785

[16-01-02]

BOARD OF WELL DRILLERS

Subject: Public Meeting
Date and Time: January 27, 2016, 9 a.m. — 4 p.m.
Place: MDE, 1800 Washington Blvd., Terra Conf. Rm., Baltimore, MD
Add'l. Info: A portion of this meeting may be held in closed session
Contact: Chris Nagle (410) 537-4466

[16-01-09]

WORKERS' COMPENSATION COMMISSION

Subject: Public Meeting
Date and Time: January 28, 2016, 9:30 — 11:30 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

[16-01-11]

GOVERNOR'S WORKFORCE INVESTMENT BOARD

Subject: Public Meeting
Date and Time: February 11, 2016, 3:30 — 5:30 p.m.
Place: Dept. of Transportation, 7201 Corporate Center Dr., Hanover, MD
Contact: Darla J. Henson (410) 767-2408

[16-01-30]

COMAR ORDER INFORMATION SHEET

Date _____ Subscriber I.D. _____

Name_____

Company_____

Address_____

City_____State_____Zip_____

Tel._____ Fax_____

Email: _____

_____ Check enclosed, made payable to "Division of State Documents"

_____ Visa/Master Card/American Express/Discover card payment:

Acct.#_____ **Exp**._____

Signature _____Tel:_____

Return form & payment to: Office of the Secretary of State, Division of State Documents ~
State House ~ Annapolis, MD 21401 ~ Tel: 410-260-3876 ~ 800-633-9657 ext. 3876 ~ Fax: 410-280-5647

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Publication / Handbook	Print Price	S & H	Quantity	Total
Control of Ionizing Radiation (through supplement 27)	$163	$12	_____	_____
Control of Ionizing Radiation Supplement 26 ONLY	$15	$0	_____	_____
Control of Ionizing Radiation Supplement 27 ONLY	$12	$0	_____	_____
Forest Conservation Law	$15	$5	_____	_____
Forest Conservation Technical Manual 3rd Edition, 1997	$20	$8	_____	_____
Preventive Maintenance Handbook (PM Handbook) (salmon cover)	$15	$5	_____	_____
Vehicle Inspection Handbook (Feb 2012)	$48	$9	_____	_____
			Total	_____

If quantity is more than one, shipping charges may vary, please call 410-260-3876 for pricing.

COMAR SUBSCRIPTION SCHEDULES

PDF QUARTERLY UPDATES	PRINT SEMI-ANNUAL UPDATES
After March 30th	After June 30th
After June 30th	After December 31st
After September 30th	
After December 31st	

PDF – A replacement title(s) in its entirety will be sent in electronic format.

PRINT – Entire chapters affected will be sent for replacement and insertion into COMAR title book(s).

Last updated 10/2015
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COMAR IN PDF — ORDER FORM

Titles	Agency Name	Price[1]	Subscription[2]	Quantity	Total
Complete set of COMAR in PDF format		$1,000	$500	_____	_____
Title 01	Executive Department	$35	$24	_____	_____
Title 02	Office of the Attorney General	$22	$13	_____	_____
Title 03	Comptroller of the Treasury	$30	$20	_____	_____
Title 04	General Services	$16	$10	_____	_____
Title 05	Housing and Community Development	$78	$50	_____	_____
Title 07	Human Resources	$80	$53	_____	_____
Title 08	Natural Resources	$78	$51	_____	_____
Title 09	Labor, Licensing and Regulation	$89	$60	_____	_____
Title 10	Health & Mental Hygiene (All parts) **	$272	$180	_____	_____
Title 10	Part 1 **	$48	$32	_____	_____
Title 10	Part 2 **	$75	$50	_____	_____
Title 10	Part 3 **	$75	$50	_____	_____
Title 10	Part 4 **	$50	$35	_____	_____
Title 10	Part 5 **	$69	$50	_____	_____
Title 11	Transportation (All parts) **	$106	$75	_____	_____
Title 11	Part 1 (Transportation) **	$42	$25	_____	_____
Title 11	Part 2 (MVA)**	$74	$50	_____	_____
Title 12	Public Safety and Correctional Services	$67	$43	_____	_____
Title 13A	Board of Education	$63	$42	_____	_____
Title 13B	Higher Education Commission	$25	$15	_____	_____
Title 14	Independent Agencies	$80	$53	_____	_____
Title 15	Agriculture	$48	$30	_____	_____
Title 16	Juvenile Service	$23	$15	_____	_____
Title 17	Budget and Management	$28	$16	_____	_____
Title 18	Assessments and Taxation	$20	$12	_____	_____
Title 19A	State Ethics Commission	$24	$14	_____	_____
Title 20	Public Service Commission	$49	$32	_____	_____
Title 21	State Procurement Regulations	$48	$30	_____	_____
Title 22	State Retirement and Pension System	$22	$13	_____	_____
Title 23	Board of Public Works	$18	$11	_____	_____
Title 24	Commerce	$34	$20	_____	_____
Title 25	State Treasurer	$16	$9	_____	_____
Title 26	Environment (All parts) **	$189	$125	_____	_____
Title 26	Part 1 **	$54	$35	_____	_____
Title 26	Part 2 **	$83	$52	_____	_____
Title 26	Part 3 **	$57	$38	_____	_____
Title 26	Part 4 **	$37	$24	_____	_____
Title 27	Critical Area Comm. for the Chesapeake and Atlantic Coastal Bays	$18	$10	_____	_____
Title 28	Office of Administrative Hearings	$16	$9	_____	_____
Title 29	State Police	$30	$18	_____	_____
Title 30	MD Institute for Emergency Medical Services Systems	$25	$17	_____	_____
Title 31	Maryland Insurance Administration	$68	$45	_____	_____
Title 32	Aging	$25	$15	_____	_____
Title 33	State Board of Elections	$42	$25	_____	_____
Title 34	Planning	$31	$18	_____	_____
Title 35	Veterans Affairs	$16	$9	_____	_____
Title 36	Maryland State Lottery and Gaming Control Agency	$48	$30	_____	_____
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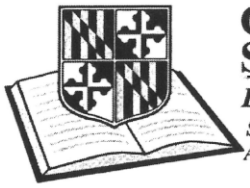

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