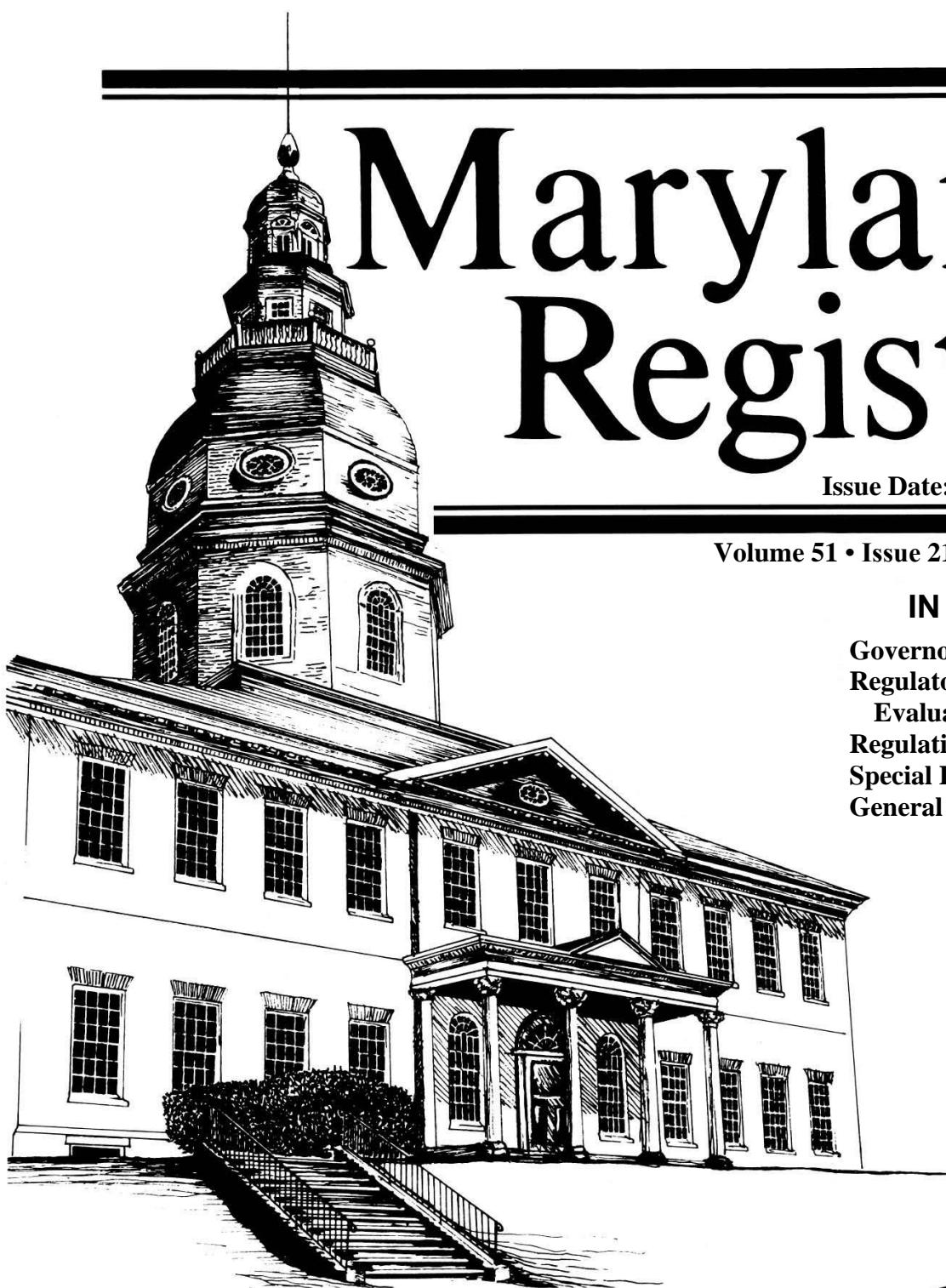

Maryland Register

Issue Date: October 18, 2024

Volume 51 • Issue 21 • Pages 915—956

IN THIS ISSUE

Governor
Regulatory Review and
Evaluation
Regulations
Special Documents
General Notices



Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before September 30, 2024, 5 p.m.

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, I hereby certify that this issue contains all documents required to be codified as of September 30, 2024.

Gail S. Klakring
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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Wes Moore, Governor; **Susan C. Lee**, Secretary of State; **Gail S. Klakring**, Administrator; **Tracey A. Johnstone**, Editor, Maryland Register; **Tarshia N. Neal**, Subscription Manager; **Tami Cathell**, Help Desk, COMAR and Maryland Register Online.

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

Illustrations by Carolyn Anderson, Dept. of General Services

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Contents

Closing Dates for the Maryland Register

Schedule of Closing Dates and Issue Dates for the Maryland Register 916

COMAR Research Aids

Table of Pending Proposals 917

Index of COMAR Titles Affected in This Issue

COMAR Title Number and Name	Page
01 Executive Department	921, 928
09 Maryland Department of Labor	929
13A State Board of Education	927, 942
14 Independent Agencies	927
31 Maryland Insurance Administration	946

PERSONS WITH DISABILITIES

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

The Governor

EXECUTIVE ORDER 01.01.2024.33
Governor’s Subcabinet for International Affairs (Rescinds Executive Order 01.01.2005.24) 921
EXECUTIVE ORDER 01.01.2024.34
Reinvest Baltimore 922

The Judiciary

SUPREME COURT OF MARYLAND
DISCIPLINARY PROCEEDINGS 924

Regulatory Review and Evaluation

DEPARTMENT OF HEALTH
BOARD OF ACUPUNCTURE
Notice of Availability of Evaluation Report 925
BOARD OF NURSING
Notice of Availability of Evaluation Report 925
BOARD OF EXAMINERS IN OPTOMETRY
Notice of Availability of Evaluation Report 925
BOARD OF MORTICIANS AND FUNERAL DIRECTORS
Notice of Availability of Evaluation Report 925
COMMISSION ON KIDNEY DISEASE
Notice of Availability of Evaluation Report 926
BOARD OF NURSING — CERTIFIED NURSING ASSISTANTS
Notice of Availability of Evaluation Report 926

Final Action on Regulations

13A STATE BOARD OF EDUCATION
GENERAL INSTRUCTIONAL PROGRAMS
Graduation Requirements for Public High Schools in Maryland 927
14 INDEPENDENT AGENCIES
COMMISSION ON CRIMINAL SENTENCING POLICY
General Regulations 927
Criminal Offenses and Seriousness Categories 927

Proposed Action on Regulations

01 EXECUTIVE DEPARTMENT

SECRETARY OF STATE
01.02.11 Maryland Safe at Home Address Confidentiality Program 928

09 DEPARTMENT OF LABOR

FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM
General Provisions 929
Subtitle 42 FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM
Contributions 932
Subtitle 42 FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM
Equivalent Private Insurance Plans 933
Subtitle 42 FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM
Claims 937

13A STATE BOARD OF EDUCATION

Subtitle 12 EDUCATOR LICENSURE
General Provisions 943
Teachers 943
Professional and Technical Education and Specialized Areas for Fine Arts 943
Specialists 943
Administrators and Supervisors 944

Subtitle 12 EDUCATOR LICENSURE

Teachers 944

31 MARYLAND INSURANCE ADMINISTRATION

Subtitle 03 INSURANCE PRODUCERS AND OTHER INSURANCE PROFESSIONALS
Public Adjusters 946
INSURERS
Form Filings Under the Maryland Insurance Acquisitions Disclosure and Control Act 946

Special Documents

DEPARTMENT OF THE ENVIRONMENT
SUSQUEHANNA RIVER BASIN COMMISSION 949
Public Hearing 949
18 CFR Part 801 950
Actions Taken at the September 12, 2024 Meeting 952
WATER AND SCIENCE ADMINISTRATION
Water Quality Certification 24-WQC-0021 953
Water Quality Certification 24-WQC-0025 953
Water Quality Certification 24-WQC-0029 954
Water Quality Certification 23-WQC-0040 954
Water Quality Certification 24-WQC-0043 955

General Notices

MARYLAND DEPARTMENT OF HEALTH
Public Hearing 956
Public Meeting 956
STATE BOARD OF INDIVIDUAL TAX PREPARERS
Public Meeting 956

Contents

COMAR Online

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

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

For additional information, visit www.dsd.maryland.gov, 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 December 2025[†]

Issue Date	Emergency and Proposed Regulations 5 p.m.*	Notices, etc. 10:30 a.m.	Final Regulations 10:30 a.m.
2024			
November 1	October 11**	October 21	October 23
November 15	October 28	November 4	November 6
December 2***	November 8**	November 18	November 20
December 13	November 25	December 2	December 4
December 27	December 9	December 16	December 18
2025			
January 10	December 23	December 30	December 31**
January 24	January 6	January 13	January 15
February 7	January 17**	January 27	January 29
February 21	February 3	February 10	February 12
March 7	February 14**	February 24	February 26
March 21	March 3	March 10	March 12
April 4	March 17	March 24	March 26
April 18	March 31	April 7	April 9
May 2	April 14	April 21	April 23
May 16	April 28	May 5	May 7
May 30	May 12	May 19	May 21
June 13	May 23**	June 2	June 4
June 27	June 9	June 16	June 18
July 11	June 23	June 30	July 2
July 25	July 7	July 14	July 16
August 8	July 21	July 28	July 30
August 22	August 4	August 11	August 13
September 5	August 18	August 25	August 27
September 19	August 29**	September 8	September 10
October 3	September 15	September 22	September 24
October 17	September 29	October 6	October 8
October 31	October 10**	October 20	October 22
November 14	October 27	November 3	November 5
December 1***	November 10	November 17	November 19
December 12	November 24	December 1	December 3
December 26	December 8	December 15	December 17

[†] Please note that this table is provided for planning purposes and that the Division of State Documents (DSD) cannot guarantee submissions will be published in an agency’s desired issue. Although DSD strives to publish according to the schedule above, there may be times when workload pressures prevent adherence to it.

* Also note that proposal deadlines are for submissions to DSD for publication in the Maryland Register and do not take into account the 15-day AELR review period. The due date for documents containing 8 to 18 pages is 48 hours before the date listed; the due date for documents exceeding 18 pages is 1 week before the date listed.

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

** Note closing date changes due to holidays.

*** Note issue date changes due to holidays.

The regular closing date for Proposals and Emergencies is Monday.

REGULATIONS CODIFICATION SYSTEM

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

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

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

Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed

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

Table of Pending Proposals

The table below lists proposed changes to COMAR regulations. The proposed changes are listed by their COMAR number, followed by a citation to that issue of the Maryland Register in which the proposal appeared. Errata and corrections pertaining to proposed regulations are listed, followed by “(err)” or “(corr),” respectively. 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.

01 EXECUTIVE DEPARTMENT

01.02.11,,03,,11 • 51:21 Md. R. 927 (10-18-24)

07 DEPARTMENT OF HUMAN SERVICES

07.02.09.01—,13 • 51:19 Md. R. 855 (9-20-24)

07.02.25.01—,24, 51:19 Md. R. 861 (9-20-24)

08 DEPARTMENT OF NATURAL RESOURCES

08.02.01.09 • 51:18 Md. R. 811 (9-6-24)

08.02.05.23,,26,,27 • 51:10 Md. R. 534 (5-17-24)

08.02.15.08,,09,,12 • 51:11 Md. R. 581 (5-31-24)

08.02.22.02 • 51:10 Md. R. 534 (5-17-24)

08.02.25.03 • 51:11 Md. R. 581 (5-31-24)

09 MARYLAND DEPARTMENT OF LABOR

09.03.02.01,,04,,09—,13 • 51:14 Md. R. 685 (7-12-24)

09.03.06.02,,04,,06,,16 • 51:14 Md. R. 685 (7-12-24)

09.03.09.02,,07 • 51:14 Md. R. 685 (7-12-24)

09.03.15.01—,05 • 51:14 Md. R. 688 (7-12-24)

51:15 Md. R. 713 (7-26-24) (corr)

09.11.09.02 • 51:15 Md. R. 713 (7-26-24)

09.13.07.02,,04 51:19 Md. R. 870 (9-20-24)

09.19.08.02 51:19 Md. R. 871 (9-20-24)

09.33.02.01—,09 • 50:25 Md. R. 1100 (12-15-23)

09.36.06.01 51:19 871 (9-20-24)

09.36.08.02 51:19 Md. R. 871 (9-20-24)

09.36.08.02 • 50:25 Md. R. 1101 (12-15-23)

09.42.01,,01—,03 • Md. R. 928 (10-18-24)

09.42.02,,01—,10 • Md. R. 931 (10-18-24)

09.42.03,,01—,10 • Md. R. 932 (10-18-24)

09.42.04,,01—,12 • Md. R. 936 (10-18-24)

10 MARYLAND DEPARTMENT OF HEALTH

Subtitles 01—08 (1st volume)

10.07.14.01—.65 • 51:6 Md. R. 272 (3-22-24)

Subtitle 09 (2nd volume)

10.09.11.11 • 51:2 Md. R. 79 (1-26-24)

10.09.21.02—.06 • 51:2 Md. R. 82 (1-26-24)

10.09.24.02,,07,,12 • 51:2 Md. R. 79 (1-26-24)

10.09.39.02,,06 • 50:24 Md. R. 1049 (12-1-23)

10.09.43.10,,13 • 51:2 Md. R. 79 (1-26-24)

10.09.46.12 • 51:4 Md. R. 204 (2-23-24)

10.09.53.04,,05 • 51:4 Md. R. 206 (2-23-24)

10.09.92.04,,05 • 51:1 Md. R. 38 (1-12-24)

Subtitles 23—36 (4th volume)

10.34.34.02,,03,,07,,10 • 51:10 Md. R. 537 (5-17-24)

Subtitles 37—52 (5th volume)

10.37.01.02 • 51:18 Md. R. 812 (9-6-24) (ibr)

10.37.01.03 • 51:17 Md. R. 779 (8-23-24)

10.44.01.01—.39 • 50:20 Md. R. 911 (10-6-23)

10.44.19.05—.12 • 50:24 Md. R. 1051 (12-1-23)

10.44.20.02 • 50:20 Md. R. 918 (10-6-23)

10.44.22.02,,04—.06,,08—.15 • 50:20 Md. R. 918 (10-6-23)

Subtitles 53—68 (6th volume)

10.63.07.02,,03,,05,,11 • 51:3 Md. R. 173 (2-9-24)

10.67.04.20 • 50:24 Md. R. 1049 (12-1-23)

10.67.06.28 • 50:24 Md. R. 1049 (12-1-23)

PENDING TABLE

920

11 DEPARTMENT OF TRANSPORTATION

Subtitles 01—10

11.03.01.09 • 51:11 Md. R. 585 (5-31-24)
51:18 Md. R. 813 (9-6-24)
11.11.13.03 • 51:20 Md. R. 901 (10-4-24)

**12 DEPARTMENT OF PUBLIC SAFETY AND
CORRECTIONAL SERVICES**

12.04.09.02 • 51:13 Md. R. 650 (6-28-24)

13A STATE BOARD OF EDUCATION

13A.05.09.01—04,07 • 51:18 Md. R. 813 (9-6-24)
13A.07.06.02,08 • 51:20 Md. R. 902 (10-4-24)
13A.07.08.01—06,07,08 • 51:20 Md. R. 903 (10-4-24)
13A.12.01.05—07 • 51:21 Md. R. 941 (10-18-24)
13A.12.02.06,07 • 51:21 Md. R. 942 (10-18-24)
13A.12.02.06,07 • 51:21 Md. R. 942 (10-18-24)
13A.12.02.03 • 51:21 Md. R. 943 (10-18-24)
13A.12.04.02,06,07,13,15 • 51:21 Md. R. 942 (10-18-24)
13A.12.05.06,08,10,15 • 51:21 Md. R. 943 (10-18-24)

13A.16.08.03 • 51:2 Md. R. 95 (1-26-24)
13A.16.10.02 • 51:2 Md. R. 95 (1-26-24)
13A.17.10.02 • 51:2 Md. R. 95 (1-26-24)

13B MARYLAND HIGHER EDUCATION COMMISSION

13B.02.03.02,03,06,20 • 51:20 Md. R. 905 (10-4-24)
13B.02.03.28 • 51:18 Md. R. 816 (9-6-24)
13B.08.17.02—05 • 51:16 Md. R. 759 (8-9-24)
13B.08.21.01—22 • 51:18 Md. R. 818 (9-6-24)

14 INDEPENDENT AGENCIES

14.26.03.01—06,08—13 • 51:17 Md. R. 784 (8-23-24)
14.35.07.12 • 51:20 Md. R. 906 (10-4-24)
14.35.18.03,04 • 51:17 Md. R. 789 (8-23-24)
14.39.02.05 • 51:20 Md. R. 907 (10-4-24)

20 PUBLIC SERVICE COMMISSION

20.06.01.01—09 • 51:18 Md. R. 822 (9-6-24)
20.06.02.01—06 • 51:18 Md. R. 822 (9-6-24)
20.50.09.02,06,07,09,10,12—14 • 51:17 Md. R. 789 (8-23-24)

21 STATE PROCUREMENT REGULATIONS

21.10.05.02.06 • 51:20 Md. R. 907 (10-4-24)
21.10.06.12 • 51:20 Md. R. 907 (10-4-24)

25 OFFICE OF THE STATE TREASURER

25.03.04.01—06 • 51:18 Md. R. 828 (9-6-24)

26 DEPARTMENT OF THE ENVIRONMENT

Subtitles 01—07 (Part 1)

26.04.01.01,01-1,20,31 • 51:6 Md. R. 309 (3-22-24) (ibr)

Subtitles 08—12 (Part 2)

26.11.43.04 51:19 Md. R. 872 (9-20-24)

Subtitles 19—30 (Part 4)

26.28.01.01—03 • 51:18 Md. R. 830 (9-6-24) (ibr)
26.28.02.01—05 • 51:18 Md. R. 830 (9-6-24)
26.28.03.01,02 • 51:18 Md. R. 830 (9-6-24)
26.28.04.01—03 • 51:18 Md. R. 830 (9-6-24)

29 DEPARTMENT OF STATE POLICE

29.03.01.45 • 51:10 Md. R. 542 (5-17-24)
29.03.01.58 • 51:15 Md. R. 718 (7-26-24)
29.05.03.01—09 • 51:15 Md. R. 719 (7-26-24)

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

30.02.02.04,06—09 • 50:24 Md. R. 1061 (12-1-23)

31 MARYLAND INSURANCE ADMINISTRATION

31.03.18,02,17 • 51:21 Md. R. 944 (10-18-24)
31.04.18,02,15 • 51:21 Md. R. 945 (10-18-24)

33 STATE BOARD OF ELECTIONS

33.03.02.01,03,05 • 51:16 Md. R. 762 (8-9-24)
33.04.01.02,07 • 51:8 Md. R. 375 (4-19-24)
33.04.02.01—03 • 51:8 Md. R. 375 (4-19-24)
33.05.02.02 • 51:16 Md. R. 762 (8-9-24)
33.17.06.05 • 51:16 Md. R. 762 (8-9-24)

The Governor

EXECUTIVE ORDER 01.01.2024.33

Governor's Subcabinet for International Affairs (Rescinds Executive Order 01.01.2005.24)

WHEREAS, The State of Maryland is committed to strengthening its comprehensive and cohesive international strategy to enhance the State's competitiveness and stature in the global marketplace and international arena;

WHEREAS, Executive Order 01.01.2005.24 amended Executive Order 01.01.2001.20, which created the Governor's Subcabinet for International Affairs within the Office of the Secretary of State to coordinate open communication and collaboration among State agencies regarding international affairs for the State of Maryland;

WHEREAS, The Adjutant General of the Maryland National Guard, who serves as an international representative of the State of Maryland and maintains important relationships with international militaries, should be designated as a member of the Governor's Subcabinet for International Affairs; and

WHEREAS, Given its mission and expertise, the International Affairs Division within the Office of the Secretary of State should provide the primary staff support necessary for the completion of the Subcabinet's duties.

NOW THEREFORE, I, WES MOORE, GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND THE LAWS OF MARYLAND, HEREBY RESCIND EXECUTIVE ORDER 01.01.2005.24 AND PROCLAIM THE FOLLOWING EXECUTIVE ORDER, EFFECTIVE IMMEDIATELY:

- A. Establishment. There is a Governor's Subcabinet for International Affairs ("Subcabinet") established for the purpose of developing, evaluating and coordinating a cohesive international strategy to enhance the State's competitiveness and stature in the global marketplace and international arena.
- B. Membership. The Subcabinet shall consist of:
- (1) The Secretary of State;
 - (2) The Secretary of Commerce;
 - (3) The Secretary of Agriculture;
 - (4) The Secretary of Transportation;
 - (5) The Secretary of Higher Education;
 - (6) The Adjutant General;
 - (7) The Secretary of the Environment; and
 - (8) The Lieutenant Governor.
- C. Chair. The Secretary of State shall chair the Subcabinet and is responsible for the oversight and direction of the work of the Subcabinet.
- D. Administration.
- (1) The Subcabinet shall be staffed by the International Affairs Division within the Office of the Secretary of State.
 - (2) The Governor or the Chair may establish subcommittees to carry out the work of the Subcabinet.
- E. Procedures.
- (1) The Subcabinet shall meet as often as its duties require, but no less than quarterly.
 - (2) The Subcabinet shall consult with other State departments and agencies as needed to carry out the provisions of this Executive Order.
- F. Duties. The Subcabinet shall:
- (1) Advise the Governor on matters of international affairs.

- (2) Coordinate the State's international activity including international cultural and educational, and economic development events, trips, and activities, and cooperate with the federal government, where necessary.
 - (3) Oversee the protocol functions of the State by developing and implementing a system to ensure that international protocol is adequately conducted on behalf of the State.
 - (4) Contribute to the economic development of the State by ensuring that all appropriate State agencies work in a cooperative, coordinated manner to plan, implement, oversee and evaluate the foreign affairs of the State.
 - (5) Examine the current structure and organization of Maryland's system of international affairs to develop:
 - a. A coordinated State international strategy that includes a procedure for identifying and assessing foreign developments that may impact the State;
 - b. An annual interagency plan for implementation of the State international strategy, including services and functions dealing with the international affairs of the State;
 - c. A consistent and clear international identity of the State by serving as the official liaison between the Governor and foreign governments and international organizations; and
 - d. Recommendations for programs and policies, if appropriate, to ensure that the needs and goals of the State's international strategy are met and accomplished.
 - (6) Develop a plan to coordinate and respond to international correspondence and requests.
 - (7) Perform other duties and responsibilities as assigned by the Governor.
- G. Reporting. The Subcabinet shall submit a report to the Governor by January 31st each year, detailing its recommendations to support a coordinated State international strategy.
- H. General Provisions.
- (1) This Executive Order shall be implemented in a manner that is consistent with all applicable statutes and regulations. Nothing in this Executive Order shall operate to contravene any State or federal law or to affect the State's receipt of federal funding.
 - (2) If any provision of this Executive Order or its application to any person, entity, or circumstance is held invalid by any court of competent jurisdiction, all other provisions or applications of the Executive Order shall remain in effect to the extent possible without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are severable.

GIVEN Under My Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 30th Day of September 2024.

WES MOORE
Governor

ATTEST:

SUSAN C. LEE
Secretary of State

[24-21-18]

EXECUTIVE ORDER 01.01.2024.34

Reinvest Baltimore

WHEREAS, The State of Maryland is committed to maximizing the economic potential and quality of life for all residents of Baltimore City;

WHEREAS, The long standing concentration of blighted vacant residential properties and other structures in Baltimore City impedes the public health, safety and quality of life for residents;

WHEREAS, Concentrations of vacant properties disproportionately impact lower income communities of color, decrease property values of surrounding property, and gravely lower the potential for residential and business advancement;

WHEREAS, Maryland must take action to eliminate concentrations of vacant properties and strategize to promote population growth, increase access to homeownership, aid small business development and establish quality community amenities that benefit residents in Baltimore City neighborhoods;

WHEREAS, Partnership between State and local agencies and the private sector is critical to secure capital and community investments; and

WHEREAS, The State and Baltimore City have dedicated historic levels of public funds to eliminate vacancy and blight in Baltimore City and possess a shared interest to revitalize neighborhoods and maximize the economic potential and quality of life for residents in Baltimore City.

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

A. Establishment.

1. There is hereby established a Reinvest Baltimore Program (“Reinvest Baltimore”), a collective effort between the State, Baltimore City, and local organizations to eliminate concentrations of vacant properties and blight, revitalize neighborhoods, and maximize the economic potential and quality of life for residents in Baltimore City.
2. The Maryland Department of Housing and Community Development’s Project C.O.R.E. (Creating Opportunities for Revitalization and Equity) Initiative to develop green space, affordable and mixed use housing, greater opportunities for small business owners, generate jobs, and strengthen the partnership between the City of Baltimore and the State of Maryland to create safer, healthier and more attractive spaces for families to live and put down roots in Baltimore, shall now be known as the Baltimore Vacants Reinvestment Initiative.
 - a. The Secretary of the Department of Housing and Community Development shall rebrand, incorporate and merge the activities of the former Project C.O.R.E. with the new Baltimore Vacants Reinvestment Initiative.
3. There is hereby established a Baltimore Vacants Reinvestment Council (“Council”) to coordinate State and local efforts to implement Reinvest Baltimore and provide timely and accurate information to the Governor about the programs, activities, and progress of Reinvest Baltimore.
4. Reinvest Baltimore shall consist of the Baltimore Vacants Reinvestment Initiative and the Baltimore Vacants Reinvestment Council.

B. Membership. The Council shall consist of the following members:

1. The Secretary of the Department of Housing and Community Development, or the Secretary’s designee, who shall serve as Chair;

2. The Commissioner of the Baltimore City Department of Housing and Community Development, or the Commissioner’s designee, who shall serve as Vice Chair;
3. The Secretary of the Maryland Department of Planning, or the Secretary’s designee;
4. The Secretary of the Maryland Department of Labor, or the Secretary’s designee;
5. The Executive Director of the Maryland Stadium Authority, or the Director’s designee;
6. The Attorney General, or the Attorney General’s designee;
7. The Executive Director of the Maryland Economic Development Corporation, or the Executive Director’s designee;
8. One (1) member of the Maryland Senate, appointed by the President of the Senate;
9. One (1) member of the Maryland House of Delegates, appointed by the Speaker of the House of Delegates;
10. Two (2) members appointed by the Baltimore City Mayor representing:
 - a. The Office of the Mayor; and
 - b. The Baltimore City Department of Finance;
11. One (1) member of the Baltimore City Council, appointed by the Baltimore City Council President;
12. Five (5) members, appointed by the Governor, with training, knowledge, or experience in real estate, community-engaged design and planning, building equitable neighborhoods, and addressing housing vacancy; and
13. Such other officials of executive departments and agencies as the Governor may from time to time designate.

C. Duties. The Council, led by the Secretary of the Department of Housing and Community Development, shall:

1. Develop a plan to obtain private, philanthropic, and federal funding to support Reinvest Baltimore;
2. Recommend strategies and establish community-based priorities to maximize investments, reduce vacancy and promote neighborhood renewal in Baltimore City;
3. Identify and address challenges related to the implementation of Reinvest Baltimore;
4. Gather and share information related to vacancy reduction, eliminating blight, and neighborhood renewal;
5. Provide recommendations on the establishment of “VacantStat,” a State and Baltimore City comprehensive and public data dashboard to measure and monitor key metrics that will combine existing resources and the information, tools, and supplements to illustrate progress on Reinvest Baltimore;
6. Identify opportunities for the State and Baltimore City to increase collaboration to advance Reinvest Baltimore; and
7. Recommend policy changes at the State and local level to promote Reinvest Baltimore.

D. Administration.

1. The Council shall be staffed by the Maryland Department of Housing and Community Development.
2. The Council may function through established or ad hoc committees or working groups.
3. Members appointed by the Governor shall serve at the pleasure of the Governor.
4. Members of the Council may not receive any compensation for their services, but may be reimbursed for their reasonable expenses incurred in the performance of duties in accordance with the State Standard Travel Regulations and as provided in the State budget.
5. To the extent permitted by law, all Executive Branch departments and agencies shall cooperate with the Council

and provide such assistance, information, and advice to the Council as the Council may request.

- 6. The Council shall maintain transparency in its operations and is subject to the provisions of the Public Information Act and the Open Meetings Act.

E. Procedures.

- 1. The Council Chair shall:
 - a. Oversee and lead the implementation of this Executive Order and the work of the Council;
 - b. Determine the Council's agenda; and
 - c. Identify additional support as needed.
- 2. The Council Chair may adopt bylaws, rules, and other procedures necessary to ensure the orderly transaction of business.
- 3. A majority of the members present shall constitute a quorum for the transaction of any business of the Council.
- 4. The Council shall submit an annual report to the Governor on or before January 1, 2025, and by September 30th, each year thereafter, outlining the status of Reinvest Baltimore and any progress, challenges, and recommendations.

F. Meetings of the Council.

- 1. The Council shall meet as often as its duties require, but no less than quarterly.
- 2. The Council Chair may convene meetings of the Council and shall preside over the meetings.
- 3. The Council may establish ad hoc committees or working groups that meet in between the Council's official quarterly meetings.

G. Duration. This Executive Order shall remain in effect until January 15, 2027, unless earlier modified or rescinded.

H. General Provisions.

- 1. This Executive Order shall be implemented in a manner that is consistent with all applicable statutes and regulations. Nothing in this Executive Order shall operate to contravene any State or federal law or to affect the State's receipt of federal funding.
- 2. If any provision of this Executive Order or its application to any person, entity, or circumstance is held invalid by any court of competent jurisdiction, all other provisions or applications of the Executive Order shall remain in effect to the extent possible without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are severable.

GIVEN Under My Hand and the Great Seal of the State of Maryland, in the City of Baltimore, this 1st Day of October 2024.

WES MOORE
Governor

ATTEST:

SUSAN C. LEE
Secretary of State

[24-21-19]

The Judiciary

SUPREME COURT OF MARYLAND

DISCIPLINARY PROCEEDINGS

This is to certify that by an Order of this Court dated September 23, 2024, MICHELE YVONNE GALLAGHER (CPF# 9606050153) as of September 23, 2024, Michele Yvonne Gallagher has been indefinitely suspended by consent, effective immediately, and her name has been stricken from the register of attorneys in this Court. Notice of this action is given in accordance with Maryland Rule 19-761(b).

* * * * *

This is to certify that by an Order of this Court dated September 23, 2024, SHEILA BRIDGET THURMOND MAYERS (CPF# 0107010003) as of September 23, 2024, Sheila Bridget Thurmond Mayers has been temporarily suspended, effective immediately, and her name has been stricken from the register of attorneys in this Court. Notice of this action is given in accordance with Maryland Rule 19-761(b).

* * * * *

This is to certify that by an Order of this Court dated September 24, 2024, BRIAN DAVID O'NEILL (CPF# 0712120129) as of September 24, 2024, Brian David O'Neill has been disbarred, effective immediately, and his name has been stricken from the register of attorneys in this Court. Notice of this action is given in accordance with Maryland Rule 19-761(b).

* * * * *

This is to certify that by an Order of this Court dated September 24, 2024, CAROL MARIE GORDON (CPF# 8906140081) as of September 24, 2024, Carol Marie Gordon's name has been replaced on the register of attorneys permitted to practice law in the Supreme Court of Maryland. Notice of this action is given in accordance with Maryland Rule 19-761(b).

* * * * *

This is to certify that by an Order of this Court dated September 24, 2024, KEVIN MBEH TABE (CPF# 0912170224) as of September 24, 2024, Kevin Mbeh Tabe's name has been replaced on the register of attorneys permitted to practice law in the Supreme Court of Maryland. Notice of this action is given in accordance with Maryland Rule 19-761(b).

[24-21-20]

Regulatory Review and Evaluation

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

Title 10 DEPARTMENT OF HEALTH

Subtitle 26 BOARD OF ACUPUNCTURE

Notice of Availability of Evaluation Report

Pursuant to Executive Order 01.01.2003.20, Implementation of the Regulatory Review and Evaluation Act, notice is hereby given that the Evaluation Report concerning COMAR Title 10, Subtitle 26 Board of Acupuncture is available for public inspection and comment for a period of 60 days following the date of this notice. This report may be reviewed by appointment at the Office of Regulation & Policy Coordination, Maryland Department of Health, 201 West Preston Street, Room 534, Baltimore, Maryland 21201. Information and appointments may be obtained by contacting Jordan Fisher Blotter, Director, Office of Regulation & Policy Coordination, at 410-215-7809 or by email at jordan.fisher@maryland.gov.

[24-21-07]

Subtitle 27 BOARD OF NURSING

Notice of Availability of Evaluation Report

Pursuant to Executive Order 01.01.2003.20, Implementation of the Regulatory Review and Evaluation Act, notice is hereby given that the Evaluation Report concerning COMAR Title 10, Subtitle 27 Board of Nursing is available for public inspection and comment for a period of 60 days following the date of this notice.

This report may be reviewed by appointment at the Office of Regulation & Policy Coordination, Maryland Department of Health, 201 West Preston Street, Room 534, Baltimore, Maryland 21201. Information and appointments may be obtained by contacting Jordan Fisher Blotter, Director, Office of Regulation & Policy Coordination, at 410-215-7809 or by email at jordan.fisher@maryland.gov.

[24-21-08]

Subtitle 28 BOARD OF EXAMINERS IN OPTOMETRY

Notice of Availability of Evaluation Report

Pursuant to Executive Order 01.01.2003.20, Implementation of the Regulatory Review and Evaluation Act, notice is hereby given that the Evaluation Report concerning COMAR Title 10, Subtitle 28 Board of Examiners in Optometry is available for public inspection and comment for a period of 60 days following the date of this notice.

This report may be reviewed by appointment at the Office of Regulation & Policy Coordination, Maryland Department of Health, 201 West Preston Street, Room 534, Baltimore, Maryland 21201. Information and appointments may be obtained by contacting Jordan Fisher Blotter, Director, Office of Regulation & Policy Coordination, at 410-215-7809 or by email at jordan.fisher@maryland.gov.

[24-21-09]

Subtitle 29 BOARD OF MORTICIANS AND FUNERAL DIRECTORS

Notice of Availability of Evaluation Report

Pursuant to Executive Order 01.01.2003.20, Implementation of the Regulatory Review and Evaluation Act, notice is hereby given that the Evaluation Report concerning COMAR Title 10, Subtitle 29 Board of Morticians and Funeral Directors is available for public inspection and comment for a period of 60 days following the date of this notice. This report may be reviewed by appointment at the Office of Regulation & Policy Coordination, Maryland Department of Health, 201 West Preston Street, Room 534, Baltimore, Maryland 21201. Information and appointments may be obtained by contacting Jordan Fisher Blotter, Director, Office of Regulation & Policy Coordination, at 410-215-7809 or by email at jordan.fisher@maryland.gov.

[24-21-10]

**Subtitle 30 COMMISSION ON KIDNEY
DISEASE**

Notice of Availability of Evaluation Report

Pursuant to Executive Order 01.01.2003.20, Implementation of the Regulatory Review and Evaluation Act, notice is hereby given that the Evaluation Report concerning COMAR Title 10, Subtitle 30 Commission on Kidney Disease is available for public inspection and comment for a period of 60 days following the date of this notice.

This report may be reviewed by appointment at the Office of Regulation & Policy Coordination, Maryland Department of Health, 201 West Preston Street, Room 534, Baltimore, Maryland 21201. Information and appointments may be obtained by contacting Jordan Fisher Blotter, Director, Office of Regulation & Policy Coordination, at 410-215-7809 or by email at jordan.fisher@maryland.gov.

[24-21-11]

**Subtitle 39 BOARD OF NURSING —
CERTIFIED NURSING ASSISTANTS**

Notice of Availability of Evaluation Report

Pursuant to Executive Order 01.01.2003.20, Implementation of the Regulatory Review and Evaluation Act, notice is hereby given that the Evaluation Report concerning COMAR Title 10, Subtitle 39 Board of Nursing – Certified Nursing Assistants is available for public inspection and comment for a period of 60 days following the date of this notice.

This report may be reviewed by appointment at the Office of Regulation & Policy Coordination, Maryland Department of Health, 201 West Preston Street, Room 534, Baltimore, Maryland 21201. Information and appointments may be obtained by contacting Jordan Fisher Blotter, Director, Office of Regulation & Policy Coordination, at 410-215-7809 or by email at jordan.fisher@maryland.gov.

[24-21-12]

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 13A STATE BOARD OF EDUCATION

Subtitle 03 GENERAL INSTRUCTIONAL PROGRAMS

13A.03.02 Graduation Requirements for Public High Schools in Maryland

Authority: Education Article, §§2-205, 7-203, 7-205, 7-205.1, and 8-404, Annotated Code of Maryland

Notice of Final Action

[24-074-F]

On September 24, 2024, the State Board of Education adopted amendments to Regulation .12 under **COMAR 13A.03.02 Graduation Requirements for Public High Schools in Maryland**. This action, which was proposed for adoption in 51:14 Md. R. 690—691 (July 12, 2024), has been adopted as proposed.

Effective Date: October 28, 2024.

CAREY M. WRIGHT, Ed.D.
State Superintendent of Schools

Title 14 INDEPENDENT AGENCIES

Subtitle 22 COMMISSION ON CRIMINAL SENTENCING POLICY

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

Notice of Final Action

[24-099-F]

On October 8, 2024, the Maryland State Commission on Criminal Sentencing Policy adopted:

- (1) Amendments to Regulations .12 and .14 under **COMAR 14.22.01 General Regulations; and**
- (2) Amendments to Regulations .01 and .02 under **COMAR 14.22.02 Criminal Offenses and Seriousness Categories.**

This action, which was proposed for adoption in 51:17 Md. R. 779—784 (August 23, 2024), has been adopted with the nonsubstantive changes shown below.

Effective Date: November 1, 2024.

Attorney General’s Certification

In accordance with State Government Article, §10-113, Annotated Code of Maryland, the Attorney General certifies that the following changes do not differ substantively from the proposed text. The nature of the changes and the basis for this conclusion are as follows: Two of the new offenses being added to 14.22.02 (see rows 71-1 and 71-2 of the offense table) originally cited the same source (HG, §21-2D-02 and HG, §21-2D-02(f), respectively). This is due to the fact that the bills creating these offenses placed both under the new Subtitle “2D” in Title 21. Per the Department of Legislative Services, only one of the offenses will keep this citation, and the other will be changed to an open subtitle. The MSCCSP now knows the open subtitle that “the other” was changed to. Accordingly, the proposed revisions revise row 71-2 to amend from HG, §21-2D-02(f) to HG, §21-2E-02(f).

.02 Seriousness Categories.

Offense	Offense Literal	CJIS Code	Source	Felony or Misd.	Max Term	Min Term	Offense Type	Ser. Category	Fine
1—71-1 (proposed text unchanged)									
71-2	<i>CDS and Paraphernalia</i> <i>Preparation, distribution, or sale of kratom products to an individual under 21; without proper label disclosures; or that contain certain other substances</i>		[[<u>HG, §21-2D-02(f)</u>]] <u>HG, §21-2E-02(f)</u>	<i>Misd.</i>	<i>90D</i>		<i>Drug</i>	<i>VII</i>	<i>\$5,000</i>
72—421 (proposed text unchanged)									

Footnotes (text unchanged)
General Rules: (text unchanged)

DAVID SOULE
Executive Director

Proposed Action on Regulations

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

Symbol Key

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

Promulgation of Regulations

An agency wishing to adopt, amend, or repeal regulations must first publish in the Maryland Register a notice of proposed action, a statement of purpose, 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 01

EXECUTIVE DEPARTMENT

Subtitle 02 SECRETARY OF STATE

01.02.11 Maryland Safe at Home Address Confidentiality Program

Authority: Authority: Real Property Article, §§3-114—3-120; State Government Article, §§7-301—7-313; Annotated Code of Maryland

Notice of Proposed Action

[24-128-P]

The Secretary of State proposes to amend Regulations .03 and .11 under COMAR 01.02.11 Maryland Safe at Home Address Confidentiality Program.

Statement of Purpose

The purpose of this action is to clarify residency requirements for individuals seeking to apply to the program and to clarify the eligibility criteria for reinstatement following a previous program cancellation. This action adds program eligibility for participants who have not been previously cancelled for non-compliance, and confirms existing practice for participants to remain eligible for participation when they are in the process of relocating due to their address becoming public. It also updates the returned mail requirements for participants to maintain their program eligibility.

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 Eileen Hammack, Deputy Director, Office of the Secretary of State, Address Confidentiality Program, 16 Francis Street, Annapolis, MD 21401, or call 410-260-3875, or email to eileen.hammack@maryland.gov. Comments will be accepted through November 18, 2024. A public hearing has not been scheduled.

.03 Who May Apply.

Beginning October 1, 2006, an individual may apply to participate in the Program. To be designated as a participant in the Program, the individual shall:

- (text unchanged)
- Be a present or future *primary* resident of Maryland;
- (text unchanged)
- Have recently relocated or intend to relocate within 30 days from the date of application to an address unknown to the abuser and, at the time of application, not readily accessible to the general public, according to the discretion of the Secretary; [and]

E. Submit evidence satisfactory to the Secretary of threatened, attempted, or actual domestic violence, sexual assault, stalking, harassment, or human trafficking [satisfactory to the Secretary.]; and

F. *Not have been previously cancelled from the Program for non-compliance with Program obligations as set forth in State Government Article, §7-307(a)(1), (3), and (4), Annotated Code of Maryland and these regulations.*

.11 Cancellation from Program.

- (text unchanged)
- [Under State Government Article, §§7-307(a)(4), Annotated Code of Maryland, if the Secretary forwards mail to a participant and it is returned three times in succession as undeliverable, then the Secretary shall cancel the participant from the Program.] *The Secretary may cancel the participation of a participant if mail forwarded by the Secretary to the participant's address is returned as undeliverable by the United States Postal Service.*

C. Under State Government Article, §7-307(a)(5), Annotated Code of Maryland, if the Secretary determines that the actual address of a participant is readily accessible to the general public, the Secretary shall notify the participant of the determination and intent to cancel

participation. The participant may remain in the Program if they intend to relocate within 30 days, or longer upon written request and determination by the Secretary that additional time is needed to relocate, to an address unknown to the abuser and not readily accessible to the general public.

D. A program participant whose participation is cancelled under State Government Article, §7-307(a)(5), Annotated Code of Maryland may be eligible to reapply for participation if:

(1) Their address became known or publicly available through no fault of their own, and they were otherwise in compliance with Program rules and regulations;

(2) They have relocated to an address that is unknown to the abuser and not readily accessible to the general public; and

(3) They meet all other eligibility requirements under Regulation .03 of this chapter.

SUSAN C. LEE
Secretary of State

Title 09

MARYLAND DEPARTMENT OF LABOR

Subtitle 42 FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM

09.42.01 General Provisions

Authority: Labor and Employment Article, §§8.3-101, 401, 402 and 403, Annotated Code of Maryland

Notice of Proposed Action

[24-130-P]

The Family and Medical Leave Insurance Division of the Maryland Department of Labor proposes to adopt new Regulations **.01— .03** under a new chapter, **COMAR 09.42.01 General Provisions**, under a new subtitle, **Subtitle 42 Family and Medical Leave Insurance Program**.

Statement of Purpose

The purpose of this action is to define terms for use throughout the entire subtitle, establish the Division, and outline required templates and forms.

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 Regan Vaughan, Director of Policy, Family and Medical Leave Insurance Division of the Maryland Department of Labor, 1100 N. Eutaw Street, Baltimore, MD 21201, or call 410-230-6071, or email to famli.policy@maryland.gov. Comments will be accepted through November 18, 2024. A public hearing has not been scheduled.

.01 Definitions.

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

B. Terms Defined.

(1) “Administration” means the Maryland Insurance Administration.

(2) “Adverse determination” means a disqualification of an individual or denial, in full or in part, of Family and Medical Leave Insurance (FAMLI) leave or benefits to a claimant made under the Division’s reconsideration process.

(3) “Application year” means the 12-month period beginning on the Sunday of the calendar week of which FAMLI leave begins.

(4) “Assistant Secretary” means the Assistant Secretary for the FAMLI Division established by COMAR 09.42.01.02.

(5) “Business day” means a day that the State is open for the transaction of business and begins at 12 a.m. and ends at 11:59.59 p.m.

(6) “Carrier” means an insurer authorized to sell insurance by the Administration.

(7) “Claim” means an application for FAMLI leave and benefits under Labor and Employment Article, §8.3-101 et seq., Annotated Code of Maryland.

(8) “Claimant” means an individual who applies for FAMLI leave and benefits under this subtitle.

(9) “Commercially insured EPIP” means an EPIP in which the employer purchases an insurance policy from an insurance company approved to sell paid FAMLI products by the Administration and the benefits related to the plan are administered through the insurance policy.

(10) “Continuing treatment” means any one or more of the following.

(a) Incapacity and treatment.

(b) Pregnancy or prenatal care. Any period of incapacity due to pregnancy, childbirth, miscarriage or stillbirth, or period of absence for prenatal care.

(c) Chronic conditions. Any period of incapacity or treatment for the incapacity due to a chronic serious health condition that:

(i) Requires periodic visits (defined as at least twice a year) for treatment ordered by a licensed health care provider;

(ii) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(iii) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

(d) Permanent or Long-Term Conditions. A period of incapacity which is permanent or long-term due to a condition that treatment may not be effective and requires continuing supervision, but need not be receiving active treatment by, a licensed health care provider.

(e) Conditions Requiring Multiple Treatments. Any period of absence to receive multiple treatments (including any period of recovery therefrom) ordered by a licensed health care provider, for:

(i) Restorative surgery after an accident or other injury;

or

(ii) A condition that would likely result in a period of incapacity of more than 3 full, consecutive days in the absence of medical intervention or treatment.

(f) Absences attributable to incapacity under §B(10)(b) or (c) of this regulation qualify for FAMLI leave even though the claimant or the family member does not receive treatment from a licensed health care provider during the absence, and even if the absence does not last more than 3 full, consecutive days.

(11) “Contribution” means the payments made to the Division under Labor and Employment Article, §8.3-601 et seq., Annotated Code of Maryland and Chapter 02 of this subtitle.

(12) "Covered employee" means an employee who has worked at least 680 hours performing qualified employment located in the State over the four most recently completed calendar quarters for which quarterly reports have been required immediately preceding the date on which leave is to begin.

(13) "Covered individual" means a covered employee.

(14) "Department" means the Maryland Department of Labor.

(15) "Deployment" has the meaning as defined in Labor and Employment Article, §8.3-101(g), Annotated Code of Maryland.

(16) "Division" means the FAML I Division established by COMAR 09.42.01.02.

(17) "Domestic partner" means the person with whom someone is in a domestic partnership.

(18) "Domestic partnership" means a relationship between two individuals who:

(a) Are at least 18 years old;

(b) Are not related to each other by blood or marriage within 4 degrees of consanguinity under civil law rule;

(c) Are not married or in a civil union or a relationship described in this subsection with another individual; and

(d) Agree to be in a relationship of mutual interdependence in which each individual contributes to the maintenance and support of the other individual and the relationship, even if both individuals are not required to contribute equally to the relationship.

(19) Employee.

(a) "Employee" means an individual who performs work for compensation.

(b) "Employee" does not mean an individual who meets the following requirements:

(i) The individual who performs the work is free from control and direction over its performance both in fact and under a contract;

(ii) The individual customarily is engaged in an independent business or occupation of the same nature as that involved in the work; and

(iii) The work is outside of the usual course of business of the person for whom the work is performed or it is performed outside of any place of business of the person for whom the work is performed.

(20) Employer.

(a) "Employer" means a person or governmental entity that employs at least one individual who performs qualified employment.

(b) "Employer" does not mean:

(i) An individual who is the sole owner of a sole proprietorship, limited liability company, C Corporation or S Corporation; and

(ii) Is the only individual employed by the sole proprietorship, limited liability company, C corporation or S Corporation.

(21) "EPIP administrator" means:

(a) An employer self-administering an approved self-insured EPIP;

(b) A third-party administrator or payroll company acting on behalf of an employer to provide administration and oversight of an approved self-insured EPIP; or

(c) A carrier administering an approved commercially insured EPIP.

(22) "Equivalent-private insurance plan (EPIP)" means a Division approved commercially insured or self-insured insurance plan provided by an employer to employees that meets or exceeds the State plan, whether it is administered by the employer, a third-party administrator, or a carrier.

(23) "The Family and Medical Leave Act (FMLA)" means the Family and Medical Leave Act of 1993, 29 U.S.C. §§2601-2654.

(24) "Family leave" means leave used:

(a) To care for or bond with a child of the covered individual during the first year after the child's birth;

(b) During the process through which a child is being placed with the covered individual through foster care, kinship care, or adoption and to care for or bond with the child during the first year after the placement;

(c) To care for a family member with a serious health condition; or

(d) To care for a service member with a serious health condition for whom the covered individual is next of kin.

(25) "Family member" means:

(a) A biological child, an adopted child, a foster child, or a stepchild of the covered individual;

(b) A child for whom the covered individual has legal or physical custody or guardianship;

(c) A child for whom the covered individual stands in loco parentis, regardless of the child's age;

(d) A biological parent, an adoptive parent, a foster parent, or a stepparent of the covered individual or of the covered individual's spouse;

(e) The legal guardian of the covered individual or the ward of the covered individual or of the covered individual's spouse;

(f) An individual who acted as a parent or stood in loco parentis to the covered individual or the covered individual's spouse when the covered individual or the covered individual's spouse was a minor;

(g) The spouse of the covered individual;

(h) A domestic partner of the covered individual;

(i) A biological grandparent, an adopted grandparent, a foster grandparent, or a stepgrandparent of the covered individual;

(j) A biological grandchild, an adopted grandchild, a foster grandchild, or a stepgrandchild of the covered individual; or

(k) A biological sibling, an adopted sibling, a foster sibling, or a stepsibling of the covered individual.

(26) "FAML I benefits" means the money payable under Labor and Employment Article, §8.3-101, et seq., Annotated Code of Maryland and this subtitle.

(27) "FAML I leave" means family leave, medical leave, and/or qualified exigency leave that a covered individual is entitled to under Labor and Employment Article §8.3-101 et seq., Annotated Code of Maryland.

(28) "Incapacity" means the inability to perform at least one essential job function, attend school, or perform regular daily activities.

(29) "Incapacity and treatment" means:

(a) A period of incapacity of more than 3 full, consecutive days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(i) Treatment two or more times, within 30 days of the first day of incapacity, unless extenuating circumstances exist, by a licensed health care provider; or

(ii) Treatment ordered by a licensed health care provider on at least one occasion, which results in a regimen of continuing treatment, including home care administered by a competent individual under the direction of a licensed health care provider.

(b) The requirement in §B(29)(a)(i) of this regulation for treatment by a licensed health care provider means an in-person visit or synchronous tele-health appointment with a licensed health care provider.

(c) The first (or only) in-person treatment visit or synchronous tele-health appointment shall take place within 7 days of the first day of incapacity.

(d) Whether additional treatment visits or a regimen of continuing treatment is necessary within the 30-day period shall be determined by the licensed health care provider.

(e) The term extenuating circumstances in §B(29)(a)(i) of this regulation means circumstances beyond the claimant's control that prevent the follow-up visit from occurring as planned by the licensed health care provider.

(30) "Inpatient care" means an overnight stay in a hospital, as defined in Health General Article, §19-301, Annotated Code of Maryland, or related institution, as defined in Health General Article, §19-301, Annotated Code of Maryland, or a hospice facility, as defined in Health General Article, §19-901, Annotated Code of Maryland, or any subsequent treatment in connection with inpatient care.

(31) "Kinship care" means informal kinship care as stated in the Education Article, §4-122.1(a)(2), Annotated Code of Maryland and formal kinship care as stated in the Family Law Article, §5-501(e), Annotated Code of Maryland.

(32) "Licensed health care provider" means:

(a) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery in a state and performing within the scope of their practice as defined under the state's law;

(b) A podiatrist, dentist, clinical psychologist, optometrist, or chiropractor (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X ray to exist) authorized to practice in a state and performing within the scope of their practice as defined under the state's law;

(c) A nurse practitioner, nurse midwife, clinical social worker, or physician assistant authorized to practice in a state and performing within the scope of their practice as defined under the state's law; or

(d) Any health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of their practice as defined under such law.

(e) The phrase "authorized to practice in a state" as used in this section means that the provider must be authorized to diagnose and treat physical or mental health conditions.

(33) "Maximum weekly benefit amount" means the amount established under Labor and Employment Article, §8.3-703, Annotated Code of Maryland.

(34) "Medical leave" means leave taken because the covered individual has a serious health condition that results in the covered individual being unable to perform the functions of the covered individual's position.

(35) "Qualified employment" means the provision of services localized within the State under COMAR 09.42.02.04 by an employee to an employer.

(36) "Qualified exigency leave" means leave taken when a qualifying exigency as defined in Labor and Employment Article §8.3-101(m), Annotated Code of Maryland arises out of the deployment of a service member who is a family member of the covered individual.

(37) "Secretary" means the Secretary of Labor.

(38) "Self-insured EPIP" means an EPIP in which the employer offers a private plan for which the employer assumes all financial risk associated with the benefits and administration of the EPIP, whether it is administered by the employer or a third-party administrator.

(39) "Serious health condition" means an illness, injury, impairment, or physical or mental condition of a claimant or their family member that:

(a) Requires inpatient care;

(b) Requires continuing treatment by a licensed health care provider; or

(c) Involves the donation of a body part, organ, or tissue, including preoperative or diagnostic services, surgery, post-operative treatment, and recovery.

(40) "Service member's next of kin" means the nearest blood relative other than the service member's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the service member has specifically designated in writing another blood relative as their nearest blood relative for purposes of military caregiver leave under FMLA.

(a) When no such designation is made, and there are multiple family members with the same level of relationship to the service member, all such family members shall be considered the service member's next of kin and may take FAMLI leave to provide care to the service member, either consecutively or simultaneously.

(b) When such designation has been made, the designated individual shall be deemed to be the service member's only next of kin.

(41) "State plan" means the State-provided FAMLI plan including the fund from which benefits are paid.

(42) "Treatment" includes, with the exception of routine physical examinations, eye examinations, or dental examinations, examinations to determine if a serious health condition exists and evaluations of a serious health condition.

(43) "Wages" has the meaning as defined in Labor and Employment Article, §8.3-101(r), Annotated Code of Maryland.

.02 General Regulations.

A. There is a FAMLI Division within the Department.

B. The FAMLI Division shall administer the FAMLI program.

C. The Assistant Secretary has been delegated by the Secretary powers and duties reasonable and proper for the administration of Labor and Employment Article, §8.3-101, et seq., Annotated Code of Maryland and this subtitle.

.03 Required Templates and Forms.

A. The Division may mandate the use of approved templates and forms by EPIPs, employers, and claimants including:

(1) Employer notice to employee templates;

(2) Claims:

(a) Claim application form;

(b) Certification of qualifying event forms;

(c) Proof of relationship template;

(d) Good cause exemption form; and

(e) Intermittent leave use template; and

(3) Dispute Resolution:

(a) Request forms;

(b) Reconsideration scheduling template;

(c) Decision templates; and

(d) Good cause exemption form.

B. The Division shall make mandated templates and forms available for download from its website.

C. Any changes to the fields on the templates or forms mandated by the Division shall be provided to the Division no less than 30 days before the changed template or form would go into effect.

PORTIA WU
Secretary of Labor

REGAN VAUGHAN
Director of Policy

Subtitle 42 FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM

09.42.02 Contributions

Authority: Labor and Employment Article, §§8.3-101, 201, and 601, Annotated Code of Maryland

Notice of Proposed Action

[24-131-P]

The Family and Medical Leave Insurance Division of the Maryland Department of Labor proposes to adopt new Regulations **.01—10** under a new chapter, **COMAR 09.42.02 Contributions**, under a new subtitle, **Subtitle 42 Family and Medical Leave Insurance Program**.

Statement of Purpose

The purpose of this action is to define and detail the contribution requirements, due dates, and related filings of employers and employees in the State.

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 Regan Vaughan, Director of Policy, Family and Medical Leave Insurance Division of the Maryland Department of Labor, 1100 N. Eutaw Street Baltimore, MD 21201, or call 410-230-6071, or email to famli.policy@maryland.gov. Comments will be accepted through November 18, 2024. A public hearing has not been scheduled.

.01 Definitions.

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

B. Terms Defined.

(1) “Small employer” means a person or governmental entity that meets the definition of employer and employs fewer than 15 employees, as calculated using the method under COMAR 09.42.02.06.

(2) “Social security wage base” means the maximum wage subject to tax under the Federal Insurance Contributions Act, 26 U.S.C. §3101, et seq. for any particular year, as published by the Social Security Administration.

(3) “Total rate of contribution” means the percent of wages published by the Department for any particular year, under the Division’s authority under Labor and Employment Article, §8.3-601, Annotated Code of Maryland.

.02 Employer Registration Requirements.

An employer shall create and maintain an online account necessary to make required information reports, remit contribution payments, and both receive and provide any necessary communication with the Division regarding reporting and contribution obligations under Labor and Employment Article, §8.3-101, et seq., Annotated Code of Maryland.

.03 Registration of New Employers After Contributions Begin.

An employer who commences operations after contributions begin shall, within 20 days of their first payment of wages to a qualified employee, create and maintain an online account necessary to make

required information reports, remit contribution payments, and both receive and provide any necessary communication with the Division regarding reporting and contribution obligations under Labor and Employment Article, §8.3-101, et seq., Annotated Code of Maryland.

.04 Qualified Employment.

A. All wages paid by each employer to an employee for performing qualified employment are subject to contributions up to the amount of the social security wage base each calendar year.

B. Employment is qualified employment if:

(1) The employment obligates the employer to pay contributions to the Unemployment Insurance Fund under Labor and Employment Article, §8-101, et seq., Annotated Code of Maryland; or

(2) The employment does not obligate the employer to pay unemployment insurance fund contributions to any jurisdiction but:

(a) The employment is performed in the State, including:

(i) Employment performed on land that the United States government holds or owns; and

(ii) Employment performed in interstate commerce; or

(b) The employment is performed partly in this State and:

(i) The employment that is performed outside this State is incidental to the employment that is performed in this State, including employment that is temporary or transitory or that consists of isolated transactions; or

(ii) The employment that is performed in this State is not incidental to employment that is performed in any other state and the base of operations or the place from which the employment is controlled or directed is in this State or the employment is performed by an individual who is a resident of this State and is not performed in part in a state in which the employment is controlled or directed or in which the base of operations is located.

C. Employment is not qualified employment if the employment of an employee obligates the employer to pay unemployment insurance fund contributions to any jurisdiction other than this State for that employee and not this State.

.05 Employer Contributions.

A. Employers are responsible for remitting 100 percent of contributions due each quarter.

B. Under Labor and Employment Article, §8.3-601, Annotated Code of Maryland, an employer may withhold from the pay of an employee an amount up to 50 percent of the total rate of contribution.

C. An employer may elect to pay their employees’ contribution amounts required under §B of this regulation, in whole or in part, and shall notify employees of the election to pay employee contributions or not, in writing, using the Division’s template.

D. An employer shall provide written notice of the commencement of contribution withholding and any changes to employee contributions at least 1 pay period prior to the commencement or change.

.06 Employer Size.

A. The number of employees shall be counted by using the total number of employees within and without the State to whom the employer paid any wages regardless of whether the employee is performing qualified employment.

B. An annual determination of employer size shall be made by averaging the number of employees to whom the employer paid any wages each quarter for the previous calendar year.

C. Until an employer has 4 quarters of reports and contributions in 1 calendar year, employer size shall be determined quarterly by counting the total number of employees to whom the employer paid any wages in that calendar quarter.

D. The employer is only responsible for remitting 50 percent of the total rate of contribution if the employer size determined under §§A, B, and C of this regulation is below 15.

.07 Failure to Deduct Contributions from Payroll.

A. If an employer fails to make the proper deduction from an employee’s pay, that employer is considered to have elected to pay that portion of the employee’s contribution for each pay period the employer fails to make the deduction.

B. The employer is liable to pay the portion of the employee share and may not recoup the employee share attributable to a past pay cycle on future pay cycles.

C. Notwithstanding §§A and B of this regulation, within the immediately following 6 pay cycles, an employer may recoup the employee share of contributions attributable to a past pay cycle if there are insufficient paycheck funds due to other required federal, state and local withholdings that take precedence.

.08 Wage Reporting and Payment Schedule.

A. An employer shall remit contributions for each employee every quarter equal to the total rate of contribution multiplied by the total wages up to the social security wage base paid to each employee performing qualified employment in the State.

B. Quarterly informational wage and hour reports, which shall include the amount of wages and hours worked for each employee performing qualified employment in the immediately preceding quarter, shall be due on or before the quarterly contribution payment due date.

C. If the employer wants to be considered for classification as a small employer, the informational report shall include the number of employees not performing qualified employment in the State to whom wages were paid in the quarter.

D. If the employer fails to provide a number of employees not performing qualified employment in the State, the employer will be deemed to not be a small employer.

E. Contributions are due and shall be paid on or before the last day of the month immediately following each calendar quarter.

F. Amendments by employers to quarterly wage and hour reports shall be submitted to the Division within 1 year of the initial due date.

.09 Contribution Delinquencies.

A. If an employer fails to pay the required contributions in the prescribed manner, the employer shall be given 30 days to cure any deficiencies and may be required to pay interest, in the amount of 1.5 percent per month or part of a month from the date on which it is due to the Division, on unpaid contributions.

B. If deficiencies are not cured, penalties, under Labor and Employment Article, §8.3-903, Annotated Code of Maryland, may be imposed as follows:

(1) Assess the amount of contributions and interest, in the amount of 1.5 percent per month or part of a month from the date on which it is due to the Division, due;

(2) Make an additional assessment in an amount not to exceed two times the contributions withheld, as a penalty for failure to pay the contributions due; and

(3) Order an audit of the employer for the immediately following fiscal year to investigate and determine compliance with Labor and Employment Article, §8.3-101, et seq., Annotated Code of Maryland.

.10 Contribution Overpayments.

A. An employer may request from the Division reimbursement of overpayment of contributions no later than 1 year from the due date of the alleged overpayment.

B. An employer who receives a reimbursement under §A of this regulation shall return employee contributions to the employees from

whom they were withheld within 90 days of receipt of the reimbursement.

C. If a former employee owed reimbursed contributions from their employer cannot be located via reasonable effort, including making use of all contact information the employer has on file, within 90 days as required under §B of this regulation, the employee’s contributions shall be remitted to the State for safekeeping.

PORTIA WU
Secretary of Labor

REGAN VAUGHAN
Director of Policy

Subtitle 42 FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM

09.42.03 Equivalent Private Insurance Plans

Authority: Labor and Employment Article, §§8.3-101, 403, 503, and 705, Annotated Code of Maryland

Notice of Proposed Action

[24-132-P]

The Family and Medical Leave Insurance Division of the Maryland Department of Labor proposes to adopt new Regulations .01—10 under a new chapter, **COMAR 09.42.03 Equivalent Private Insurance Plans**, under a new subtitle, **Subtitle 42 Family and Medical Leave Insurance Program**.

Statement of Purpose

The purpose of this action is to detail the requirements and procedures for private commercially and self insured insurance plans that offer equivalent or better benefits than the State plan, including temporary provisions applicable to the beginning of the program.

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 Regan Vaughan, Director of Policy, Family and Medical Leave Insurance Division of the Maryland Department of Labor, 1100 N. Eutaw Street, Baltimore, MD 21201, or call 410-230-6071, or email to famli.policy@maryland.gov. Comments will be accepted through November 18, 2024. A public hearing has not been scheduled.

.01 Definitions.

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

B. Terms Defined.

(1) “Declaration of intent (DOI)” means a legally binding, signed attestation from an employer documenting the employer’s intent and commitment to provide an approved EPIP with an effective date of July 1, 2026.

(2) “EPIP application” means an application submitted to the Division for approval of an EPIP in which the employer offers a private plan where the employer assumes all financial risk associated with the benefits and administration of the EPIP, whether it is administered by the employer or a third-party administrator.

(3) “Good cause” means an extraordinary circumstance which a person of ordinary business prudence and intelligence would consider reasonable cause for an extension.

(4) “Insurance producer” has the meaning as defined in Insurance Article, §1-101(u), Annotated Code of Maryland.

(5) “Seeding period” means the time during which contributions will accrue before benefits are available, July 1, 2025—June 30, 2026.

(6) “Utilization rate” means the anticipated number of approved claims in the State plan divided by the anticipated total number of workers in the State plan which shall be announced by the Division each February for the following fiscal year based on the actuarial cost analysis performed in accordance with Labor and Employment Article, §8.3-601, Annotated Code of Maryland.

.02 General.

An employer shall participate in the State plan until the Division-approved effective date of an EPIP.

.03 EPIP Requirements.

A. An EPIP shall cover all individuals employed by the employer who perform qualified employment.

B. Benefits shall be paid to any employee who would be eligible for benefits under the State plan, had the employer chosen coverage under the State plan.

C. All forms required to be completed by an employee or healthcare provider under an EPIP shall be forms prescribed by the Division in COMAR 09.42.01.03.

D. An EPIP shall allow FMLI benefits and leave to be taken for all purposes specified in the State plan.

E. An EPIP shall allow a covered employee to take family leave or medical leave or qualified exigency leave in an application year for periods of time equal to or longer than the duration of leave provided under the State plan.

F. An EPIP benefit calculation shall result in a weekly benefit that is equal to or greater than what the benefit would be if the employee received benefits from the State plan.

G. If an employee has less than the requisite hours needed to make a benefit determination with their current employer, the current employer shall confirm the employee’s previously reported hours and benefit amount with the Division and shall account for the information from the Division to make the benefit determination.

H. An EPIP shall allow leave to be taken in the same, or less restrictive, increments or nonconsecutive periods as provided under the State plan.

I. An EPIP may not impose additional conditions, restrictions, or barriers on the use of leave beyond those explicitly authorized by the State plan and shall meet or exceed the rights, protections, and benefits provided under the State plan.

J. The amount at which employee contributions are made to an EPIP cannot exceed the amount the same employee would contribute under the State plan.

K. An approved EPIP may not begin contribution collection until the policy effective date.

L. Employee contributions received or retained under an EPIP are not considered part of an employer’s assets for any purpose other than paying benefits or premiums under this subtitle.

M. An EPIP shall establish claims processing procedures under COMAR 09.42.04.

N. An EPIP shall establish reconsideration and appeal procedures under COMAR 09.42.05.

O. An employer participating in an EPIP shall be subject to the notice requirements in Labor and Employment Article, §8.3-801, Annotated Code of Maryland.

P. An employer participating in an EPIP shall use the written notices prescribed by the Division under COMAR 09.42.01.03.

Q. All EPIP documents and communications shall be subject to the same accessibility, language access, and translation requirements as the Division.

R. An employer shall ensure compliance with relevant federal and state laws regarding confidentiality of records.

S. The Division, as a result of an appeal by a covered employee, may pay benefits from the State plan to a covered employee whom an EPIP was obligated to pay, if the Division determines both of the following:

(1) Some benefits went unpaid; and

(2) It is unlikely that the covered employee will otherwise be paid the benefits.

T. An employer and/or EPIP administrator shall reimburse the State plan for the amounts and the Division may pursue all legal means to collect the amounts from the employer and/or EPIP administrator if the Division pays benefits from the State plan to a covered employee whom the EPIP was obligated to pay.

.04 Job Protection and Retaliation.

Participation in an EPIP does not negate employer obligations with respect to job protection and retaliation under Labor and Employment Article, §§8.3-706, 801(b)(2)(v), and 904, Annotated Code of Maryland.

.05 Employer Application Process.

A. To obtain approval of an EPIP, an employer shall first submit a completed EPIP application to the Division.

B. The Division shall mandate the EPIP application form.

C. An EPIP application may be submitted at any time.

D. EPIP Application Review Process.

(1) The Division will review complete EPIP applications as they are received.

(2) Employers will be notified of deficiencies in EPIP applications.

(3) Deficiencies must be cured within 90 days of the date of the notification.

(4) If deficiencies are not cured within 90 days, the EPIP application will be denied.

E. EPIP Application Fees.

(1) For a commercially insured EPIP the application fees shall be as follows:

(a) \$100 for an employer with 1—14 employees performing qualified employment at the time the EPIP application is submitted.

(b) \$250 for an employer with 15—49 employees performing qualified employment at the time the EPIP application is submitted.

(c) \$500 for an employer with 50—199 employees performing qualified employment at the time the EPIP application is submitted.

(d) \$600 for an employer with 200—499 employees performing qualified employment at the time the EPIP application is submitted.

(e) \$750 for an employer with 500—999 employees performing qualified employment at the time the EPIP application is submitted.

(f) \$1,000 for an employer with 1000 or more employees performing qualified employment at the time the EPIP application is submitted.

(2) For a self-insured EPIP the application fee is \$1,000.

F. An approved EPIP application becomes effective, and the employer is released from its contributions obligation on the first day of the calendar quarter following the date of approval by the Division of its EPIP application.

G. An employer’s EPIP approval and release from contributions obligation expires 1 year after the effective date in §F of this regulation, and if a complete application has been timely filed and

approval is pending after expiration, the Division may extend the previous approval.

H. EPIPs shall make benefits available to all covered employees.

I. An employer shall submit an EPIP application annually at least 90 days before the employer's current EPIP approval expires.

J. Special Requirements for a Self-Insured EPIP.

(1) Any employer with 50 or more employees may apply for a self-insured EPIP.

(2) Proof of Solvency.

(a) An employer desiring to establish a self-insured EPIP shall provide proof of assured funds as demonstrated by obtaining a surety bond issued by a surety company certified by the United States Treasury Department Bureau of the Fiscal Service and authorized to do business in the State.

(b) The surety bond shall be conditioned that the employer shall:

(i) Comply with all State laws and regulations governing the EPIP; and

(ii) Fulfill all obligations to pay employee claims.

(c) A surety bond shall be issued in amount equal to 1 year of expected future benefits as determined by the product of the number of employees rounded up to the nearest 50 multiplied by 12 weeks multiplied by the utilization rate multiplied by the maximum weekly benefit amount.

(d) A surety bond shall be issued on a form prescribed by the Division.

(e) A surety bond shall include a statement that the bonding company shall give 90 days notice in writing of its intent to terminate coverage to both the principal and the Division, except that if the bonding company is terminating liability because it is issuing a replacement bond, it may do so without providing prior notice.

(f) If a replacement bond is issued, the surety company and the employer shall notify the Division no later than 14 days after its effective date.

(g) A surety bond shall continue for 3 years after the later of the date on which:

(i) The bond is canceled; or

(ii) The EPIP is terminated.

(h) The liability of the surety:

(i) Shall be continuous;

(ii) May not be aggregated or cumulative, whether the bond is renewed, continued, replaced, or modified;

(iii) May not be determined by adding together the penal sum of the bond, or any part of the penal sum of the bond, in existence at any two or more points in time;

(iv) Shall be considered to be one continuous obligation, regardless of increases or decreases in the penal sum of the bond;

(v) May not be affected by the insolvency or bankruptcy of the employer, any misrepresentation, breach of warranty, failure to pay a premium, any other act or omission of the employer, or the termination of the employer's EPIP; and

(vi) May not require an administrative enforcement action by the Division as a prerequisite to liability.

(i) The Division may review the bond annually to ensure that the amount corresponds with the benefit projections and the employer:

(i) Shall provide the Division with any documentation necessary to review the bond amount;

(ii) Shall increase the bond amount if the Division determines an increase is necessary; and

(iii) May decrease the bond amount if the Division determines that the bond amount exceeds the projected benefits.

(j) A claim against the bond may be filed with the surety by the Division:

(i) Under COMAR 09.42.03.03(T);

(ii) To cover any outstanding contributions due to the Division; or

(iii) For fees and penalties owed to the Division.

(3) Separate Account.

(a) If an employer who is approved to self-insure to provide FAMLFI benefits collects contributions from employees, the employer shall establish and maintain a separate account:

(i) Into which all employee contributions are deposited and kept; and

(ii) From which only benefits shall be paid.

(b) Funds collected from employee contributions shall be:

(i) Held separately from all other employer funds; and

(ii) Separately accounted for.

(c) Account records shall be made available for audits by the Division.

(d) The separate fund does not represent the extent of liability of the employer.

(4) Any employer may apply to the Division for a waiver of the surety bond requirement based on its capitalization and existing bondedness under Labor and Employment Article, §§8.3-705(b)(2), Annotated Code of Maryland.

.06 Oversight of EPIPs by the Division.

A. The Division may, at any time at its sole discretion, initiate a review of an EPIP to determine whether the EPIP is compliant with Labor and Employment Article, §§8.3-101, et seq., Annotated Code of Maryland or this subtitle.

B. On initiation of a review by the Division, within 30 days of a request from the Division, the EPIP administrator and the employer shall provide all information and documentation requested.

C. The Division may extend the 30 day deadline under §B of this regulation once upon request from the EPIP administrator and/or the employer.

D. The Division shall ensure compliance with relevant federal and State laws regarding confidentiality of records.

E. Failure by an employer to cooperate with a Division review of an EPIP may result in the Division's termination of the employer's EPIP approval.

.07 Record Keeping Requirements.

A. An EPIP administrator or employer shall collect and maintain documentation of all of the following for a minimum of 5 years:

(1) Applications for benefits;

(2) Benefits paid, including payment dates and amounts;

(3) Adverse determinations of benefits applications;

(4) Internal reconsideration requests received;

(5) The outcome of internal reconsiderations;

(6) Documents, including wage data or other evidence, containing the information on which benefits determinations and reconsiderations were based; and

(7) Contributions received from employees.

B. Within 30 days of the Division's written request, an EPIP administrator or an employer with an approved EPIP shall provide any documentation either is obligated to maintain.

C. If the employer or EPIP administrator requests an extension and provides good cause for the extension, the Division may extend the 30-day deadline.

D. If the employer or EPIP administrator does not provide the requested documentation by the deadline, the Division may terminate its approval of the EPIP.

.08 Additional Reporting Requirements for Employers who Have Selected an EPIP.

A. While an employer may authorize EPIP administrators to report on their behalf, the employer shall be responsible for the accuracy of the data and subject to any adverse actions related to inaccurate, late, or incomplete reporting.

B. All reported data shall represent totals for each approved EPIP.

C. Quarterly claims level and employer level data reports to the Division shall be submitted on or before the last day of the month immediately following the close of the previous quarter via an electronic template provided by the Division.

D. Failure to submit timely and complete reports shall result in the involuntary termination of the EPIP by the Division.

E. An employer with an approved EPIP shall report wage and hour data quarterly in the same manner as an employer in the State plan.

F. The Division may extend the deadline under §C of this regulation once upon request from the employer.

.09 EPIP Termination Rules.

A. Voluntary. Provided an employer has joined the State plan or has an approved application for a different EPIP:

(1) The employer may voluntarily terminate enrollment in an EPIP provided the employer has been enrolled in the EPIP for at least 1 year.

(2) The employer shall provide the requisite notice to the Division of the voluntary termination no later than 30 days before the termination's effective date.

(3) The employer shall provide the requisite notice to employees prescribed by COMAR 09.42.01.03 of the voluntary termination no later than 30 days before the termination's effective date.

(4) The employer shall continue the approved EPIP's coverage through the termination's effective date.

(5) The voluntary termination shall become effective on the first date of the calendar quarter following the expiration of the 30 day period.

B. Involuntary. An employer's EPIP enrollment may be terminated by the Division when the Division determines that terms or conditions of the plan have been repeatedly or egregiously violated in a manner that necessitates termination.

(1) Causes for plan termination may include:

(a) Failure to pay benefits in the amount and duration required by Labor and Employment Article, §§8.3-101, et seq., Annotated Code of Maryland and this subtitle;

(b) Failure to make timely benefit determinations or reconsiderations;

(c) Failure to pay benefits in the amount and duration required by the EPIP, where the EPIP provides benefits in a greater amount or duration than is required by Labor and Employment Article, §§8.3-101, et seq., Annotated Code of Maryland and this subtitle;

(d) Failure to pay benefits within the timeframes and in the manner specified by Labor and Employment Article, §§8.3-101, et seq., Annotated Code of Maryland and this subtitle;

(e) Failure to maintain an adequate surety bond in accordance with this subtitle;

(f) Misuse of EPIP money, including the use of EPIP funds for anything other than paying out benefits, or transferring EPIP funds from an account established under Labor and Employment Article, §§8.3-101, et seq., Annotated Code of Maryland to any account not exclusively for holding EPIP funds;

(g) Failure to submit reports or comply with other compliance requirements as required by Labor and Employment Article, §§8.3-101, et seq., Annotated Code of Maryland or this subtitle;

(h) Failure to otherwise comply with Labor and Employment Article, §§8.3-101, et seq., Annotated Code of Maryland or this subtitle;

(i) Failure to notify the Division that their plan has been cancelled by their carrier; or

(j) Failure to notify the Division that the product is no longer offered by their carrier.

(2) If the Division withdraws approval of an employer's EPIP, the Division shall issue to the employer and the EPIP administrator a notice of involuntary termination of EPIP approval with an effective date 14 days after the date of the notice.

(3) An employer may request a review under COMAR 09.42.05 of the withdrawal of EPIP approval before its effective date by filing with the Division.

(4) Involuntary terminations shall result in the establishment of past-due mandatory contribution debt in the amount that would have been owed to the State plan had the employer been in the State plan for a period of 1 year prior to the date of the notice of termination of EPIP approval.

(5) Involuntary terminations may result in civil penalties against an employer, including but not limited to execution on and collection of any bond amount.

(6) An employer shall provide the requisite notice to employees prescribed by COMAR 09.42.01.03 of the involuntary termination no later than 5 days after the termination's effective date.

C. Termination Generally.

(1) Continuation of Benefits.

(a) An EPIP shall pay or continue to pay benefits under the terms of the EPIP to an employee who filed a valid claim for benefits under the EPIP before the effective date of termination until the total amount of the benefit claim is paid, the duration of approved leave ends, or the application year ends, whichever occurs first.

(b) If the employer or EPIP administrator does not pay the benefits, the employee may seek relief with the Division under COMAR 09.42.05.

(2) Within 60 days after the effective date of the termination of an EPIP, the employer shall send to the Division all reporting requirement information on benefit claims paid and amounts of contributions collected or owing from the date of the last report provided to the Division under the EPIP reporting requirements to the date of termination.

(3) Outstanding Contributions.

(a) On receipt of the report specified in §C(2) of this regulation, the Division will provide an invoice of the contribution amounts due, if any.

(b) The contribution amount due shall be calculated based on any contributions withheld from employees' wages that remain in the possession of the employer on the effective date of the EPIP termination, minus an amount equal to the amount of any benefits due to be paid as required under §C(1) of this regulation or any premium due to a carrier for commercially insured EPIPs.

(c) Once all required benefits are paid under §C(1) of this regulation, the employer shall send to the Division the final report on any additional benefit claims paid or administrative expenses incurred after the date of the last report provided under §C(2) of this regulation within 5 business days.

(d) The Division will provide an invoice of any additional contribution amounts due.

(4) Any employer whose EPIP approval has been terminated, either voluntarily or involuntarily, shall be immediately enrolled in the State plan, with contribution obligations going back to the most recent quarter start date, unless and until the employer is approved for a new EPIP.

D. To the extent that any of the regulations in this section conflict with the Temporary Provisions applicable to EPIP termination in Regulation .10 of this chapter, the provisions in Regulation .10 of this chapter control.

.10 Temporary Provisions.

A. Declaration of Intent to Obtain Approval of EPIP.

(1) On or after May 1, 2025 and until August 29, 2025, any employer who intends to enroll in an EPIP may submit a DOI, signed by the employer, acknowledging, attesting, and agreeing to certain requirements, including but not limited to:

(a) The employer intends to provide an EPIP to all its employees that meets or exceeds all the requirements of Labor and Employment Article, §§8.3-101, et seq., Annotated Code of Maryland and this subtitle.

(b) The employer met with an insurance producer or carrier about available commercially insured EPIPs.

(c) A signature from the insurance producer or carrier acknowledging the meeting in §A(1)(b) of this regulation.

(d) Beginning on the effective date of a DOI and continuing until the Division has approved the EPIP application, the employer shall collect and hold all contributions from both the employer and employees that would otherwise be due to the State plan in an escrow account, provided that:

(i) The employer collects employee contributions via payroll deduction or makes contributions on behalf of the employee;

(ii) Employee contributions are withheld during the pay period for which they are being collected; and

(iii) Employee contributions are not retroactively collected.

(e) If, after the submission of a DOI, an EPIP is approved, the employer shall return employee contributions held in escrow to the employees from whom they were withheld, or if the EPIP approved is a self-insured EPIP the contributions held in escrow may be used to seed the separately accounted self-insured EPIP fund.

(f) If a former employee cannot be located, the employee's contributions shall be remitted to the State plan.

(g) The employer shall submit an EPIP application no later than April 1, 2026 if the EPIP is a self-insured EPIP and June 1, 2026 if the EPIP is a commercially-insured EPIP.

(h) If, after the submission of a DOI, the employer is not approved for an EPIP before June 30, 2026, the employer is liable for remitting to the State plan an amount equal to the sum of all unpaid employer and employee contribution payments due for the periods contributions were not made plus any interest and penalties for late payment.

(i) If necessary, the funds held in escrow under §A(1)(d) of this regulation shall be used to remit payment under §A(1)(h) of this regulation.

(2) The Division shall approve or deny a DOI within 15 business days of submittal.

(3) An approved DOI becomes effective on the first day of the calendar quarter following the date of approval by the Division.

(4) The Division may terminate a DOI for:

(a) Misuse of employee contributions by the employer;

(b) Failure to hold funds in escrow as required;

(c) Failure to adhere to applicable FAMILI program requirements;

(d) Excessive withholding of contributions from the pay of employees beyond the amount that would have been withheld under the State plan;

(e) Failure to respond timely to a reasonable request from the Division for information about the EPIP or DOI;

(f) Failure to submit quarterly wage and hour reports;

(g) Failure to submit an EPIP application; or

(h) Denial by the Division of an EPIP application.

(5) All DOIs expire June 30, 2026.

B. DOI and Contributions.

(1) Any employer whose DOI is submitted on or before May 30, 2025 and approved on or before June 20, 2025, shall be exempt from contributions accrued to the Division for the seeding period.

(2) Any employer whose DOI is submitted between May 31, 2025 and August 29, 2025 and approved on or before September 22, 2025, shall be exempt from contributions accrued to the Division beginning October 1, 2025, through the end of the seeding period.

C. Initial EPIP Enrollment.

(1) Initial self-insured EPIP applications shall be submitted to the Division from January 1, 2026—April 1, 2026, for an effective date of July 1, 2026 and shall use the utilization rate announced by the Department.

(2) Initial commercially-insured EPIP applications shall be submitted to the Division March 1, 2026—June 1, 2026, for an effective date of July 1, 2026.

(3) If an employer is approved to be exempt from contributions to the State plan via a DOI and their subsequent EPIP application is approved, the employer shall remain in an EPIP for a minimum of 4 calendar quarters.

(4) Failure to complete the initial EPIP enrollment as outlined in §C(1) or (2) of this regulation shall result in the employer's automatic enrollment in the State plan and remittance to the Division an amount equal to the total contributions that would have been paid to the State plan beginning October 1, 2025 minus any contributions made to the State plan prior to approval of the EPIP plus any interest and penalties for late payment.

(5) If an employer whose DOI was approved enters into an EPIP and the EPIP is terminated before June 30, 2027, either by the employer or the Division, the employer shall remit to the Division the contributions and interest from which they were exempted as a result of the DOI.

(6) If an employer whose DOI was approved enters into an EPIP and the EPIP is terminated before June 30, 2028, either by the employer or the Division, the employer is responsible for half the contributions and interest from which they were exempted as a result of the DOI.

PORTIA WU
Secretary of Labor

REGAN VAUGHAN
Director of Policy

**Subtitle 42 FAMILY AND MEDICAL
LEAVE INSURANCE PROGRAM**

09.42.04 Claims

Authority: Labor and Employment Article, §§8.3-101, 403, 701, 702, and 902, et seq., Annotated Code of Maryland

Notice of Proposed Action

[24-133-P]

The Family and Medical Leave Insurance Division of the Maryland Department of Labor proposes to adopt new Regulations .01—**.12** under a new chapter, **COMAR 09.42.04 Claims**, under a new subtitle, **Subtitle 42 Family and Medical Leave Insurance Program**.

Statement of Purpose

The purpose of this action is to detail the procedures applicable to the State plan and self and commercially insured private plans for claim submittal, review, and decision.

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 Regan Vaughan, Director of Policy, Family and Medical Leave Insurance Division of the Maryland Department of Labor, 1100 N. Eutaw Street, Baltimore, MD 21201, or call 410-230-6071, or email to famli.policy@maryland.gov. Comments will be accepted through November 18, 2024. A public hearing has not been scheduled.

.01 General.

Unless expressly provided otherwise, all requirements in this Chapter apply to EPIPs.

.02 Definitions.

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

B. Terms Defined.

(1) "Alternative FAMILI purpose leave (AFPL)" means employer-provided leave specifically designated as a separate bank of time off for medical leave, family leave, qualified exigency leave, or under a disability policy and that is not leave provided under an EPIP.

(2) "Claim application" means a claimant's submission to the Division or an EPIP for FAMILI leave and benefits.

(3) "Claimant's average weekly wage" means the amount calculated in Regulation .06 of this chapter.

(4) "Complete claim application" means an application submitted by a claimant with all required supporting documentation, including the response from an employer and any investigation, under Regulation .04 of this chapter.

(5) "Fraud" means a misrepresentation or concealment of a material fact made by a claimant which induces the State plan or an EPIP to provide benefits when the claimant would have otherwise not qualified.

(6) "General purpose leave" means employer-provided paid leave, such as general paid time off, personal leave, vacation leave, or sick leave, that is not AFPL or leave provided under an EPIP.

(7) "Good cause" means a demonstration by a claimant that a failure to file a complete claim application was due to:

(a) A serious health condition that resulted in an unanticipated and prolonged period of incapacity and that prevented an individual from filing a claim in a timely manner;

(b) A demonstrated inability to reasonably access a means to file a claim in a timely manner, such as due to a natural disaster, power outage, or a significant and prolonged Department system outage; or

(c) A demonstrated failure of the employer to provide the notification required under this subtitle to the claimant.

(8) "Recipient" means a claimant whose application for FAMILI leave and benefits has been approved and is receiving benefits.

(9) "State average weekly wage" means the wage calculated under Labor and Employment Article, §9-603, Annotated Code of Maryland.

(10) "Weekly benefit amount" means the total weekly dollar amount provided to a recipient by the State plan or EPIP.

.03 Qualifying Events.

A. Childcare or bonding is a qualifying event in the following circumstances:

(1) To care for or bond with a child of the claimant during the first 12 months after the child's birth; or

(2) During the process through which a child is being placed with the claimant through foster care, kinship care, or adoption and to care for or bond with the child during the first 12 months after the placement.

B. Caring for a family member with a serious health condition is a qualifying event.

C. The diagnosis, occurrence, or tending to of one's own serious health condition is a qualifying event.

D. Caring for a service member with a serious health condition is a qualifying event if:

(1) The claimant is the service member's next of kin; and

(2) The serious health condition resulted from, or was exacerbated by, military service.

E. A qualifying exigency arising out of the deployment of a service member who is a family member of the claimant is a qualifying event.

.04 Application Process.

A. Eligibility. A covered individual experiencing a qualifying event is eligible to receive FAMILI benefits if they file a complete claim application within 60 days of taking leave that would qualify as FAMILI leave.

(1) The 60 day filing deadline shall be waived for good cause, up to 1 year from the leave commencing.

(2) On or after the date on which applications for benefits may be submitted to the Division, applications may be accepted up to 60 days before the first day of FAMILI leave requested.

(3) Except as provided in §A(4) of this Regulation, a covered individual shall file their application with their employer's plan.

B. Required Documentation.

(1) A claimant shall provide personal identifying information as required by the Division.

(2) A claimant applying for military caregiving leave shall provide documentation from the United States Department of Defense establishing that the service member is a member or veteran of the Armed Forces, including a member of the National Guard or Reserves;

(3) A claimant shall provide information regarding the employer from which they intend to take FAMILI leave as required by the Division.

(4) A claimant seeking FAMILI leave for bonding or to care for another shall provide any of the following as proof of relationship:

(a) An affidavit signed by the claimant attesting to qualifying relationships as provided by the Division;

(b) Copies of official orders, certifications, or registrations from a government entity; or

(c) Copies of documentation from licensed foster care and/or adoption providers.

(5) Certification of Qualifying Event.

(a) Care or Bonding with a Child. An application for FAMILI leave to care for or bond with a child of the claimant shall include:

(i) A certification of live birth;

(ii) Documentation of placement from a licensed child placement agency or government agency responsible for child placement, and documentation of any court appearances, appointments, or travel in anticipation of placement, if applicable, including a court order or an affidavit of an informal kinship care arrangement; or

(iii) Other reasonable documentation determined by the Division.

(b) Family Member's Serious Health Condition. An application for FAMILI leave to care for a family member with a

serious health condition, shall include a complete certification form, approved by the Division, from a licensed health care provider, establishing:

(i) The first date on which the covered individual took or intends to take FAMLI leave from employment and whether the FAMLI leave will or is intended to be taken for a continuous period of time or intermittently;

(ii) Date of diagnosis;

(iii) The date on which the serious health condition of the family member commenced;

(iv) The probable duration of the serious health condition;

(v) The appropriate facts related to the serious health condition within the knowledge of the licensed health care provider;

(vi) A statement that the covered individual needs to care for a family member and an estimate of the amount of time required to provide the care; and

(vii) If intermittent FAMLI leave is requested, the expected frequency and duration of the intermittent FAMLI leave.

(c) *Own Serious Health Condition.* An application for FAMLI leave for one's own serious health condition, shall include a complete certification form, approved by the Division, from a licensed health care provider, establishing:

(i) The first date on which the covered individual took or intends to take FAMLI leave from employment and whether the FAMLI leave will or is intended to be taken for a continuous period of time or intermittently;

(ii) The date on which the serious health condition of the covered individual commenced;

(iii) Treatment dates;

(iv) Period of incapacity;

(v) The probable duration of the serious health condition;

(vi) The appropriate facts related to the serious health condition within the knowledge of the licensed health care provider;

(vii) A statement that the covered individual is unable to perform the functions of the covered individual's position; and

(viii) If intermittent FAMLI leave is requested, the expected frequency and duration of the intermittent FAMLI leave.

(d) *Military Caregiving.* An application for FAMLI leave to care for a service member for whom the claimant is next of kin with a serious health condition, shall include a complete certification form, approved by the Division, from a licensed health care provider, establishing:

(i) That the serious health condition was caused, or exacerbated by, military service;

(ii) The first date on which the covered individual took or intends to take FAMLI leave from employment and whether the FAMLI leave will or is intended to be taken for a continuous period of time or intermittently;

(iii) The date on which the serious health condition of the service member commenced or was exacerbated;

(iv) The probable duration of the serious health condition;

(v) The appropriate facts related to the serious health condition within the knowledge of the licensed health care provider; and

(vi) If intermittent FAMLI leave is requested, a statement that the covered individual needs to care for a service member and the expected frequency and duration of the intermittent FAMLI leave.

(e) *Qualified Exigency.* An application for FAMLI leave for a qualifying exigency arising out of the deployment of a service member who is a family member, shall include a copy of the family member's active duty orders or other documentation issued by the military that indicates that the service member is on covered active duty or call to covered active duty status, and the dates of the service member's covered active duty service.

(6) *Attestations.* The Division may require claimants to attest that information provided in their applications is true to the best of their knowledge and that there are no disqualifying criteria.

(7) *Employer Response to Claim Application.*

(a) An employer shall have 5 business days to respond to notice from the Division or an EPIP of an employee's submitted claim application.

(b) At the conclusion of the 5 business day period in §B(7)(a) of this regulation, if there is no employer response, the claim application is considered a complete claim application.

(c) At the conclusion of the 5 business day period in §B(7)(a) of this regulation, if the employer has challenged the claimant's eligibility, the Division or EPIP shall investigate which may include a request for a response from the claimant.

(d) At the conclusion of the investigation in §B(7)(c) of this regulation, the claim application is considered a complete claim application.

(e) If benefits are approved and issued and job and anti-retaliation protections have thus attached and an employer provides a response after the time period provided in §B(7)(a) of this regulation, the response may still be considered and if the information negates the recipient's eligibility:

(i) The recipient is still entitled to the benefits received;

(ii) Continuation of benefits will cease; and

(iii) Job and anti-retaliation protections apply for the time period from approval of benefits to revocation of benefits.

(f) If FAMLI leave has been retroactively approved and additional information as described in §B(7)(e) of this regulation has been provided then any benefits issued shall be considered an overpayment and job and anti-retaliation protections may not apply.

C. *Updating a Claim Application.*

(1) This provision applies to the incomplete application notification requirements in Labor and Employment Article, §8.3-703, Annotated Code of Maryland.

(2) A claim shall be updated within 10 days, or as soon as practicable with good cause shown, of any changes to the following information provided on an application:

(a) Basis for leave;

(b) Start date of leave;

(c) Duration of leave;

(d) End date of leave; or

(e) Whether the claimant has begun to receive Workers' Compensation or Unemployment Insurance benefits.

(3) Failure to update a claim with any changes to the information provided on an application for benefits may result in a delay, underpayment, overpayment, or denial of benefits.

D. *Cancellation of a Claim.*

(1) If a claimant no longer requires FAMLI benefits, their application may be withdrawn.

(2) If the FAMLI leave period has already commenced, the total amount of FAMLI leave actually taken, not the total amount applied for, will be assessed against the claimant's FAMLI leave balance for the application year.

.05 Determination of Length of FAMLI Leave.

A. *General.*

(1) Except as outlined in §A(2) of this regulation, any claimant may receive up to 12 weeks of FAMLI benefits and leave per employer per application year.

(2) A claimant may receive an additional 12 weeks of FAMLI benefits and leave if the claimant during the same application year:

(a) Received medical leave and becomes eligible for bonding leave; or

(b) Received bonding leave and becomes eligible for medical leave.

(3) For each claim, a claimant may be approved for the lesser of:

- (a) 12 weeks;
- (b) The remaining FAML leave balance for the claimant for the application year;
- (c) The amount requested; or
- (d) If applicable, the amount supported by any required documentation.

B. Family Leave.

(1) Bonding Leave.

(a) *Birth of a Child.* Any claimant seeking leave for bonding with a child may apply for up to 12 weeks of FAML leave within the first 12 months beginning on the date of the birth.

(b) *Adoption, Foster Care, or Kinship Care.*

(i) Any claimant seeking leave for bonding with a child placed through adoption, fostering, or kinship care may apply for up to 12 weeks of FAML leave within 12 months of the placement.

(ii) FAML leave may also be used in anticipation of placement for court appearances, legal appointments, placement agency appointments, counseling appointments, medical appointments, and travel, provided they are substantiated by documentation required.

(2) Caring for a Family Member.

(a) A claimant seeking leave to care for a family member may apply for up to 12 weeks of FAML leave provided documentation from a licensed health care provider substantiating the time period requested is submitted with the application.

(b) *Death of Family Member.* If the covered individual is on approved FAML leave and the person they are caring for dies, the reason for that leave has ended.

(i) Benefits shall continue to be paid to the covered individual until 7 days after the death of the family member or the previously approved end date for the leave, whichever date is soonest.

(ii) The covered individual shall provide notice of the date of death of the family member for whom the covered individual was caring within 72 hours of the person's passing.

(3) *Military Caregiving.* A claimant seeking leave to care for a service member may apply for up to 12 weeks of FAML leave provided documentation from a licensed health care provider substantiating the time period requested is submitted with the application.

C. Medical Leave. A claimant seeking leave for their own serious health condition may apply for up to 12 weeks of FAML leave provided documentation from a licensed health care provider substantiating the time period requested is submitted with the application.

D. Qualified Exigency Leave. A claimant seeking leave for a qualifying exigency may apply for up to 12 weeks of FAML leave provided documentation outlined in COMAR 09.42.04.04(B)(5)(e) substantiating the time period requested is submitted with the application.

.06 FAML Benefit Calculation.

A. Claimant Average Weekly Wage.

(1) An employed claimant's average weekly wage shall be calculated by dividing the wages earned from the employer from whom the claimant is taking FAML leave over the highest of the previous 4 completed calendar quarters for which quarterly reports have been required prior to the benefit start date by 13.

(2) If the Division does not have completed wage and hour reports for at least 2 quarters for an employed claimant with the employer from which they have requested leave, the Division will use the highest quarter of the most recent 4 quarters the claimant worked for any employer to calculate the employed claimant's average weekly wage.

B. Continuous FAML Leave Benefit Calculation.

(1) If the claimant's average weekly wage is 65 percent or less of the State average weekly wage, benefits will be 90 percent of the claimant's average weekly wage; or, if the claimant's average weekly wage is greater than 65 percent of the State average weekly wage, benefits will be the sum of:

(a) 90 percent of the claimant's average weekly wage up to 65 percent of the State average weekly wage; and

(b) 50 percent of the claimant's average weekly wage that is greater than 65 percent of the State average weekly wage up to the maximum weekly benefit amount.

(2) The benefit amount shall be calculated using the State average weekly wage and maximum weekly benefit amount in effect at the time the approved leave begins and that amount shall be set for the duration of the claim.

C. Intermittent FAML Leave Benefit Calculation.

(1) For intermittent FAML leave an hourly benefit amount will be calculated by dividing the weekly benefit amount by the average number of hours worked per week during the highest of the previous 4 completed calendar quarters for which quarterly reports have been required.

(2) The benefit amount to be disbursed will be calculated by multiplying the hourly benefit amount by the number of hours of intermittent FAML leave taken in a week.

(3) The benefit amount shall be calculated using the State average weekly wage and maximum weekly benefit amount in effect at the time the approved leave begins.

(4) On or before the first day of January the benefit amount of every open and active claim for intermittent leave shall be readjusted based on the new maximum weekly benefit amount.

.07 Intermittent FAML Leave Benefit Request Process.

A. Claimants approved for intermittent FAML leave shall submit requests for benefits within 5 business days of leave being taken unless good cause can be shown.

B. Intermittent FAML leave shall not be taken for less than 4 hours unless the claimant's scheduled shift was fewer than 4 hours.

C. Benefits will not be issued for requests that significantly exceed the expected duration and frequency listed on the medical certification without an updated certification.

.08 Notice Requirements.

A. Employer to Employee.

(1) An employer shall give an employee notice about FAML leave and benefits in the following circumstances:

(a) 6 months prior to the commencement of benefits, either through an EPIP or with the State plan;

(b) At hire;

(c) Annually;

(d) 30 days before any changes to the employer's FAML procedures or plan go into effect; and

(e) When the employer knows that an employee's leave or leave request may be eligible for FAML.

(2) The Division will publish prescribed forms and templates for employer use under COMAR 09.42.01.03.

(3) If the employer collects an electronic or physical acknowledgement of receipt by the claimant (such as an electronic or wet signature) of the notice, the claimant is considered notified.

B. Employee to Employer.

(1) FAML Leave.

(a) *Foreseeable FAML Leave.* If the need for FAML leave is foreseeable, an employee shall provide 30 days notice to an employer.

(b) *Unforeseeable FAML Leave.* If an employee did not or could not have known about the need for FAML leave 30 days before

the FAML leave commencement date, the employee shall be required to provide notice as soon as practicable of the need for FAML leave to their employer.

(c) An employer may waive the notice requirement.

(d) An employer is deemed to have waived the notice requirement under §B(1)(a) of this regulation if the employer:

(i) Did not invoke it when notified of the claim by the Division or the EPIP; or

(ii) Failed to notify the claimant that the employer requires notice under §B(1)(a) of this regulation.

(2) Intermittent FAML Leave.

(a) If FAML leave is to be taken on an intermittent schedule, the employee shall:

(i) Make a reasonable effort to schedule the intermittent FAML leave in a manner that does not cause significant difficulty or expense in relation to the resources and specific operations of the employer's operations; and

(ii) Provide the employer with reasonable and practicable prior notice of the reason, dates, and duration for which intermittent FAML leave is necessary.

(b) Notice of Intermittent Leave Schedule.

(i) A recipient who is approved for intermittent FAML leave who fails to provide reasonable and practicable prior notice to their employer of the intermittent leave schedule may be subject to the employer's established absence policy.

(ii) An employer, whether enrolled in the State plan or an EPIP, shall notify the Division when a recipient approved for intermittent FAML leave fails to provide the notice detailed in §B(2)(a) of this regulation before the employer takes action against the employee under the employer's established absence policy.

(iii) If a recipient's utilization of intermittent FAML leave is inconsistent with the FAML leave approval, it may not be considered retaliation for an employer to request additional information related to the use of FAML leave.

C. State Plan or EPIP to Claimant. Claimants shall be provided notice in the following circumstances:

(1) When a claimant's application is submitted.

(2) When an incomplete application is submitted, within 5 business days of application submission.

(3) When a notice is sent to the claimant's employer (confidentiality restrictions).

(4) When their employer's response is submitted.

(5) Whether their application is approved, within 10 business days of complete claim application submission including:

(a) Benefit amount;

(b) FAML benefits beginning date;

(c) FAML leave period beginning date;

(d) FAML benefits ending date;

(e) FAML leave period ending date;

(f) Duration and frequency of intermittent FAML leave (if applied for); and

(g) The claimant's appeal rights.

(6) Whether their application is denied (in full or in part) within 10 business days of complete claim application submission and the notice shall:

(a) State concisely and simply:

(i) The reasons for denial;

(ii) The claimant's appeal rights;

(iii) The facts that are asserted; or

(iv) If the facts cannot be stated in detail when the notice is given, the issues that are involved;

(b) State the pertinent statutory and regulatory sections under which the action was taken;

(c) State that the party receiving the notice has the opportunity to request a reconsideration, including:

(i) What, if anything, a person must do to receive a reconsideration; and

(ii) All relevant time requirements; and

(d) State the direct consequences, if any, or remedy of the party receiving the notice's failure to exercise in a timely manner the opportunity for a reconsideration.

D. State Plan or EPIP to Employer. An employer shall be provided notice of any of the following circumstances occurring:

(1) An employee files an application;

(2) An employee files a complete claim application;

(3) A determination regarding a claim for benefits is made;

(4) A reconsideration or an appeal of a determination regarding a claim for benefits is filed; or

(5) A change is made to a determination regarding a claim for benefits.

.09 Coordination of Benefits.

A. FMLA. An employee's annual maximum duration of FAML leave may be reduced by the employee's use of FMLA if:

(1) The employee's FMLA leave was also eligible for FAML;

(2) The employer notified the employee of their potential eligibility for FAML when the employee took FMLA; and

(3) The employee did not apply for FAML leave.

B. Employer-Provided Leave.

(1) Alternative FAML Purpose Leave (AFPL).

(a) An employer may require an employee to use AFPL concurrently or in coordination with FAML provided the AFPL is:

(i) Specifically designed to fulfill a purpose of FAML;

(ii) Paid;

(iii) Not accrued;

(iv) Not subject to repayment if the employee leaves their position;

(v) Not available for general purposes; and

(vi) Available without a requirement to exhaust another form of leave.

(b) If an employer chooses to require an employee to use AFPL concurrently or in coordination with FAML leave, the employer shall provide advanced written notice to its employees of this requirement.

(c) When an employer requires concurrent or coordinated usage of AFPL and FAML and has satisfied the written notice requirement, and the employee declines to apply for FAML benefits, the employee's FAML eligibility is reduced by the amount of AFPL time taken.

(d) If a recipient receives wage replacement from both FAML and AFPL concurrently, the FAML benefit is primary and the AFPL benefit may be used to supplement the recipient's wage to equal no more than 100 percent of the recipient's average weekly wage.

(e) An employer may deduct the full amount of time taken under both forms of leave from the recipient's AFPL balance even if the recipient only received partial wage replacement from the AFPL.

(f) An employee's decision to use AFPL concurrently or in coordination with FAML does not negate the job protection or retaliation provisions of Labor and Employment Article, §§8.3-706 and 904, Annotated Code of Maryland.

(2) General Purpose Leave.

(a) Neither the employee nor the employer may require the substitution of general purpose leave for FAML leave.

(b) An employer and an employee may agree to have general purpose leave wages supplement FAML benefits, up to 100 percent of the employee's average weekly wage.

(c) If general purpose leave is used to supplement FAMILI benefits, the employer may:

(i) Convert the dollar amount of the supplement into the corresponding number of employer-provided general purpose leave hours; and

(ii) Subtract those hours from the employee's balance of accrued and unused employer-provided general purpose leave.

(d) Documentation of use of general purpose leave.

(i) The use of employer-provided general purpose leave to supplement FAMILI benefits requires mutual agreement in writing between the employer and the employee.

(ii) If either the employer or the employee does not so mutually agree, employer-provided general purpose leave may not be used to supplement FAMILI benefits.

(iii) Any agreement under §B(2)(d)(ii) of this regulation shall be documented and retained by the employer.

(e) Mutual agreement between the employer and the employee is not necessary in order for an employee to use paid sick leave prior to receiving FAMILI leave benefits.

C. Workers' Compensation and Unemployment Benefits.

(1) Under Labor and Employment Article, §8.3-702(e), Annotated Code of Maryland, an individual receiving Unemployment Insurance benefits from the State may not be eligible for FAMILI benefits.

(2) Except in the case of benefits for a permanent partial disability, under Labor and Employment Article, §8.3-702(e), Annotated Code of Maryland, an individual receiving Workers' Compensation wage replacement benefits may not be eligible for FAMILI benefits.

.10 Benefit Payment Process.

A. Payment Schedule.

(1) The first payment to a recipient shall be within 5 business days after the complete claim application is approved or the FAMILI leave has started, whichever is later.

(2) Subsequent benefit payments to recipients shall be made every 2 weeks until the benefit period ends.

B. Overpayment.

(1) On learning of overpayment of benefits, written notice will be sent to the recipient, including that:

(a) Repayment of the overpayment is being sought; or

(b) A waiver of the repayment is being offered.

(2) In cases of seeking repayment, the recipient shall have 30 days to reply to the notice as follows:

(a) The recipient agrees to repay; or

(b) The recipient requests a waiver under §B(4) of this regulation.

(3) Repayment. Repayment of benefits may be sought from an individual who received benefits under this subtitle if:

(a) Benefits were paid erroneously or as a result of willful misrepresentation by the recipient; or

(b) A claim for benefits under this subtitle is rejected after the benefits were paid.

(4) Waiver. Repayment of benefits may be waived if:

(a) The error in payment was not due to any knowingly false statement, nondisclosure of material fact, or misrepresentation by a covered individual; or

(b) The repayment would be against equity and good conscience or administrative efficiency.

(5) Denial of waiver. If a recipient requests a waiver and the request is denied, the recipient may file a request for reconsideration.

(6) If an EPIP seeks reimbursement of an overpayment of benefits, the EPIP administrator shall notify the Division of its intent to seek reimbursement simultaneously with its notice to the recipient.

(7) If a recipient's employer has terminated enrollment in the State plan and enrolled in an EPIP, any recipient who filed a valid claim for benefits under the State plan before the effective date of the employer's EPIP enrollment shall be paid or continue to be paid benefits from and under the terms of the State plan until the total amount of the benefit claim is paid, the duration of leave ends, or the application year ends, whichever occurs first.

.11 Finding of Fraud After Benefit Approval.

If benefits are approved and issued and job and anti-retaliation protections have thus attached, and then fraud is proven:

A. Any benefits issued will be treated as an overpayment; and

B. Job and anti-retaliation protections will not apply.

.12 Special EPIP Provisions.

A. To the extent the claim procedures, including timelines and good cause, outlined in this chapter are more restrictive with respect to claimants than those claim procedures outlined by the Administration, the Administration's procedures shall control.

B. To the extent the claim procedures, including notice requirements and good cause, outlined in this chapter are less restrictive with respect to employers and carriers than those claim procedures outlined by the Administration, the Administration's procedures shall control.

PORTIA WU
Secretary of Labor

REGAN VAUGHAN
Director of Policy

Title 13A STATE BOARD OF EDUCATION

Subtitle 12 EDUCATOR LICENSURE

Notice of Proposed Action

[24-114-P]

The State Board of Education proposes to:

(1) Adopt new Regulation **.05**, amend and recodify existing Regulation **.05** to be Regulation **.06**, and recodify existing Regulation **.06** to be Regulation **.07** under **COMAR 13A.12.01 General Provisions**;

(2) Amend Regulations **.06** and **.07** under **COMAR 13A.12.02 Teachers**;

(3) Amend Regulation **.05** under **COMAR 13A.12.03 Professional and Technical Education and Specialized Areas for Fine Arts**;

(4) Amend Regulations **.02**, **.06**, **.07**, **.13**, and **.15** under **COMAR 13A.12.04 Specialists**; and

(5) Amend Regulations **.06—08**, **.10**, and **.15** under **COMAR 13A.12.05 Administrators and Supervisors**.

This action was considered by the State Board of Education at its meeting on June 25, 2024.

Statement of Purpose

The purpose of this action is to align requirements to new state and federal laws, correct identified errors, and clarify language.

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 Kelly Meadows, Assistant State Superintendent, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, or call 410-767-0467, or email to kelly.meadows@maryland.gov. Comments will be accepted through November 18, 2024. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the State Board of Education during a public meeting to be held on December 3, 2024 at 9 a.m., at 200 West Baltimore Street, Baltimore, MD 21201.

13A.12.01 General Provisions

Authority: Education Article, §§2-205, 2-303(g), and 6-127, and 6-701—6-708, 8-3A-03, and Family Law § 10-119.3, Annotated Code of Maryland, Agency Note: Federal Statutory Reference- Servicemembers Civil Relief Act (50 U.S.C. § 4025a)

.05 Military Reciprocity.

(1) *A servicemember or spouse of a servicemember with a professional educator license or certificate from another state may apply for a comparable Maryland license if the servicemember or spouse:*

(a) *Has moved to reside in Maryland because of orders for military service;*

(b) *Provides a copy of the military orders to the Department as part of a licensure application;*

(c) *Has actively used the license or certificate during the 2 years immediately preceding the move; and*

(d) *Remains in good standing with the licensing authority that issued the license or certificate and with every other licensing authority that issued an educator license or certificate to the service member or spouse.*

(2) *A servicemember or spouse who meets the criteria in §(1) of this regulation shall meet the renewal requirements for the Maryland license issued.*

[.05].06 Reinstatement of an Expired Professional License.

A. (text unchanged)

B. [Exemption. An educator holding an expired Maryland Initial Professional, Professional, or Advanced Professional license who presents a valid professional license issued by a member state, may reinstate the Maryland license.

C.] Historic Professional Certificate or License.

(1)—(4) (text unchanged)

C. Exemptions.

(1) *An educator holding an expired Maryland Initial Professional, Professional, or Advanced Professional License who presents a valid professional license issued by a member state may reinstate the Maryland license.*

(2) *An educator holding an expired Maryland Standard Professional I, Standard Professional II, or Advanced Professional Certificate who presents a valid professional license issued by a member state may reinstate the Maryland license.*

13A.12.02 Teachers

Authority: Education Article, §§2-205, 2-303(g), 6-701—6-708, 8-3A-03, and 8-701—8-708, Annotated Code of Maryland

.06 Professional Development Points.

A.—B. (text unchanged)

C. Additional Requirements for Specific [Certification] Licensure Areas.

(1)—(3) (text unchanged)

D.—F. (text unchanged)

.07 Teaching Endorsements.

A. An individual who meets the qualification for initial licensure under Regulation [.02B] .03 of this chapter may add an additional teaching endorsement by submitting documentation demonstrating that the applicant has obtained:

(1) (text unchanged)

(2) [24]Twenty-four content credits as follows:

(a) (text unchanged)

(b) For secondary, middle school, pre-kindergarten—12 education, 24 credits, at least 12 of which are in the area for which the new [certification] licensure is sought and 12 of which are in content-related areas; or

(c) (text unchanged)

B.—C. (text unchanged)

13A.12.03 Professional and Technical Education and Specialized Areas for Fine Arts

Authority: Education Article, §§2-205, 2-303(g), 6-701—6-708, 8-3A-03, and 8-701—8-708, Annotated Code of Maryland

.05 Professional Development Points—Professional and Technical Education/Specialized Areas for Fine Arts.

A.—B. (text unchanged)

C. Additional Requirements for Specific [Certification] Licensure Areas.

(1)—(3) (text unchanged)

D.—E. (text unchanged)

13A.12.04 Specialists

Authority: Education Article, §§2-205, 2-303(g), 6-701—6-708, 8-3A-03, and 8-701—8-708, Annotated Code of Maryland

.02 Licenses for Specialists.

A. Types of Specialist Licenses.

(1)—(3) (text unchanged)

(4) Advanced Professional.

(a) (text unchanged)

(b) An applicant who has met the requirements of one of the pathways to licensure under this chapter is eligible for an Advanced Professional License if the applicant meets the requirements for the Professional License under [§A(2)] §A(3) of this regulation and submits documentation demonstrating that the applicant has:

(i)—(iii) (text unchanged)

B. (text unchanged)

.06 Reading Specialist.

The requirements for [certification] licensure as a reading specialist are that the applicant shall:

A.—E. (text unchanged)

.07 Reading Teacher.

A. Requirements for Licensure. The requirements for licensure as a reading teacher are that the applicant shall:

(1) Meet the requirements for licensure in early childhood education, elementary education, *special education*, or a secondary education area;

(2)—(4) (text unchanged)

B. (text unchanged)

.13 Renewal and Advancement of a Specialist License.

A.—C. (text unchanged)

[D. Renewal Requirements that May Not Be Waived. School counselors shall present 1 semester hour of coursework from an institution of higher education, one Department-approved continuing professional development credit; or an equivalent number of continuing education units that address the following:

(1) Depression;

(2) Trauma;

(3) Violence;

(4) Youth suicide;

(5) Substance Abuse; and

(6) The identification of professional resources and best practices for distributing resources to parents or guardians to help students in crisis.]

.15 Professional Development Points.

A.—B. (text unchanged)

C. Additional Requirements for Specific [Certification] *Licensure* Areas.

(1)—(3) (text unchanged)

D.—E. (text unchanged)

13A.12.05 Administrators and Supervisors

Authority: Education Article, §§2-205, 2-303(g), 6-701—6-708, 8-3A-03, and 8-701—8-708, Annotated Code of Maryland

.06 Library Media Administrator.

A. (text unchanged)

B. Education and Experience. To be licensed as library media administrator, the applicant shall:

(1)—(4) (text unchanged)

(5) Complete one of the options listed under Regulation .05 of this chapter that would lead to [certification] *licensure* as Administrator I.

C. (text unchanged)

.07 Supervisor of School Counseling.

The requirements for [certification] *licensure* as a supervisor of school counseling are that the applicant shall:

A.—D. (text unchanged)

.08 Supervisor of School Psychological Services.

The requirements for licensure as a supervisor of school psychological services are that the applicant shall:

A. Meet the requirements for licensure as a school psychologist under COMAR [13A.12.03.07] *13A.12.04.09*;

B.—E. (text unchanged)

.10 Supervisor of Special Education.

A. Principal Public Separate School. The requirements for [certification] *licensure* as a principal in a public separate school are that the applicant shall:

(1)—(2) (text unchanged)

B.—C. (text unchanged)

.15 Professional Development Points.

A.—B. (text unchanged)

C. Additional Requirements for Specific [Certification] *Licensure* Areas.

(1)—(3) (text unchanged)

D.—E. (text unchanged)

CAREY M. WRIGHT, Ed.D.
State Superintendent of Schools

Subtitle 12 EDUCATOR LICENSURE

13A.12.02 Teachers

Authority: Education Article, §§2-205, 2-303(g), 6-701—6-708, 8-3A-03 and 8-701—8-708, Annotated Code of Maryland

Notice of Proposed Action

[24-119-P]

The State Board of Education proposes to amend Regulation .03 under **COMAR 13A.12.02 Teachers**. This action was considered by the State Board of Education at their June 25, 2024 meeting.

Statement of Purpose

The purpose of this action is to align regulations with statute which was changed during the 2023 and 2024 legislative sessions.

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 Kelly Meadows, Assistant State Superintendent of Schools, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, or call 410-767-0385, or email to kelly.meadows@maryland.gov. Comments will be accepted through November 18, 2024. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the State Board of Education during a public meeting to be held on December 3, 2024 at 9:00 a.m., at 200 West Baltimore Street, Baltimore, MD 21201..

.03 Pathways to Teacher Licensure.

A. In-State Pathways to Initial Teacher Licenses.

(1) Maryland Approved Program. Teacher candidates who complete a Maryland approved educator preparation program as set forth in COMAR 13A.07.06 shall meet the following requirements:

(a)—(b) (text unchanged)

(c) *Documentation of one of the following:*

(i) *Passing score as established by the State Superintendent of Schools on a basic literacy skills assessment as approved by the State Board of Education;*

(ii) *Minimum overall cumulative grade point average of 3.0 on a 4.0 scale on the most recently earned degree; or*

(iii) *Three years of effective evaluations from a local school system in Maryland;*

[(c)] (d)—[(d)] (e) (text unchanged)

[(e)] (f) *Beginning on July 1, 2025, [passing scores as established by the State Superintendent of Schools on a portfolio-based*

performance assessment approved by the State Board of Education.] meet one of the following qualifications:

(i) *Passing score as established by the State Superintendent of Schools on a nationally recognized, portfolio-based performance assessment approved by the State Board of Education; or*

(ii) *Completion of a comprehensive local school system teacher induction program that meets the requirements listed under §C(2) of this regulation.*

(2) In-District Training Program. Teacher candidates who are hired as a teacher of record in a Maryland local school [district] system may complete a Department-approved in-district training program. Candidates seeking licensure under the in-district pathway shall meet the following requirements:

(a) (text unchanged)

(b) Demonstration of content knowledge by completing the following:

(i)—(ii) (text unchanged)

(iii) [Passing] *Bachelor's degree or higher in any field and passing scores as established by the State Superintendent of Schools on a content licensure test approved by the State Board of Education.*

(c)—(f) (text unchanged)

(3) Experienced Nonpublic School Teacher. Experienced teacher candidates working in Maryland nonpublic schools approved under COMAR 13A.09.09 shall meet the following requirements:

(a)—(b) (text unchanged)

(c) Beginning on July 1, 2025, [passing scores as established by the State Superintendent of Schools on a portfolio-based performance assessment approved by the State Board of Education; and] meet one of the following qualifications:

(i) *Passing score as established by the State Superintendent of Schools on a nationally recognized, portfolio-based performance assessment approved by the State Board of Education;*

(ii) *An effective, or comparable, rating on a year-end evaluation if the individual is employed by a Maryland local school system, State-operated school, or approved nonpublic school approved under COMAR 13A.09.10;*

(iii) *Complete a comprehensive induction program under §C(2) of this regulation if the individual is employed by a Maryland local school system; or*

(iv) *Hold a National Board Certificate from the National Board for Professional Teaching Standards; and*

(d) (text unchanged)

B. Out-of-State Pathways to Initial Teacher License.

(1) Out-of-State Teacher Preparation Program. Teacher candidates who complete a teacher preparation program in another state or foreign country shall meet the following requirements:

(a)—(b) (text unchanged)

(c) Beginning on July 1, 2025, [a passing score as established by the State Superintendent of Schools on a portfolio-based performance assessment approved by the State Board of Education; and] meet one of the following qualifications:

(i) *Passing score as established by the State Superintendent of Schools on a nationally recognized, portfolio-based performance assessment approved by the State Board of Education;*

(ii) *An effective, or comparable, rating on a year-end evaluation if the individual is employed by a Maryland local school system, State-operated school, or approved nonpublic school approved under COMAR 13A.09.10;*

(iii) *Complete a comprehensive induction program under §C(2) of this regulation if the individual is employed by a Maryland local school system; or*

(iv) *Hold a National Board Certificate from the National Board for Professional Teaching Standards; and*

(d) (text unchanged)

(2) Out-of-State License. Teacher candidates who hold a valid professional license/certificate from another state or foreign country shall meet the following requirements:

(a)—(b) (text unchanged)

(c) Beginning on July 1, 2025, [a passing score as established by the State Superintendent of Schools on a portfolio-based performance assessment approved by the State Board of Education; and] meet one of the following qualifications:

(i) *Passing score as established by the State Superintendent of Schools on a portfolio-based performance assessment approved by the State Board of Education;*

(ii) *An effective, or comparable, rating on a year-end evaluation if the individual is employed by a Maryland local school system, State-operated school, or approved nonpublic school approved under COMAR 13A.09.10;*

(iii) *Complete a comprehensive induction program under §C(2) of this regulation if the individual is employed by a Maryland local school system; or*

(iv) *Hold a National Board Certificate from the National Board for Professional Teaching Standards; and*

(d) (text unchanged)

(3) (text unchanged)

C. Special Provisions.

(1) The Department shall evaluate credits from institutions in other countries for comparability of degree and coursework by an independent agency authorized to analyze foreign credentials and designated by the Department. The evaluation is final.

[(2) A National Board Certificate may be submitted instead of a portfolio-based assessment.

(3) An effective, or comparable, rating on a year-end evaluation may be submitted instead of a portfolio-based assessment if the candidate meets the following criteria:

(a) Meets the requirements for initial licensure under § A(3) or B(1)-(2) of this regulation; and

(b) Is employed by a Maryland local school system, State-operated school, or approved nonpublic school approved under COMAR 13A.09.10.]

(2) *Comprehensive Induction Program. A comprehensive induction program shall:*

(a) *Be developed by a local school system, either independently or collaboratively with other local school systems;*

(b) *Be approved by the Department;*

(c) *Last the lesser of 3 years or the amount of time a teacher holds a conditional license; and*

(d) *Include a locally developed portfolio component that is aligned with the Interstate Teacher Assessment and Support Consortium Standards.*

CAREY M. WRIGHT, Ed.D.
State Superintendent of Schools

Title 31 MARYLAND INSURANCE ADMINISTRATION

Subtitle 03 INSURANCE PRODUCERS AND OTHER INSURANCE PROFESSIONALS

31.03.18 Public Adjusters

Authority: Insurance Article, §2-109, Annotated Code of Maryland

Notice of Proposed Action

[24-134-P]

The Acting Insurance Commissioner proposes to amend Regulation .02 and adopt new Regulation .17 under **COMAR 31.03.18 Public Adjusters**.

Statement of Purpose

The purpose of this action is to amend and add to **COMAR 31.03.18 Public Adjusters** to clarify requirements established in 2024 Maryland Laws Ch. 826. The regulation defines "business day" as it is used in the law, describes how the "the date of a loss giving rise to an insurance claim" shall be determined, and describes how a public adjuster shall notify the Insurance Commissioner that they entered into a contract for public adjuster services during or within 72 hours after a loss giving rise to an insurance claim, as required by the law.

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 Jessica Blackmon, Administrative Law Clerk, Maryland Insurance Administration, 200 Saint Paul Place Suite 2700, Baltimore, MD 21202, or call 410-468-2019, or email to insuranceregreview.mia@maryland.gov. Comments will be accepted through November 18, 2024. A public hearing has not been scheduled.

.02 Definitions.

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

(1) "Administration" means the Maryland Insurance Administration.

[(1)] (2) – [(17)] (18) (text unchanged)

.17 Protections after Loss or Damage to Property.

A. The term "business day", as it is used in Insurance Article, §§10-411(h) and 10-414(f), Annotated Code of Maryland means any day other than a Saturday, Sunday, or State holiday.

B. In enforcing Insurance Article, §10-414(f), Annotated Code of Maryland, the Commissioner shall determine the date of a loss giving rise to an insurance claim as follows:

(1) If the insurance claim resulted from a hurricane, then the date of loss giving rise to the insurance claim is the date that the hurricane made landfall in the State of Maryland;

(2) If the insurance claim resulted from a tornado, windstorm, severe rain, or other weather-related event that is not a hurricane, then the date of loss giving rise to the insurance claim is the date that the tornado, windstorm, severe rain, or other weather-related event is verified to have occurred in Maryland by the National Oceanic and Atmospheric Administration; or

(3) If the insurance claim is not within the scope of §B(1) or (2) of this regulation, then the date of loss giving rise to the insurance claim is the date that the loss was discovered.

C. To comply with §10-414(f), a public adjuster who enters into a contract for public adjuster services during or within 72 hours after a loss giving rise to an insurance claim shall electronically submit the Public Adjuster Contract Submission Form that is published to the Administration's website, together with any attachments required therein, within one business day after entering into the contract.

JOY Y. HATCHETTE
Acting Insurance Commissioner

Subtitle 04 INSURERS

31.04.18 Form Filings Under the Maryland Insurance Acquisitions Disclosure and Control Act

Authority: Insurance Article, §§1-101(jj), 2-109, 2-205, 2-209, and 5-901—5-917, Annotated Code of Maryland

Notice of Proposed Action

[24-135-P]

The Acting Insurance Commissioner proposes to amend Regulation .02 and adopt new Regulation .15 under **COMAR 31.04.18 Form Filings Under Maryland Insurance Acquisitions Disclosure and Control Act**.

Statement of Purpose

The purpose of this action is to clarify reporting requirements established by 2024 Maryland Laws Ch. 121 (H.B. 252). The regulation clarifies when the ultimate controlling person of an insurance holding company system is required to submit an annual group capital calculation, may be exempt from submitting an annual group capital calculation, or may be permitted to submit a limited group capital filing in lieu of a group capital calculation.

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 Jessica Blackmon, Administrative Law Clerk, Maryland Insurance Administration, 200 Saint Paul Place, Suite 2700 Baltimore, MD 21202, or call 410-468-2019, or email to insuranceregreview.mia@maryland.gov. Comments will be accepted through November 18, 2024. A public hearing has not been scheduled.

.02 Definitions.

- A. (text unchanged)
 - B. Terms Defined.
- (1)—(13) (text unchanged)

(14) “Lead state commissioner” means the lead state insurance commissioner of the insurance holding company system as determined by the procedures in the NAIC Financial Analysis Handbook.

[(14)] (15)—[(16)] (17) (text unchanged)

(18) “Troubled insurer” means an insurer that is in or moving towards a financial position that subjects its policyholders, claimants and other creditors to greater-than-normal financial risk, including the possibility that the company may not maintain compliance with statutory capital and/or surplus requirements.

[(17)] (19) (text unchanged)

.15 Group Capital Calculation.

A. Where an insurance holding company system has previously filed the annual group capital calculation required under Insurance Article, §7-603(i), Annotated Code of Maryland, the lead state commissioner has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation if the lead state commissioner makes a determination based upon that filing that the insurance holding company system:

(1) Has annual direct written and unaffiliated assumed premium (including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program) of less than \$1,000,000,000;

(2) Does not include an insurer that is domiciled outside of the United States or one of its territories;

(3) Does not include a banking, depository or other financial entity that is subject to an identified regulatory capital framework;

(4) Attests that no material changes in the transactions between insurers and non-insurers in the group have occurred since the last filing of the annual group capital; and

(5) Does not include a non-insurer that poses a material financial risk to the insurer’s ability to honor policyholder obligations.

B. Where an insurance holding company system has previously filed the annual group capital calculation required under Insurance Article, §7-603(i), Annotated Code of Maryland, the lead state commissioner may accept a limited group capital filing in lieu of the group capital calculation if the insurance holding company system:

(1) Has annual direct written and unaffiliated assumed premium (including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program) of less than \$1,000,000,000;

(2) Does not include an insurer that is domiciled outside of the United States or one of its territories;

(3) Does not include a banking, depository or other financial entity that is subject to an identified regulatory capital framework;

(4) Attests that no material changes in the transactions between insurers and non-insurers in the group have occurred since the last filing of the annual group capital; and

(5) Does not include a non-insurer that poses a material financial risk to the insurer’s ability to honor policyholder obligations.

C. For an insurance holding company that has previously met an exemption with respect to the group capital calculation pursuant to §A or B of this regulation, the lead state commissioner may require at any time the ultimate controlling person to file an annual group capital calculation, completed in accordance with the group capital calculation instructions adopted by the NAIC, if:

(1) Any insurer within the insurance holding company system is in a risk-based capital action or control level event as set forth in Insurance Article, §§4-305 through 4-308, Annotated Code of Maryland, or a similar standard for a non-U.S. insurer;

(2) Any insurer within the insurance holding company system meets one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in Insurance Article, §9-102, Annotated Code of Maryland; or

(3) Any insurer within the insurance holding company system otherwise exhibits qualities of a troubled insurer, as determined by the lead state commissioner based on unique circumstances including, but not limited to, the type and volume of business written, ownership and organizational structure, federal agency requests, and international supervisor requests.

D. A non-U.S. jurisdiction is considered to “recognize and accept” the group capital calculation, as described in Insurance Article, §7-603(i)(2)(v), Annotated Code of Maryland, if:

(1) It satisfies either of the following criteria:

(a) The non-U.S. jurisdiction recognizes the U.S. state regulatory approach to group supervision and group capital, by providing confirmation by a competent regulatory authority, in such jurisdiction, that insurers and insurance groups whose lead state is accredited by the NAIC under the NAIC Accreditation Program shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the lead state and will not be subject to group supervision, including worldwide group governance, solvency and capital, and reporting, at the level of the worldwide parent undertaking of the insurance or reinsurance group by the non-U.S. jurisdiction; or

(b) Where no U.S. insurance groups operate in the non-U.S. jurisdiction, that non-U.S. jurisdiction indicates formally in writing to the lead state with a copy to the International Association of Insurance Supervisors that the group capital calculation is an acceptable international capital standard; and

(2) The non-U.S. jurisdiction provides confirmation by a competent regulatory authority in such jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the lead state commissioner in accordance with a memorandum of understanding or similar document between the commissioner and such jurisdiction, including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC, provided that the Commissioner shall determine in consultation with the NAIC committee process that the requirements of such memorandum are in force.

E. A list will be published through the NAIC committee process that:

(1) Identifies non-U.S. jurisdictions that are considered to “recognize and accept” the group capital calculation, as described in Insurance Article, §7-603(i)(2)(v), Annotated Code of Maryland to assist the lead state commissioner in determining which insurers shall file an annual group capital calculation;

(2) Clarifies those situations in which a jurisdiction is exempted from filing under Insurance Article, §7-603(i)(2)(iv)-(v), Annotated Code of Maryland; and

(3) To assist with a determination under Insurance Article, §7-603(i)(3), Annotated Code of Maryland, identify whether a jurisdiction that is exempted under Insurance Article, §7-603(i)(2)(iii)-(v), Annotated Code of Maryland requires a group capital filing for any U.S. based insurance group’s operations in that non-U.S. jurisdiction.

F. For a non-U.S. jurisdiction where no U.S. insurance groups operate, the confirmation provided to meet the requirement of §D(1)(b) of this regulation will serve as support for recommendation to be published as a jurisdiction that “recognizes and accepts” the group capital calculation through the NAIC committee process.

G. If the lead state commissioner makes a determination pursuant to Insurance Article, §7-603(i)(2)(v), Annotated Code of Maryland that differs from the NAIC List, the lead state commissioner shall provide thoroughly documented justification to the NAIC and other states.

PROPOSED ACTION ON REGULATIONS

948

H. Upon determination by the lead state commissioner that a non-U.S. jurisdiction no longer meets one or more of the requirements to “recognize and accept” the group capital calculation, as described in Insurance Article, §7-603(i)(2)(v), Annotated Code of Maryland, the lead state commissioner may provide a recommendation to the NAIC

that the non-U.S. jurisdiction be removed from the list of jurisdictions that “recognize and accepts” the group capital calculation.

JOY Y. HATCHETTE
Acting Insurance Commissioner

Special Documents

DEPARTMENT OF THE ENVIRONMENT SUSQUEHANNA RIVER BASIN COMMISSION

Public Hearing

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: The Susquehanna River Basin Commission will hold a public hearing on October 30, 2024. The Commission will hold this hearing in person and telephonically. At this public hearing, the Commission will hear testimony on the projects listed in the Supplementary Information section of this notice. The Commission will also hear any testimony on the proposed 2025 fee schedule. Such projects and actions are intended to be scheduled for Commission action at its next business meeting, tentatively scheduled for December 12, 2024, which will be noticed separately. The public should note that this public hearing will be the only opportunity to offer oral comments to the Commission for the listed projects and actions. The deadline for the submission of written comments is November 11, 2024.

DATES: The public hearing will convene on October 30, 2024, at 6:30 p.m. The public hearing will end at 9:00 p.m. or at the conclusion of public testimony, whichever is earlier. The deadline for submitting written comments is Tuesday, November 12, 2024.

ADDRESSES: This public hearing will be conducted in person and telephonically. You may attend in person at Susquehanna River Basin Commission, 4423 N. Front St., Harrisburg, Pennsylvania, or join by telephone at Toll-Free Number 1-877-304-9269 and then enter the guest passcode 2619070 followed by #.

FOR FURTHER INFORMATION CONTACT: Jason Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238-0423 or joyler@srbc.gov.

The proposed 2025 Fee Schedule can be viewed on the Commissions website, under public participation: <https://www.srbc.gov/regulatory/public-participation/>.

Information concerning the project applications is available at the Commission's Water Application and Approval Viewer at <https://www.srbc.gov/waav>. Additional supporting documents are available to inspect and copy in accordance with the Commission's Access to Records Policy at www.srbc.gov/regulatory/policies-guidance/docs/access-to-records-policy-2009-02.pdf.

SUPPLEMENTARY INFORMATION: In addition to hearing any testimony on the proposed 2025 Fee Schedule, the public hearing will cover the following projects:

Projects Scheduled for Action:

1. Project Sponsor and Facility: Chesapeake Appalachia, L.L.C. (Susquehanna River), Sheshequin Township, Bradford County, Pa. Application for surface water withdrawal of up to 4.000 mgd (peak day).
2. Project Sponsor and Facility: Coterra Energy Inc. (Tunkhannock Creek), Lenox Township, Susquehanna County, Pa. Application for renewal and modification of surface water withdrawal of up to 2.880 mgd (peak day) (Docket No. 20191201).

3. Project Sponsor and Facility: Coterra Energy Inc. (Tunkhannock Creek), Nicholson Township, Wyoming County, Pa. Application for renewal and modification of surface water withdrawal of up to 2.880 mgd (peak day) (Docket No. 20230903).

4. Project Sponsor and Facility: Dover Township, York County, Pa. Application for groundwater withdrawal of up to 0.144 mgd (30-day average) from Well 11.

5. Project Sponsor and Facility: East Cocalico Township Authority, East Cocalico Township, Lancaster County, Pa. Application for renewal of groundwater withdrawal of up to 0.115 mgd (30-day average) from Well 2A (Docket No. 19990901). Source and service area are located in an Environmental Justice area.

6. Project Sponsor and Facility: Edgewood by Sand Springs, LLC (Nescopeck Creek), Butler Township, Luzerne County, Pa. Applications for renewal of surface water withdrawal of up to 0.317 mgd (peak day) and consumptive use of up to 0.249 mgd (30-day average) (Docket No. 19980102).

7. Project Sponsor: The H&K Group. Project Facility: Penn/MD Materials, Fulton Township, Lancaster County, Pa. Applications for consumptive use of up to 0.024 mgd (peak day) and groundwater withdrawals (30-day averages) of up to 1.980 mgd from the Pit Sump, 0.004 mgd from the Primary and Secondary Well, and 0.011 mgd from the Tertiary Well.

8. Project Sponsor: New Enterprise Stone & Lime Co., Inc. Project Facility: Roaring Spring Quarry (Halter Creek 2), Taylor Township, Blair County, Pa. Applications for renewal and modification of consumptive use of up to 0.380 mgd (peak day) and surface water withdrawal of up to 0.288 mgd (peak day) (Docket No. 19940705 and Certificate of Registration No. GF-202204215).

9. Project Sponsor: New Enterprise Stone & Lime Co., Inc. Project Facility: Shippensburg Quarry, Southampton Township, Cumberland County, Pa. Applications for groundwater withdrawals (30-day averages) of up to 0.065 mgd from the Transit Well and 0.020 mgd from the Quarry Well, and consumptive use of up to 0.150 mgd (peak day).

10. Project Sponsor and Facility: Newport Borough Water Authority, Oliver Township, Perry County, Pa. Application for renewal and modification of groundwater withdrawal of up to 0.096 mgd (30-day average) from Well 1 (Docket No. 20140908).

11. Project Sponsor: Pennsylvania Fish & Boat Commission. Project Facility: Benner Spring State Fish Hatchery, Benner Township, Centre County, Pa. Applications for groundwater withdrawals (30-day averages) of up to 0.720 mgd from Well 1 (renewal of Docket No. 19940701) and up to 0.311 mgd from Well 3.

12. Project Sponsor and Facility: Schuylkill County Municipal Authority, Butler Township, Schuylkill County, Pa. Application for renewal of groundwater withdrawal of up to 0.362 mgd (30-day average) from the Gordon Well (Docket No. 20090624). Service area is located in an Environmental Justice area.

13. Project Sponsor and Facility: Strasburg Lancaster County Borough Authority, Strasburg Township, Lancaster County, Pa. Application for renewal of groundwater withdrawal of up to 0.275 mgd (30-day average) from the Fisher Well (Docket No. 19890107). Service area is located in an Environmental Justice area.

14. Project Sponsor and Facility: SWN Production Company, LLC (Susquehanna River), Great Bend Township, Susquehanna County, Pa. Application for renewal of surface water withdrawal of up to 2.000 mgd (peak day) (Docket No. 20191209).

15. Project Sponsor and Facility: Tallman Family Farms, L.L.C. (Wiconisco Creek), Washington Township, Dauphin County, Pa. Application for surface water withdrawal of up to 0.720 mgd (peak day).

16. Project Sponsor: Valley CC LLC. Project Facility: Valley Country Club, Sugarloaf Township, Luzerne County, Pa. Applications for renewal of groundwater withdrawals (30-day averages) of up to 0.090 mgd from the Shop Well and up to 0.090 mgd from the Pumphouse Well (Docket No. 20090632).

Opportunity to Appear and Comment:

Interested parties may appear or call into the hearing to offer comments to the Commission on any business listed above required to be the subject of a public hearing. Given the nature of the meeting, the Commission strongly encourages those members of the public wishing to provide oral comments to pre-register with the Commission by e-mailing Jason Oyler at joyler@srbc.gov before the hearing date. The presiding officer reserves the right to limit oral statements in the interest of time and to control the course of the hearing otherwise. Access to the hearing via telephone will begin at 6:15 p.m. Guidelines for the public hearing are posted on the Commission’s website, www.srbc.gov, before the hearing for review. The presiding officer reserves the right to modify or supplement such guidelines at the hearing. Written comments on any business listed above required to be the subject of a public hearing may also be mailed to Mr. Jason Oyler, Secretary to the Commission, Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pa. 17110-1788, or submitted electronically through https://www.srbc.gov/meeting-comment/default.aspx?type=2&cat=7. Comments mailed or electronically submitted must be received by the Commission on or before Tuesday, November 12, 2024, to be considered.

Authority: Pub. L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: September 25, 2024.

JASON E. OYLER
 General Counsel and Secretary to the Commission
 [24-21-04]

**SUSQUEHANNA RIVER BASIN
 COMMISSION
 18 CFR Part 801**

General Policies

AGENCY: Susquehanna River Basin Commission.

ACTION: Final Rule.

SUMMARY: This document contains rules that amend the regulations of the Susquehanna River Basin Commission (Commission) to provide rules for agency procurement and bid protest procedures and for updating the general policies of the Commission to include climate change and environmental justice, revising the procedures regarding the adoption of the comprehensive plan and adding language to memorialize the Commission’s Dry Cooling Resolution.

DATES: This Rule is effective immediately upon publication in the Federal Register.

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.gov.

SUPPLEMENTARY INFORMATION: Notice of proposed rulemaking was published in the Federal Register on March 21, 2024; New York Register on April 10, 2024; Pennsylvania Bulletin on April 13, 2024; and Maryland Register on April 5, 2024. The Commission convened a public hearing on May 2, 2024 to hear testimony on the proposed rulemaking. A written comment period was held open to May 13 and extended upon request to June 10, 2024.

During this official public comment period, only one comment was received. The comments focused exclusively on the language added to new paragraph § 801.12(d) regarding dry cooling and electric power generation. The commenter asked that the nuclear power industry be wholly exempted from this requirement, stating that the Commission’s regulatory review regulations at Part 806 fully covered the use of water and impacts of water use by industry and that dry cooling was not practicable for nuclear power plants. The commenter also noted that the Commission did not provide a definition of “significantly modified power generation plants” in the rulemaking.

The Commission will continue to require the power generation industry, including the nuclear power industry, to evaluate water use and utilize readily available technologies to reduce water use. The Commission believes that smaller nuclear power plants may be able to use dry cooling and hybrid dry cooling systems in the future. In light of the comment, the Commission does amend the original language proposed in paragraph (d) of § 801.12 to focus on the requirement that project sponsors of power generation plants must evaluate their projected water use and consider all available and feasible technologies, including but not limited to dry cooling, that could lower overall consumptive use of water. This change broadens the focus not just on dry cooling but also on other technologies that may be more feasible for the nuclear power industry as well as the power generation industry as a whole. The Commission also added clarity on what a “significantly modified power plant” would be in the context of this paragraph.

The Commission received no other comments on any other aspects of the proposed rule or Part 801 and therefore made no additional changes to the language in this final rule.

List of Subjects in 18 CFR Part 801

Administrative practice and procedure, Water resources.

Accordingly, for the reasons set forth in the preamble, the Susquehanna River Basin Commission amends 18 CFR part 801 as follows:

PART 801—GENERAL POLICIES

1. The authority citation for part 801 continues to read as follows:
 Authority: Secs. 3.1, 3.4, 3.5(1), 15.1 and 15.2, Pub. L. 91-575 (84 Stat. 1509 et seq.)

2. Amend § 801.2 by revising paragraph (b)(9) as follows:
 § 801.2 Coordination, cooperation, and intergovernmental relations.
 * * * * *

(b) * * *
 (9) Coordinate and cooperate with the appropriate agencies of a member jurisdiction on implementing actions to address resiliency in the face of changing climatic conditions and to support the aims of environmental justice.

3. Revise § 801.5 to read as follows:

§ 801.5 Comprehensive plan.

(a) The Compact requires that the Commission formulate and adopt a comprehensive plan for the immediate and long-range development and use of the water resources of the basin.

(1) The plan will include existing and proposed public and private programs, projects, and facilities which are required, in the judgment

of the Commission, to meet present and future water resources needs of the basin. Consideration shall be given to the effect of the plan, or any part of the plan, on the receiving waters of the Chesapeake Bay. The Commission shall consult with interested public bodies and public utilities and fully consider the findings and recommendations of the signatory parties, their various subdivisions and interested groups. Prior to adoption of the plan the Commission shall conduct at least one public hearing in each signatory State.

(2) The plan will reflect consideration of multiple objectives, including economic growth; sustainable regional development and environmental resilience; coordinated study and consideration of water quantity and water quality and the nexus with existing and proposed land uses; and the promotion of cooperation and collaboration between all levels of government and non-governmental entities.

(3) The Commission will strive to complete a comprehensive update of the comprehensive plan every 20 years. If adjustments are needed during the life span of the plan to address emergent priorities, goals, or objectives, the comprehensive plan will be revised in accordance with requirements of the Compact.

(4) Projects requiring Commission review and approval will be included in the comprehensive plan after formal action is taken at Commission business meetings. Approved projects will be incorporated into the comprehensive plan and accessible via the Commission's Water Application and Approval Viewer or successor viewer applications.

(b) The comprehensive plan shall provide for the immediate and long-range use, development, conservation, preservation, and management of the water resources of the basin. The plan will be presented in a form and order as determined by the Commission and shall include but not be limited to the following:

- (1) Statement of authority, purpose, objectives, and scope.
- (2) Identification of priorities, goals and objectives of the Commission.
- (3) Inventory of the basin's water resources and existing developments, projects and facilities.
- (4) Projection of immediate and long range water resources needs of the basin.
- (5) Outline of plan implementation measures.
- (6) Procedures for updating and modifying the plan.
- (7) Necessary appendices.

4. Amend § 801.12 by adding paragraph (d) to read as follows:
§ 801.12 Electric power generation.

* * * * *

(d) Project sponsors proposing new or significantly modified power generation plants in the basin shall submit to the Commission for review an evaluation of their projected water use and consider all available and feasible technologies, including dry cooling, that could lower the consumptive use of water at the plant. For the purposes of this evaluation, a significantly modified power plant is one that is changing its fuel source or substantially increasing its consumptive use of water.

5. Add § 801.15 to read as follows:

§ 801.15 Commission Procurement Procedures; Protests.

(a) Procedures. The Commission shall maintain a policy entitled "SRBC Procurement Procedures" that outlines the details and procedures related to the purchasing and procurement of goods and services by the Commission. Any revisions to this policy shall be consistent with § 15.9 of the Compact and undertaken in accordance with appropriate public notice and comment consistent with the requirements of § 808.1.

(b) Right to Protest. A bidder or offeror, a prospective bidder or offeror or a prospective contractor that is aggrieved in connection with the solicitation or award of a contract, may protest to the Commission in writing.

(c) Filing of Protest. A protestant shall file the protest on a form and in a manner prescribed by the Commission. A protest shall be filed within ten calendar days after the aggrieved protestant knew or should have known of the facts giving rise to the protest, except that in no event may a protest be filed later than ten calendar days after the date the contract was awarded. The failure to file a timely protest shall be deemed as a waiver of the right to protest by any bidder or offeror, prospective bidder or offeror or a prospective contractor. Untimely filed protests shall be disregarded by the Commission. The Executive Director or his/her designee shall be the presiding officer to hear the bid protest. The awardee of the contract, if any, will be informed by the Commission of any bid protest that may affect the contract and the awardee may intervene as a party in any protest filed.

(d) Contents of Protest. A protest shall state all the grounds upon which the protestant asserts the solicitation or award of the contract was improper. The protestant may submit with the protest any documents or information it deems relevant to the protest.

(e) Response and Reply. Within 15 calendar days of receipt of a protest, the purchasing officer may submit to the presiding officer and the protestant a response to the protest, including any documents or information deemed relevant to the protest. The protestant may file a reply to the response within ten calendar days of the response.

(f) Evaluation of Protest. The presiding officer shall review the protest and any response or reply and may request and review such additional documents or information as they deem relevant to render a decision and may, at their sole discretion, conduct a hearing consistent with § 808.3. All parties will be provided with a reasonable opportunity to review and address any additional documents or information deemed relevant by the presiding officer to render a decision. Additional documents and information deemed relevant by the presiding officer will be included in the record.

(g) Findings and Report. Upon completing an evaluation of the protest, the presiding officer shall prepare a report of their findings and recommendations based on the record. The report shall be served by electronic mail or certified mail upon each party to the proceeding. Any party may file objections to the report. Such objections to the report shall be filed with the Commission and served on all parties within 20 calendar days after service of the report. A brief shall be filed together with the objections. Any replies to the objections and briefs will be filed and served on all parties within ten calendar days of service of the objections. Prior to its decision on such objections, the Commission may, in its sole discretion, grant a request for oral argument.

(h) Action by the Commission. The Commission will review the findings and recommendations of the presiding officer and the objections and render a determination. The Commission's determination will be in writing and will be served by electronic or certified mail upon each party to the proceeding.

(i) Appeal. Any final action by the Commission may be appealed to the appropriate United States District Court within 90 days as set forth in § 3.10(6) and Federal reservation (o) of the Compact.

(j) Record of Determination. The Commission's record of determination for review by the court shall consist of the solicitation; the contract, if any; the administrative record of the protest before the presiding officer; the report of the presiding officer, along with any objections and replies filed; transcripts and exhibits, if any; and the final determination of the Board of Commissioners.

(k) Stay of Procurement During Pendency of Protest. In the event a protest is filed timely under this section, the purchasing officer shall not proceed further with the solicitation or with the award of the contract unless and until the Executive Director makes a written determination that the protest is clearly without merit, or that award of the contract without delay is necessary to protect substantial interests

of the Commission, or until the Commission enters a final determination under paragraph (h) of this section.

(l) Exclusive Procedure. This section shall be the exclusive procedure for protesting a solicitation or award of a contract by a bidder or offeror, a prospective bidder or offeror or a prospective contractor that is aggrieved in connection with the solicitation or award of a contract by the Commission.

Dated: September 18, 2024

JASON E. OYLER
Secretary to the Commission
[24-21-05]

SUSQUEHANNA RIVER BASIN COMMISSION

Actions Taken at the September 12, 2024 Meeting

AGENCY: Susquehanna River Basin Commission

ACTION: Notice.

SUMMARY: As part of its regular business meeting held on September 12, 2024, in Baltimore, Maryland, the Commission approved the applications of certain water resources projects and took additional actions, as set forth in the Supplementary Information below.

DATES: September 12, 2024.

ADDRESSES: Susquehanna River Basin Commission, 4423 N. Front Street, Harrisburg, PA 17110-1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel and Secretary, telephone: 717-238-0423, ext. 1312, fax: 717-238-2436; e-mail: joyler@srbc.gov. Regular mail inquiries may be sent to the above address. See also the Commission website at www.srbc.gov.

SUPPLEMENTARY INFORMATION: In addition to the actions taken on projects identified in the summary above, these actions were also taken: (1) adopted a preliminary Fiscal Year 2026 budget; (2) unanimously adopted the member jurisdiction allocation requests for Fiscal Year 2026; (3) adopted a final rulemaking for establishing bid protest procedures, memorializing the Commission's Dry Cooling Resolution and other changes to Part 801; (4) approved four grant amendments; and (5) actions on 24 regulatory program projects.

Project Applications Approved:

Project Sponsor and Facility: Amazon Data Services, Inc. Project Facility: PHL100 Data Center Campus, Salem Township, Luzerne County, Pa. Application for consumptive use of up to 0.060 mgd (30-day average).

Project Sponsor and Facility: Ashland Area Municipal Water Authority, Butler Township, Schuylkill County, Pa. Application for renewal of groundwater withdrawal of up to 0.115 mgd (30-day average) from Well 5 (Docket No. 19931101). Service area is located in an Environmental Justice area.

Project Sponsor: Borough of Middletown. Project Facility: Middletown Water System, Borough of Middletown, Dauphin County, Pa. Application for renewal of groundwater withdrawal of up to 1.070

mgd (30-day average) from Well 6 (Docket No. 19970702). Service area is located in an Environmental Justice area.

Project Sponsor and Facility: Caernarvon Township Authority, Caernarvon Township, Berks County, Pa. Application for renewal of groundwater withdrawal of up to 0.317 mgd (30-day average) from Well 8 (Docket No. 19940902). Service area is located in an Environmental Justice area.

Project Sponsor and Facility: Chesapeake Appalachia, L.L.C. (Loyalsock Creek), Forksville Borough, Sullivan County, Pa. Application for renewal and modification of surface water withdrawal of up to 1.500 mgd (peak day) (Docket No. 20190903).

Project Sponsor and Facility: Clear Water Technology, LLC (Middle Branch Wyalusing Creek), Forest Lake Township, Susquehanna County, Pa. Application for surface water withdrawal of up to 1.440 mgd (peak day).

Project Sponsor and Facility: Dillsburg Area Authority, Franklin Township, York County, Pa. Application for renewal of groundwater withdrawal of up to 0.199 mgd (30-day average) from Well 3 (Docket No. 20081207).

Project Sponsor: Greater Hazleton Community-Area New Development Organization, Inc. Project Facility: CAN DO, Inc. – Corporate Center, Butler Township, Luzerne County, Pa. Application for renewal of groundwater withdrawal of up to 0.547 mgd (30-day average) from Well 1 (Docket No. 20090309).

Project Sponsor and Facility: Jersey Shore Area Joint Water Authority, Pine Creek Township, Clinton County, Pa. Application for groundwater withdrawal of up to 0.452 mgd (30-day average) from Pine Creek Well 1, which is an increase of the quantity established in Certificate of Registration No. GF-202012137.

Project Sponsor and Facility: JKLM Energy, LLC (Mill Creek), Rutland Township, Tioga County, Pa. Application for surface water withdrawal of up to 0.600 mgd (peak day).

Project Sponsor and Facility: JKLM Energy, LLC (Tioga River), Lawrenceville Borough, Tioga County, Pa. Application for renewal with an increase of surface water withdrawal of up to 1.800 mgd (peak day) (Docket No. 20230610).

Project Sponsor and Facility: Municipal Authority of the Borough of Mansfield, Richmond Township, Tioga County, Pa. Application for renewal of groundwater withdrawal of up to 0.173 mgd (30-day average) from Well 1 (Docket No. 19940707).

Project Sponsor and Facility: Pennsylvania General Energy Company, L.L.C. (Loyalsock Creek), Plunketts Creek Township, Lycoming County, Pa. Application for renewal of surface water withdrawal of up to 2.000 mgd (peak day) (Docket No. 20231213).

Project Sponsor: The Procter & Gamble Paper Products Company. Project Facility: Mehoopany Plant, Washington Township, Wyoming County, Pa. Application for renewal of consumptive use of up to 2.750 mgd (peak day) (Docket No. 19940704).

Project Sponsor and Facility: Repsol Oil & Gas USA, LLC (Lycoming Creek), McIntyre Township, Lycoming County, Pa. Application for renewal of surface water withdrawal of up to 2.000 mgd (peak day) (Docket No. 20190910).

Project Sponsor and Facility: Seneca Resources Company, LLC (Marsh Creek), Delmar Township, Tioga County, Pa. Application for renewal of surface water withdrawal of up to 0.499 mgd (peak day) (Docket No. 20190911).

Project Sponsor and Facility: Shrewsbury Borough, York County, Pa. Application for renewal of groundwater withdrawal of up to 0.120 mgd (30-day average) from the Woodlyn Well (Docket No. 19920501).

Project Sponsor and Facility: State College Borough Water Authority, Benner Township, Centre County, Pa. Applications for renewal of groundwater withdrawal (30-day averages) of up to 1.584 mgd from Well 17, 0.576 mgd from Well 18, and 1.512 mgd from Well 19 (Docket No. 19930501).

Project Sponsor: TableTrust Brands LLC. Project Facility: Freebird East, Bethel Township, Lebanon County, Pa. Application for renewal of groundwater withdrawal of up to 0.199 mgd (30-day average) from Well 8 (Docket No. 19990701).

Project Sponsor: UGI Development Company. Project Facility: Hunlock Creek Energy Center (Susquehanna River), Hunlock Township, Luzerne County, Pa. Applications for renewal of surface water withdrawal of up to 55.050 mgd (peak day) and consumptive use of up to 2.396 mgd (peak day) (Docket No. 20090916).

Project Sponsor and Facility: Williamsburg Municipal Authority, Catharine Township, Blair County, Pa. Application for renewal of groundwater withdrawal of up to 0.180 mgd (30-day average) from Well 3 (Docket No. 19940702).

Project Sponsor and Facility: XTO Energy Inc. (West Branch Susquehanna River), Chapman Township, Clinton County, Pa. Application for renewal of surface water withdrawal of up to 2.000 mgd (peak day) (Docket No. 20190912). Located in an Environmental Justice area.

Projects Tabled:

Project Sponsor: New Enterprise Stone & Lime Co., Inc. Project Facility: Roaring Spring Quarry (Halter Creek 2), Taylor Township, Blair County, Pa. Applications for renewal of consumptive use of up to 0.380 mgd (peak day) and surface water withdrawal of up to 0.288 mgd (peak day) (Docket No. 19940705 and Certificate of Registration No. GF-202204215).

Project Sponsor and Facility: Strasburg Lancaster County Borough Authority, Strasburg Township, Lancaster County, Pa. Application for renewal of groundwater withdrawal of up to 0.275 mgd (30-day average) from the Fisher Well (Docket No. 19890107). Service area is located in an Environmental Justice area.

Authority: Public Law 91-575, 84 Stat. 1509 et seq., 18 CFR parts 806, 807, and 808.

Dated: September 18, 2024

JASON E. OYLER
General Counsel and Secretary to the Commission
[24-21-06]

WATER AND SCIENCE ADMINISTRATION

Water Quality Certification 24-WQC-0021

*Queen Anne's County Dept of Parks and Recreation
1945 4-H Park Rd,
Centerville, MD 21617*

Add'l. Info: Pursuant to COMAR 26.08.02.10F(3)(c), The Maryland Department of the Environment is providing notice of its issuance of a Water Quality Certification 24-WQC-0021.

Location: North end of Market St in Crumpton, MD 21628 39°14'21.0"N 75°55'50.0"W

The purpose of the project is to expand the existing boat ramp allowing greater access to the Chester River.

Description of Authorized Work:

Construct and backfill 47 linear feet of replacement vinyl bulkhead within the footprint of the existing deteriorated bulkhead with no channelward encroachment; Replace an existing boat ramp with a 48-foot long by 20-foot wide concrete boat ramp;

Construct a 50-foot long by 6-foot wide floating timber pier; Extend existing boat ramp wing walls by 24 feet channelward; Mechanically dredge a 38-foot long by 20-foot wide 1,340 square foot irregularly shaped area to a depth of 1.45 feet at mean low water; and to deposit approximately 105 cubic yards of dredged material on an approved upland disposal site located R.B. Baker and Sons located at 1945 4-H Park Road Centerville, Maryland 21617; and to provide for periodic maintenance dredging for six years.

The WQC and its attachments may be viewed at the following link: <https://mde.maryland.gov/programs/Water/WetlandsandWaterways/Pages/WQC.aspx>

Appeal of Final Decision: This Water Quality Certification is a final agency decision. Any person aggrieved by the Department's decision to issue this WQC may appeal such decision in accordance with COMAR 26.08.02.10F(4). A request for appeal shall be filed with the Department within 30 days of publication of the final decision and specify in writing the reason why the final decision should be reconsidered. A request for appeal shall be submitted to: Secretary of the Environment, Maryland Department of the Environment, 1800 Washington Boulevard, Baltimore, MD 21230. Any request for an appeal does not stay the effectiveness of this WQC.

Contact: Matt Godbey at matt.godbey@maryland.gov or 410-901-4033.

[24-21-13]

WATER AND SCIENCE ADMINISTRATION

Water Quality Certification 24-WQC-0025

*Shady Oaks Marina
846 Shady Oaks Rd
West River, MD 20778*

Add'l. Info: Pursuant to COMAR 26.08.02.10F(3)(c), The Maryland Department of the Environment is providing notice of its issuance of a Water Quality Certification 24-WQC-0025.

Location: 846 Shady Oaks Rd., West River, MD 20778

The purpose of the project is to stabilize an eroding shoreline and improve navigable access:

Construct and backfill 523 linear feet of replacement bulkhead within a maximum of 18 inches

channelward of a deteriorated bulkhead; and,

Reconfigure a marina by replacing-in-kind an irregularly-shaped 1,925 square foot platform, a 146-foot long by 11-foot wide pier with an L-shaped 101-foot long by 4-foot wide finger pier, a 26-foot long by 3-foot wide finger pier, a 86-foot long by 76-foot wide by 17.7-foot high boathouse, a 300-foot long by 62-foot wide by 25-foot high slip cover, and 71 mooring piles; and, convert an existing fixed pier system to floating by replacing a 480-foot long by 6-foot wide main pier with a 5-foot wide by 126-foot long "T-head" platform, nine 3-foot wide by 45-foot long finger piers, thirteen 3-foot wide by 35-foot long finger piers, one 3-foot wide by 55-foot long finger pier, six 3-foot wide by 51-foot long finger piers, and installing a 15-foot long by 4-foot wide gangway for access, with all work to take place within a maximum of 205 feet channelward of the mean high water line; and,

SPECIAL DOCUMENTS

954

Construct a 26-linear foot low profile stone, sand containment sill with a 3-foot vent; and fill and grade with 2 cubic yards of sand along 29 feet of eroding shoreline and plant with 156 square feet of low marsh vegetation extending a maximum of 12 feet channelward of the mean high water line; and, Mechanically maintenance dredge a 51,067 square foot area to a depth of 5.5 feet at mean low water; and, mechanically dredge a 46,958 square foot area to depth of 5.5 feet at mean low water; to deposit approximately 4,500 cubic yards of dredged material on an approved upland disposal site located at 370 Deale Rd., Deale, MD 20751; and to provide for periodic maintenance dredging for six years.

The WQC and its attachments may be viewed at the following link:
<https://mde.maryland.gov/programs/Water/WetlandsandWaterways/Pages/WQC.aspx>

Appeal of Final Decision: This Water Quality Certification is a final agency decision. Any person aggrieved by the Department's decision to issue this WQC may appeal such decision in accordance with COMAR 26.08.02.10F(4). A request for appeal shall be filed with the Department within 30 days of publication of the final decision and specify in writing the reason why the final decision should be reconsidered. A request for appeal shall be submitted to: Secretary of the Environment, Maryland Department of the Environment, 1800 Washington Boulevard, Baltimore, MD 21230. Any request for an appeal does not stay the effectiveness of this WQC.

Contact: Mel Throckmorton at mel.throckmorton@maryland.gov or 410-375-2803.

[24-21-14]

WATER AND SCIENCE ADMINISTRATION

Water Quality Certification 24-WQC-0029

*Bay Ridge Civic Association
% Lily Openshaw
80 East Lake Dr
Annapolis, MD 21403*

Add'l. Info: Pursuant to COMAR 26.08.02.10F(3)(c), The Maryland Department of the Environment is providing notice of its issuance of a Water Quality Certification 24-WQC-0029.

Location: Herndon Ave NE to Upshur Ave, Annapolis, (Anne Arundel), MD 21403

The purpose of the project is to nourish an existing beach by: Filling and grading a 220,858 square feet of beach with 48,000 cubic yards of sand fill with all work to take place within a maximum of 75 feet channelward of the mean high water line.

The WQC and its attachments may be viewed at the following link:
<https://mde.maryland.gov/programs/Water/WetlandsandWaterways/Pages/WQC.aspx>

Appeal of Final Decision: This Water Quality Certification is a final agency decision. Any person aggrieved by the Department's decision to issue this WQC may appeal such decision in accordance with COMAR 26.08.02.10F(4). A request for appeal shall be filed with the Department within 30 days of publication of the final decision and specify in writing the reason why the final decision should be reconsidered. A request for appeal shall be submitted to: Secretary of

the Environment, Maryland Department of the Environment, 1800 Washington Boulevard, Baltimore, MD 21230. Any request for an appeal does not stay the effectiveness of this WQC.

Contact: Mel Throckmorton at mel.throckmorton@maryland.gov or 410-375-2803.

[24-21-15]

WATER AND SCIENCE ADMINISTRATION

Water Quality Certification 23-WQC-0040

*Anne Arundel County Dept of Public Works
2662 Riva Road, 4th Fl
Annapolis, Maryland 21401
Melissa Harlinski*

Add'l. Info: Pursuant to COMAR 26.08.02.10F(3)(c), The Maryland Department of the Environment is providing notice of its issuance of a Water Quality Certification 23-WQC-0040.

Location: 8311 John Downs Loop Pasadena, MD 21122

The purpose of the project is to provide shore erosion control, beach nourishment, increase public access, provide mitigation, and improve habitat and water quality.

(1) Construct a 87-foot long by 20-foot wide breakwater, a 160-long by 23-foot wide breakwater, a 160-foot long by 29-foot wide breakwater, and a 112-foot long by 29-foot wide breakwater; fill and grade with 2,328 cubic yards of sand along 480 feet of eroding shoreline and plant approximately 3,003 square feet of high marsh vegetation and 2,620 square feet of low marsh vegetation. (2) Fill and grade with 3,626 cubic yards of clean sand fill along 361 feet of shoreline to nourish 26,986 square feet of historical beach and 7,794 square feet of upland/vegetated dune all within a maximum of 132 feet channelward of the mean high waterline; and install associated marsh protection fencing. (3) Construct 25 square feet of a cobble pilot channel and 178 square feet of a cobble pilot channel within a maximum of 24 feet channelward of the mean high waterline. (4) Construct a 390-foot long by 14-foot wide revetment within a maximum of 14 feet channelward of the mean high waterline. (6) Install 45 reef balls within 279 feet channelward of the mean high waterline. (7) Emplace a hazard sign.

The WQC and its attachments may be viewed at the following link:
<https://mde.maryland.gov/programs/Water/WetlandsandWaterways/Pages/WQC.aspx>

Appeal of Final Decision: This Water Quality Certification is a final agency decision. Any person aggrieved by the Department's decision to issue this WQC may appeal such decision in accordance with COMAR 26.08.02.10F(4). A request for appeal shall be filed with the Department within 30 days of publication of the final decision and specify in writing the reason why the final decision should be reconsidered. A request for appeal shall be submitted to: Secretary of the Environment, Maryland Department of the Environment, 1800 Washington Boulevard, Baltimore, MD 21230. Any request for an appeal does not stay the effectiveness of this WQC.

Contact: Kathryn Burcham at kathryn.burcham@maryland.gov or 410-707-5254.

[24-21-16]

WATER AND SCIENCE ADMINISTRATION

Water Quality Certification 24-WQC-0043

*Maryland Department of Transportation
State Highway Administration
707 North Calvert Street
Baltimore, MD 21202*

Add'l. Info: Pursuant to COMAR 26.08.02.10F(1)(d), The Maryland Department of the Environment is providing notice of a scheduled Public Hearing for Water Quality Certification 24-WQC-0043.

Location: US 219 between Interstate 68 and the Pennsylvania State Line in Garrett County

The Maryland Department of Transportation, State Highway Administration has requested a Water Quality Certification to complete Corridor N of the Appalachian Development Highway System through improvements to US 219 between the terminus of the four-lane highway section south of Meyersdale, Pennsylvania and the north end of the newly constructed I-68/US 219 Interchange. This certification is only for the Maryland portion of the project from I-68 to the Pennsylvania State Line. The project proposes to permanently impact 19,701 square feet (0.45 acres) of emergent nontidal wetlands, 6,348 square feet (0.15 acres) of forested nontidal wetlands, 74,901 square feet (1.72 acres) of the 25-foot nontidal wetland buffer, 3,469 linear feet (37,456 square feet) of intermittent tributaries to Meadow Run, and 1,433 linear feet (13,880 square feet) of a perennial tributary to Meadow Run. Mitigation will be required for all permanent nontidal wetland and waterway impacts. The Applicant has proposed to satisfy mitigation through an offsite permittee responsible mitigation site.

The purpose of this notice is to solicit comments from the public about the proposed work and to announce the date of a Maryland Department of the Environment public informational hearing on the subject application. At this time, no decision has been made as to whether a certification will be issued. An in-person public informational hearing with a virtual option has been scheduled for the referenced project on Thursday, December 12, 2024. There will be an open house with plans displayed from 4:00 PM to 5:00 PM. The hearing itself will begin at 5:00 P.M. and end no later than 8:00 P.M. The in-person hearing will be located at the Grantsville Volunteer Fire Department's Social Hall at 178 Springs Road, Grantsville, MD 21536. To participate virtually in the public informational hearing, use the following phone number or Microsoft Teams link: +1 443-709-8671, Conference ID: 124 652 641#, (<https://bit.ly/US219-MD-Hearing-Dec12>). Written comments will be accepted until January 11, 2025.

Contact: Emily Dolbin at emily.dolbin@maryland.gov or 410-537-3745.

[24-21-17]

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.

MARYLAND DEPARTMENT OF HEALTH

Subject: Public Hearing
Date and Time: October 24, 2024, 1 — 3 p.m.

Place: Maryland Department of Health 201 West Preston Street, Lobby Level – Room L1, Baltimore, MD

Add'l. Info: GENERAL NOTICE – §1115 WAIVER AMENDMENT The Maryland Department of Health (the Department) is proposing an amendment to its §1115 demonstration waiver known as HealthChoice, which the Centers for Medicare and Medicaid Services has authorized through December 31, 2026. The Department is submitting this §1115 demonstration waiver amendment to update existing payment methodologies and request additional participant spaces for the Assistance in Community Integration Services pilot to support statewide expansion. Additionally, the Department seeks approval to cover fertility preservation procedures for individuals with iatrogenic infertility, including those who received gender-affirming services, as required by House Bill 283–Maryland Medical Assistance Program - Gender-Affirming Treatment (Trans Health Equity Act)–(Ch. 253 of the Acts of 2023). Finally, the Department is seeking authority to include the non-Modified Adjusted Gross Income adult population to the proposed Express Lane Eligibility waiver that would authorize Maryland to renew Medicaid coverage for members of an eligible adult Supplemental Nutrition Assistance Program household up to age 65 that are already enrolled in Medicaid.

The State's 30-day public comment period will open on October 7, 2024 and run through November 6, 2024. Electronic copies of the draft waiver amendment application will be available on that date and may be downloaded from <https://mmcp.health.maryland.gov/Pages/1115-HealthChoice-Waiver-Renewal.aspx>. Hard copies of the application may be obtained by calling 410-935-3938.

Interested parties may send written comments concerning the waiver amendment to Alyssa Brown, Office of Innovation, Research and Development Office of Health Care Financing, Maryland Department of Health, 201 West Preston Street, Room 223, Baltimore, Maryland 21201 or via email to: mdh.healthchoicerenewal@maryland.gov. The Department will accept comments from October 7, 2024 until November 6, 2024.

The following public hearings will discuss the content of the waiver amendment and solicit feedback and input from public stakeholders. Both hearings will be held on a hybrid basis; information for both in-person and remote participation is below. The first Public Hearing was held on Thursday, October 10, 2024.

Public Hearing #2 will be held on Thursday, October 24, 2024; 1–3 p.m. Maryland Department of Health 201 West Preston Street, Lobby Level Room L1 Baltimore, MD 21201

October MMAC MeetingGoToWebinar Virtual Platform To participate in the public hearing remotely, please visit: <https://attendee.gotowebinar.com/register/3613407961570427992>

Please note that if you desire to make a public comment, you will need to register via the link above. After registering, you will receive a confirmation email containing audio and visual information about joining the webinar.

Contact: Alyssa Brown 410-767-9795
[24-21-02]

MARYLAND DEPARTMENT OF HEALTH

Subject: Public Meeting
Date and Time: November 7, 2024, 9 a.m. — 1 p.m.

Place: Virtual meeting — please see details below.

Add'l. Info: Please be advised that the November 7, 2024, Pharmacy and Therapeutics (P&T) Committee public meeting will be conducted virtually via a Webinar. As soon as available, classes of drugs to be reviewed, speaker registration guidelines, and procedure to register to attend the virtual meeting will be posted on the Maryland Pharmacy Program website at: <https://health.maryland.gov/mmcp/pap/Pages/Public-Meeting-Announcement-and-Procedures-for-Public-Testimony.aspx>.

Submit questions to: mdh.marylandpdquestions@maryland.gov

Contact: Deborah Washington 410-767-1455

[24-21-01]

STATE BOARD OF INDIVIDUAL TAX PREPARERS

Subject: Public Meeting
Date and Time: November 18, 2024, 10 a.m. — 12 p.m.

Place: Via Google Meet — please see details below.

<https://meet.google.com/qga-mpea-wfp?authuser=0>,

Contact: Christopher Dorsey 410-230-6318

[24-21-03]

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**Part 2**

- 09 Medical Care Programs

**Part 3**

- 10 Laboratories
- 11 Maternal and Child Health
- 12 Adult Health
- 13 Drugs
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- 20 Kidney Disease Program
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- 22 Developmental Disabilities

**Part 4**

- 23 Advance Directive Registry
- 24 Maryland Health Care Commission
- 25 Maryland Health Care Commission
- 26 Board of Acupuncture
- 27 Board of Nursing
- 28 Board of Examiners in Optometry
- 29 Board of Morticians and Funeral Directors
- 30 Maryland Commission on Kidney Disease
- 31 Health Occupation Boards
- 32 Board of Physicians
- 33 Board of Examiners of Nursing Home Administrators
- 34 Board of Pharmacy
- 35 Postmortem Examiners Commission
- 36 Board of Examiners of Psychologists

**Part 5**

- 37 Health Services Cost Review Commission
- 38 Board of Physical Therapy Examiners
- 39 Board of Nursing – Certified Nursing Assistants
- 40 Board of Podiatric Medical Examiners
- 41 Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists
- 42 Board of Social Work Examiners
- 43 Board of Chiropractic Examiners
- 44 Board of Dental Examiners
- 45 Maryland Community Health Resources Commission
- 46 Board of Occupational Therapy Practice
- 47 Alcohol and Drug Abuse Administration
- 48 Child Abuse and Neglect Medical Reimbursement Program
- 49 State Anatomy Board
- 50 Tissue Banks
- 51 Forensic Laboratories
- 52 Preventive Medicine

**Part 6**

- 53 Board of Nursing – Electrology Practice Committee
- 54 Special Supp Nutrition Prg for Women, Infants, and Children (WIC)
- 55 State Board of Spinal Cord Injury Research
- 56 Board of Dietetic Practice
- 57 Board for Certification of Residential Child Care Program Profess.
- 58 Board of Professional Counselors and Therapists
- 59 Catastrophic Health Emergencies
- 60 Board of Environmental Health Specialists
- 61 Health Enterprise Zone Initiative
- 62 Natalie Laprade Medical Marijuana Commission
- 63 Community-Based Behavioral Health Programs and Services
- 64 Practice of Licensed Direct-Entry Midwives
- 65 Board of Massage Therapy Examiners

- 66 Office of the Inspector General
- 67 Maryland HealthChoice Program
- 68 Community Health Workers

**Title 11 Department of Transportation**

**Part 1**

- 01 Office of the Secretary
- 02 Transportation Service Human Resources System
- 03 Maryland Aviation Administration
- 04 State Highway Administration
- 05 Maryland Port Administration
- 06 Maryland Transit Administration
- 07 Maryland Transportation Authority
- 08 State Rail Safety Oversight
- 09 Vacant
- 10 Vacant

**Part 2**

- 11 Motor Vehicle Administration – Administrative Procedures
- 12 MVA – Licensing of Businesses and Occupations
- 13 MVA – Vehicle Equipment
- 14 MVA – Vehicle Inspections
- 15 MVA – Vehicle Registration
- 16 MVA – Vehicle Operations
- 17 MVA – Driver Licensing and Identification Documents
- 18 MVA – Financial Responsibility Requirements
- 19 MVA – School Vehicles
- 20 MVA – Motorcycle Safety Program
- 21 MVA – Commercial Motor Vehicles
- 22 MVA – Preventive Maintenance Program
- 23 MVA – Drivers' Schools, Instructors & Driver Education Program

**Title 26 Department of the Environment**

**Part 1**

- 01 General Provisions
- 02 Occupational, Industrial, and Residential Hazards
- 03 Water Supply, Sewerage, Solid Waste, and Pollution Control Planning and Funding
- 04 Regulation of Water Supply, Sewage Disposal, and Solid Waste
- 05 Board of Well Drillers
- 06 Waterworks and Waste Systems Operators
- 07 Board of Environmental Sanitarians

**Part 2**

- 08 Water Pollution
- 09 Maryland CO<sub>2</sub> Budget Trading Program
- 10 Oil Pollution and Tank Management
- 11 Air Quality
- 12 Radiation Management

**Part 3**

- 13 Disposal of Controlled Hazardous Substances
- 14 Hazardous Substance Response Plan
- 15 Disposal of Controlled Hazardous Substances — Radioactive Hazardous Substances
- 16 Lead
- 17 Water Management
- 18 Susquehanna River Basin Commission

**Part 4**

- 19 Oil and Gas Resources
- 20 Surface Coal Mining and Reclamation under Federally Approved Program
- 21 Mining
- 22 Coastal Facilities Review
- 23 Nontidal Wetlands
- 24 Tidal Wetlands
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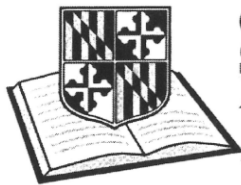
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